

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

SUCCESSION CAUSE NO. 2350 OF 2007

IN THE MATTER OF THE ESTATE OF JORAM GATIBARU MARARO – (DECEASED)

RULING

1. On 5th February 2013 Kimaru J revoked the grant made on 8th October 2008 to Margaret Wanjiru and appointed Mary Wairimu Gatibaru and Jacinta Muthoni Kimotho the new administrators of the estate.
2. On 3rd April 2013 the new administrators filed an application dated the same day, seeking revocation of various titles registered in the names of the previous administrator and other persons and injunctive orders to restrain pending trustees.
3. These case is that the previous administrator has failed and or refused to release all the relevant documents to them indeed, while the revocation application was pending, the previous administrator moved to make the transfer complained about. The said transfers were done without involvement of the other beneficiaries.
4. Upon served, the previous administrator swore an affidavit on 10th April 2013. She denies refusing to surrender documents to the said administrators, instead she says that when she sought to retrieve the documents from the relevant land registries she discovered that the transfer had been effected and new titles had been or were in the process of being issued. She asserts that the beneficiaries had consented and agreed on the mode of distribution.
5. I have noted that there was an application dated 18th September 2012 which sought cancellation of the titles obtained in respect of land and transfer of shares. The primary argument was that the administrator was very old and no longer able to carry out the duties of administrator. That application was argued before Njagi J on 10th October 2012. The orders made by Kimaru J. on 5th February 2013 were founded on the said application. By revoking the grant the court accepted the argument that the premises administrator was no longer capable to act as such, and it is my view that this decision was founded on the previous conduct of the said administrator, which conduct provided the background for the prayer for the cancellation of the transfer of the titles and shares. I persuaded that the order for cancellation ought to have background to give the new administrators a clear state upon which to work.
6. I find merit in the case advanced by the new administrators in their application dated 3rd April 2013. I do hereby allow the said application. There will be no order as to costs.

DATED, SIGNED and DELIVERED at NAIROBI this 31st DAY OF January, 2014.

W. MUSYOKA

JUDGE