



**IN THE HIGH COURT OF KENYA**

**AT NAKURU**

**SUCCESSION CAUSE NO.237 OF 2008**

**IN THE MATTER OF THE ESTATE OF MARY CHEMARUS TELE (DECEASED)**

**ROBERT TANUI.....APPLICANT**

**VERSUS**

**RAPHAEL ARAP CHEPKWONY.....1<sup>ST</sup> RESPONDENT**

**CHEPKEMOI ANGELINE.....2<sup>ND</sup> RESPONDENT**

**RULING**

This cause was brought by Chepkemoi Angeline and Raphael Arap Chepkwony in respect of the estate of the late Mary Chemarus Tele. The grant was issued and subsequently confirmed in their favour on 21<sup>st</sup> September, 2010. Listed as part of the estate of the late Mary Chemarus Tele are two parcels of land described as BLOCK 13 BONDENI/312 and 253.

The applicant (Robert Tanui) in the instant summons for revocation is claiming that BLOCK 13 BONDENI/312 belongs to the late Sawe Busienei and that it was wrongful included as part of the estate of Mary Chemarus Tele. He seeks that, for that reason, the grant be revoked or in the alternative that the grant be rectified to exclude BLOCK 13 BONDENI/312.

The application was duly served upon the administrators of the estate of Mary Chemarus Tele, i.e. Raphael Arap Chepkwony and Chepkemoi Angeline, who have not responded to the application.

The applicant, Robert Tanui has demonstrated that he is the administrator of the late Sawe Busienei by exhibiting a grant of letters of administration intestate issued to him and Charles Tanui in Nakuru High Court Succession Cause No.123 of 2009. He has also demonstrated on a balance of probability that the late Sawe Busienei had documents showing that BLOCK 13 BONDENI/312 formerly PLOT NO.50 was allotted to him.

In contrast, the administrators of the estate of Mary Chemarus Tele have not demonstrated the proprietary interest of the said Mary Chemarus Tele in the property. Indeed, at the time they petitioned for the grant, apart from the chief's letter that the late Mary Chemarus Tele lived in Bondeni Estate Block 50, there was no other evidence of ownership of the said property.

For the reasons stated, I grant the application and order that the Certificate of Confirmation of the grant be rectified by excluding BLOCK 13 BONDENI/312. The administrators of the late Mary Chemarus Tele to surrender the certificate issued on 21<sup>st</sup> September, 2010 for this purpose within fourteen (14) days from the date of this order.

**Dated, Signed and Delivered at Nakuru this 25<sup>th</sup> day of November, 2011.**

**W. OUKO**

**JUDGE**