



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT EMBU**  
**Succession Cause 3 of 1998**  
**LUCY RWAMBA NJUKI.....APPLICANT**  
**VERSUS**  
**IRENE NJOKI NJUKI.....RESPONDENT**  
**RULING**

The grant of letters of administration in this matter was first confirmed on 25/9/2001. Plot No. GATURI/GITHIMU/T.2250 was given to Jane Gatari Njuki and Irene Njoki Njuki who is now the Respondent in the application dated 13/10/2009.

Jane Gatari died in 2002 but Irene Njoki the Co-owner did not come to court until 2006. It is important to note that she also took 4 years to move the court and she cannot therefore be heard to complain that the applicant herein has taken too long to bring the instant application. Indeed she has taken 3 years as opposed to Irene's 4 years.

After Jane Gatari's death, the Respondent moved this court vide the application dated 23/10/2006 seeking a rectification of the certificate of confirmation so that the plot in question could revert to her. The record will show that on the date her application was heard, the other beneficiaries were not in court.

I have noted that in her affidavit in support of the rectification of Grant, she did not mention that the Co-owner had any children who could ordinarily be entitled to inherit her property. The same affidavit did not raise the issues now raised in the replying affidavit to the present application.

To me therefore, there appears to have been material non-disclosure by Irene Njoki when she moved the court in the application for rectification.

Secondly, with deference to my sister **Judge Khaminwa**, the orders sought did not in my considered view amount to rectification as espoused under the P&A Rules. This actually entailed re-distributing the property of a deceased person. In the absence of consent from her beneficiaries and the other beneficiaries, the so called rectification should not have been allowed. My stand and my record will bear me out is that I have been very reluctant to allow rectifications unless they involve corrections of typographical errors, e.g misspelt names, wrong description of the properties involved etc.... but not transferring property from one party to another. I am satisfied that the application dated 13/10/2009 has merit. The plot No. GATURI/GITHIMU/T2250 should revert to the names as they appear in the certificate of confirmation dated 25/9/2001. The same should not therefore be interfered with or alienated in any way until the court is properly moved and a decision made on who is entitled to inherit the ½ share of plot no. GATURI/GITHIMU/T.2250.

I therefore allow the application dated 13/10/2009 and grant the orders as prayed.

**W. KARANJA**  
**JUDGE**

Delivered, signed and dated at Embu this 15th day of April 2010.

In presence of:- Mr. Ithiga for Applicant and Irene Njoki in person.