



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT ELDORET**

**Probate & Administration 115 of 2005**

**IN THE MATTER OF THE ESTATE OF JASON RICHARD ASEMBO OKINDA**

**R U L I N G**

**De Bonis non**

1. Background

- (1) On the 10<sup>th</sup> November 1999 the late Jason Richard Osembo Okinda (deceased) died in a road traffic accident aged, 75 years old; at the Pacific Hospital.
- (2) His estate was taken up by four administrators:
  - (i) James Otieno Asembo
  - (ii) Robert Calvin Asembo
  - (iii) Phelia Asembo (Administratrix) and
  - (iv) Maxwell Asembo.
- (3) The deceased died intestate
- (4) Temporary letters of grant was issued on the 4<sup>th</sup> October 2005 Gacheche J and confirmed on the 8<sup>th</sup> June 2007 Ibrahim J
- (5) The Administrators return to this

Court to State that one of the administratrix Phelecia Asembo related to the deceased as the widow has also since passed away. They bring an appeal De Bonis non.

(5) (a) They act in person in this Matter

II. Application De Bonis non

(6) The Applicant Rose Achieng Asembo, brings an application of 13<sup>th</sup> July 2010 (an earlier one having been withdrawn) seeking orders that she takes the place of the deceased administratrix instead of and to be named an administrator.

(7) She mentions the assets of the deceased and liabilities left.

III. Opinion

(8) The maximum number of administrators or executors to a grant is four.

(9) Where one administrator passes away and some remain, then those who remain can continue with administering the grant. Where there is only one administrator then an application “De Bonis non” must be made.

(10) It is further noted where there are minors there must be two administrators under Section 58 of the Law of Succession.

(11) In this matter all the survivors to the deceased’s estate are adults.

(12) The Applicant wishes to be an administratrix to take the place of the deceased administratrix. There is nothing in the law preventing her from doing so.

- (13) I therefore follow my decision in the matter of the case of the **Estate of Cheruiyot Arap Keter** HCC. Succ. Cause 200/2006 at Kericho where an application de Bonis non was granted.
- (14) This application is accordingly granted with costs being in the estate.
- (15) Order a new grant to issue intestate With the four administrators /administrator as duly allowed by this Court.

**DATED THIS 14<sup>TH</sup> DAY OF JULY 2010 AT ELDORET.**

**M.A. ANG'AWA**  
**JUDGE**

Advocate: \_\_\_\_\_ - Nil

Applicant in person