



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT KERICHO**  
**SUCCESSION CAUSE 200 OF 2006**

*In the matter of estate of*

**CHERUIYOT ARAP KETER ..... DECEASED**

**AND**

**ALICE CHERUTO KETER ..... PETITIONER**

**RULING**

***De Bonis Non***

***Application dated 15<sup>th</sup> April, 2009***

**I: Background**

1. At an old ripe age Cheruiyot Arap Keter passed away aged 81 years old on 1<sup>st</sup> July, 2001 at Borborwet Samutuk, Kericho. His widow one Alice Cheruto Keter applied for grant of letters of administration intestate (*that is the deceased having died without writing a Will*) sometime on 26<sup>th</sup> October, 2006.
2. Letters of grant of administration intestate in Form P&A 41 was issued on the 24<sup>th</sup> January, 2007(*Koome J*).
3. Unfortunately Alice Cheruto Keter passed away on the 9<sup>th</sup> November, 2008 aged 82 years old leaving the estate partially unadministered.

**II: Application 15<sup>th</sup> April, 2009**

4. By an application dated 15<sup>th</sup> April, 2009 one Reuben Kipsigei Chepkwony – related to the deceased and the late administratrix as their son sought this courts leave to be substituted as an administrator in place of his mother Alice Cheruto Keter, the late administratrix.
5. He informed this court through his advocate that he is one of the surviving sons and would faithfully administer according to law all the estate of the deceased why by law demolishes to and vests in his

personal representatives for the use and benefits of the heirs of the estate. That he would render a just and time account thereof whenever required by law to do so.

### **III: Findings**

6. De Bonis Non is a grant for special purposes. It is a situation where the original administratrix passes away then the said administratrix is substituted by another administrator to complete administering the estate (*5<sup>th</sup> Para 16 r 7, 12*).

7. The administratrix who passes away has to have a separate letter of grant for her estate. What we are concerned is with the deceased Cheruiyot Arap keters' estate who passed away first.

8. The application is hereby granted with costs to the estate.

### **IV: Obiter dictum**

9. The original administratrix was also the widow to the deceased. All that was required to be filed was the petition (*P&A 80*). The affidavit (*P&A 5*), the affidavit of justification of proposed administrator *P&A 12* and a consent *P&A 38* by adult children to their mother of there being no objection on the taking up the letters.

10. Now that the administratrix has passed away the new administration duly appointed by this court for De Bonis Non would ensure that Forms 80, 5, 12, 38 are on the court record together with forms *P&A 11* affidavit of proposed sureties and *P&A 57* Guarantee by personal sureties that is to be sealed and registered at the lands department.

### **In summary**

10.1. Application De Bonis Non granted to Rebuen Kipsgei Chepkwony to administer the estate from where it was partially left by the late administratrix Alice Cheruto Keter.

10.2. Costs in the estate

**DATED** this 9<sup>th</sup> day of June, 2009 at **KERICHO**

**M.A. ANG'AWA**

**JUDGE**

**Advocates**

S.K. Oboso advocate instructed by the firm of M/S Oboso & Co. advocates

for the applicants – present