



**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT KERICHO**

Succession Cause 200 of 2006

1. Family Law
 2. Law of Succession
 3. De Bonis non
 - a) A grant for special purposes.
 - b) The original administratrix passes away
 - c) application to substitute the original administratrix who left the estate partly unadministered by another administrator is known as a De Bonis non
 - d) form P&A. 86
- 5th Sch para 16 r 7, 12)

II: Application **15 April, 2009**

- a) Deceased Cheruiyot Arap Keter passed away on 1st July, 2001 aged 81 years old.
 - b) Letters of grant issued to his widow on 24.1.07.
 - c) widow passes away 9.11.08 before the estate is completed
 - d) Application to regularize substitute deceased widow administratrix – De Bonis non.
4. **Held**
- a) application granted to substitute administratrix widow (now deceased) with a new administrator
 - b) Forms filed to be regularized.
 - c) Widow was entitled to file 80,12 and 5 only forms
 - d) New administratrix to file form 80,12 ,11,57 & 5 with the daughters to be disclosed of deceased, P&A. 57 to be registered at lands department ages of all summons to be disclosed.

5. **Case Law** - Nil

6. **Advocates**

S.K. Oboso advocate instructed by the firm of M/S Oboso & Co. advocates
for the applicants – present

In the matter of estate of
CHERUIYOT ARAP KETER (DECEASED)

AND

ALICE CHERUTO KETER PETITIONER

RULING

De Bonis Non

Application dated 15th April, 2009

I: Background

1. At an old ripe age Cheruiyot Arap Keter passed away aged 81 years old on 1st 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 26th October, 2006.
2. Letters of grant of administration intestate in Form P&A 41 was issued on the 24th January, 2007(*Koome J*).
3. Unfortunately Alice Cheruto Keter passed away on the 9th November, 2008 aged 82 years old leaving the estate partially unadministered.

II: Application 15th April, 2009

4. By an application dated 15th April, 2009 one Reuben Kipsigei Chepkwony – related to the deceased and the late administratrix as their son sought this court's 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 which by law devolves 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 true 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 (*5th 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 with is 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 9th 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