

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

H.C. PROBATE AND ADMINISTRATION CAUSE NO. 1537 OF 1999

IN THE MATTER OF THE ESTATE OF LINK PIUS NYAGWALA

OWITI –(DECEASED

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OWITI – (DECEASED)

CECILIA RAMTU OWITI..... PETITIONER/APPLICANT

VERSUS

PHILOMENA WANZA NZOMO OBJECTOR/APPLICANT

R U L I N G

Before me is an application dated 5th December, 2001 seeking confirmation of the grant of letters of administration. The application is filed by a Co-administratrix because of lack of Co-operation from the other administratrix – a Co-wife.

The proposals made in the applications included the mother of the deceased as a dependant. During the hearing of the application it was agreed that the factual position of the two plots of land be ascertained on the face of the contention by the Respondent/Co-administratrix that her matrimonial house is situate on both the plots.

She filed the report and it was made clear that her contentions were not correct. Her house is constructed along the southern boundary of Plot No. Ngong/Ngong/11726 and Plot No. Ngong/Ngong/11725 has a pit latrine at the extreme south Western corner. It is shown in a photograph No. IV attached to the report which is a wooden structure and its user is not on a routine basis. The House as shown is a fully developed and modern house. It is occupied by the Respondent as a matrimonial home and thus it has to go to her along with the plot whereon the same is situate and that is what is proposed. She has also filed statement of Accounts and no query was raised on its veracity. I shall thus take it as a true picture of account.

I have found no basis for objections raised by the Respondent on the application and I find that the proposals made in the application are reasonable and fair. I shall thus allow the application for confirmation as prayed and direct that the estate be distributed as per the proposals contained therein.

The parties shall bear their own costs.

Dated and delivered at Nairobi this 24th day of March, 2003.

K. H. RAWAL

JUDGE.