



REPUBLIC OF KENYA



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**In re Estate of Laban Gikonyo Kamau (Deceased) (Succession Cause
84 of 1999) [2025] KEHC 1518 (KLR) (Family) (13 February 2025) (Ruling)**

Neutral citation: [2025] KEHC 1518 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 84 OF 1999
EKO OGOLA, J
FEBRUARY 13, 2025
IN THE MATTER OF THE ESTATE OF LABAN GIKONYO KAMAU (DECEASED)**

BETWEEN

ROBERT KAMAU GIKONYO APPLICANT

AND

AGNES WANGECHI GIKONYO RESPONDENT

AND

JOGRESPA AGENCIES INTERESTED PARTY

RULING

1. The Summons before this court is dated 29th May 2023. The applicant prays for the following orders:-
 - a. That Agnes Wangechi Gikonyo the 2nd administrator in conjunction with the interested party, Jogrespa Agencies be ordered to provide accounts for rent collected from the properties Kayole A4-243 and Kayole Commercial Block: Plot B.21 of approximately Kshs. 3,500,000/- and the sale and disposition of land parcels Maki Commercial Agencies Nanyuki Plot No. 257 (Nanyuki Mun. Block 11/257 (Maki) for Kshs. 800,000/- and Mihango CS/CU Ltd Plot 2062 (Nairobi Block 115/2062) for Kshs. 4,000,000/-.
 - b. In default of (a) above, the aggregate sum of Kshs. 8,300,000/- be recovered by the sale/transfer of one of the properties designated for the 2nd administrator's house.
 - c. That the costs of this application be provided for.
2. The Summons were supported by the applicant's affidavit. He deposed that he is a co-administrator of the estate, having been appointed on 13th March 2020. The applicant deposed that the deceased was



- survived by two widows, three sons from the first house and one son and two grandchildren from the second house.
3. The deceased estate comprises Kayole Plot A4-243; Kayole Commercial Block B Plot No. B. 21; Nanyuki Marura Block 6/380 (Endana); Maki Commercial Agencies Nanyuki Plot No. 257 (Nanyuki Mun. Block 11/257 (Maki); loc. 19/Kiawambogo/2096; Laikipia Mifugo CS/CU: Plot allocation No. 15 (Sosian/Sosian Block 1 (Mifungo/15); and Mihango CS/CU Ltd Plot 2062 (Nairobi Block 115/2062 (Karagita).
 4. On 13th March 2020, this Court directed as follows:
 - (i) Should the estate have any income-generating assets the said income will be collected and banked in an escrow account to be opened in the joint names of counsel on record for the parties on the 5th day of every month beginning the 5th April 2020. The Escrow account be opened within the next 14 days of the date hereof.
 - (ii) The administrators as appointed will jointly cause the assets of the estate to be valued for purposes of distribution within the next 60 days. The cost of valuation shall be shared between the 2 houses.
 - (iii) A joint proposal on distribution be filed in court within the next 90 days. Should the parties fail to agree, each house will file a separate proposal.
 5. According to the applicant, the 2nd administrator has refused to cooperate, respond to correspondences and also refused to attend court. The applicant deposed that he independently complied with the aforementioned court orders and appointed valuers. The valuation report is attached to the applicant's affidavit.
 6. The applicant further deposed that the 2nd administrator illegally transferred Maki Commercial Agencies Nanyuki Plot No. 257 (Nanyuki Mun. Block 11/257 (Maki) and Mihango CS/CU Ltd Plot 2062 (Nairobi Block 115/2062 (Karagita). In addition to this, the 2nd administrator has been collecting rental income from the building on land parcel Kayole A4-243 and Kayole Commercial Block: Plot No. B. 21 since the death of the deceased and has failed to deposit the said income in an escrow account as ordered by this court.
 7. The applicant deposed that since March 2020 the applicant has collected rental income of approximately Kshs. 3,500,000 and further received Kshs. 4,800,000 in the sale of the two properties. According to the applicant, the total misappropriation is Kshs. 8,300,000.
 8. The 2nd Administrator opposed the Summons vide a Replying Affidavit. She deposed Kayole A4-243 and Maki Commercial Agencies Nanyuki Plot No. 257 (Nanyuki Mun. Block 11/257 does not form part of the deceased estate. She deposed that Kayole A4-243 was registered in her name and her late husband, the deceased son. Further to this, the figures in the valuation reports are bandied to hoodwink the court.
 9. As for Kayole Commercial Block B Plot No. B. 21, the 2nd Administrator deposed that it is registered in her name and she has been paying the land rates. The 2nd administrator deposed that the said land is not fully developed and that there are only two houses erected on the land. One of the houses is occupied by her son who does not remit rent and the second house is occupied by an elderly tenant who does not remit the rent promptly. She further added that the rent for the said house is Kshs. 9000 and not Kshs. 27000 as alluded to by the applicant.



10. The 2nd administrator deposed that Nanyuki Marura Block 6/380(Endana) is in the name of the deceased. However, she stated that she actively participated and contributed towards its purchase and that her late husband is buried in the said land. The 2nd Administrator contended that the figures in the valuation report were fictitious and were only meant for speculative purposes.
11. As for that Maki Commercial Agencies Nanyuki Plot No. 257 (Nanyuki Mun. Block 11/257 (Maki)) the 2nd respondent deposed that it is registered in her name and part of the deceased's estate.
12. According to the 2nd Administrator, Loc.19/Kiawambogo/2096 is the ancestral land where the deceased was born, and it comprises three (3) acres of tea plantation part of which the applicant and his siblings have inherited, built homes and have all along derived benefit from the income. She added that the valuation of the property is grossly undervalued to create the impression that the Applicant and the rest of his siblings were never left with any substantial property.
13. As regards Laikipia Mifgo CS/CU: Plot Allocation No.15 (Sosian/Sosian Block 1 (Mifugo/15)) the 2nd Administrator deposed that she is unaware of the said land.
14. Furthermore, the 2nd Administrator deposed that from what could be gleaned from the Applicant's admission, Mihango CS/CU Ltd Plot 2062 (Nairobi Block 115/2062(Karagita)) belongs to one James Kimani who has no relation to the deceased and no nexus has been provided to show how it forms part of the estate of the deceased.
15. The 2nd administrator further contended that the applicant has not provided any evidence to establish that she illegally transferred Maki Commercial Agencies Nanyuki Plot No.257 (Nanyuki Mun. Block 11/257 (Maki)) into her name. She reiterated that the said parcel had never been part of the deceased's estate as alleged and it was in her sole name. The 2nd administrator also disputes having illegally transferred Mihango CS/CU Ltd Plot2062 (Nairobi Block 115/2062) to one James Kimani and calls the applicant to strict proof of the said allegations. As regards Kayole A4-243, she deposed that it is her residential home and is registered in her name.
16. The 2nd administrator deposed that she has not misappropriated, wasted and/or personally enriched herself from the estate of the deceased and as such she is not under any obligation to render any accounts as sought.
17. The summons were canvassed by way of submissions. I have considered them.

Determination

18. The dispute as raised in this summons, concerns properties that either form part of the deceased estate or not.

a. Kayole A4-243

19. According to the applicant, this property is part of the deceased estate, and he should receive part of the rental income. On the other hand, the 2nd administrator argues that the property is registered in the joint names of her and her late husband. To buttress her claim, the 2nd administrator annexed to her affidavit, allotment documents, and a letter dated 24th November 2008 from The City Council of Nairobi. The letter stated that the property belongs to Laban Gikonyo Kamau and his spouse, Agnes Wangechi Gikonyo. The 2nd administrator deposed that since the death of the deceased, the property was transmitted to her through the doctrine of survivorship.



b. Kayole Commercial Block: Plot B.21.

20. The applicant deposed that the property belonged to the estate of the deceased. The 2nd administrator deposed that the property belongs to her. Annexed to her affidavit was a land rate receipt (Ref: HD/35/SK/dw) from Nairobi City County. According to the receipt, the account holder is Agnes Wangechi Gikonyo.

c. Maki Commercial Agencies Nanyuki Plot No. 257 (Nanyuki Mun. Block 11/257 (Maki)

21. The applicant alleged that this property belongs to the estate. The 2nd administrator argued that it solely belongs to her. The 2nd administrator annexed to her affidavit a copy of a Plot Voting Card stating that the plot is registered in her name.

d. Mihango CS/CU Ltd Plot 2062 (Nairobi Block 115/2062)

22. The applicant deposed that this property belongs to the deceased. The 2nd administrator argued that it belongs to one James Kimani who has no nexus to the deceased.

23. From the records before this court, none of the properties belong to the deceased estate. The parties are at liberty to approach the Environment and Land Court to determine the ownership of the four properties.

24. From the record, there are two title deeds, that is, for Nanyuki Marura Block 6/380 (Endana) and Loc.19/Kiawambogo/2096. These two properties are registered in the name of the deceased, and they form part of the estate. Parties are hereby directed to file submissions within 14 days from the date of this Ruling on how the two aforementioned properties should be distributed.

25. The Summons dated 29th May 2023 is hereby dismissed. Costs be in the cause.
Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 13TH DAY OF FEBRUARY 2025.

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E.K. OGOLA

JUDGE

In the presence of:

Mr. Matwere for the Applicant

Ms. Wangechi h/b for Mr. Mbutia for the Respondents

Ms Gisiele M court Assistant

E. OGOLA J.

