



REPUBLIC OF KENYA



**In re Estate of William Rongora Ntimama alias William Ole Ntimama (Deceased)  
(Succession Cause 12 of 2017) [2024] KEHC 5721 (KLR) (22 May 2024) (Ruling)**

Neutral citation: [2024] KEHC 5721 (KLR)

**REPUBLIC OF KENYA  
IN THE HIGH COURT AT NAROK  
SUCCESSION CAUSE 12 OF 2017  
F GIKONYO, J  
MAY 22, 2024**

**IN THE MATTER OF**  
**OMWANZA SAMSON OMBATI ..... 1<sup>ST</sup> APPLICANT**  
**SANAPEI DEBORAH NTIMAMA ..... 2<sup>ND</sup> APPLICANT**

**RULING**

1. The Summons (general form) before this court is dated 03/08/2023. The applicants herein are seeking orders: -
  1. That this honourable court be pleased to review or vary the orders made and issued on 19 July 2017 during the confirmation of the grant to include the property known as Unit Number C4 in Block C erected on land reference number 2/220(original number 2/37/1/1) in the distribution schedule of properties and distributed to Sanapei Deborah Ntimama as set out in the affidavit of the applicants;
  2. That as a consequence of prayer 2 above, an addendum to the certificate of grant with this asset to issue.
2. The application is premised upon the grounds set out in the affidavits of Omwanza Samson Ombati, and Sanapei Deborah Ntimama. The executor/applicant and beneficiary /applicant averred that the deceased's last will and testament did not include the property known as Unit Number C4 in Block C erected on land reference number 2/220(original number 2/37/1/1). The reason that the deceased did not include the property as part of his vast estate, is because, he had long transferred it to his daughter Sanapei Debra Ntimama on or about 6 August 2014. They learned that the transfer of the property though duly executed by the deceased and the said Sanapei Deborah Ntimama and stamped for duty on 9<sup>th</sup> July 2017, was erroneously not lodged for registration.



## Analysis And Determination

3. Borne out of the pleadings and the application filed herein for review, is review of orders of confirmation merited?
4. According to Rule 73 of the *Probate and Administration Rules*: -

“Nothing in these *Rules* shall limit or otherwise affect the inherent power of the Court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Court.”
5. In succession causes, the court is obligated to protect and enforce rights of beneficiaries of an estate by drawing even from its inherent jurisdiction to make orders which are necessary to meet the ends of justice, prevent abuse of process, prevent dissipation of, and protect the estate of the deceased.
6. In this matter, the executor is seeking review of the confirmed grant to include property which were omitted by error.
7. There is a general consensus in succession causes that; ‘...where property is discovered after confirmation, the parties have a window to go back to Court with an application for review for the confirmation of the grant to be reconsidered within the same cause’ (*re Estate of Kanyingi Gatwe (Deceased)*) [2018] eKLR)
8. This court has perused the certificate of confirmation of grant dated 19/07/2017, last will and testament dated 24/06/2015, and transfer of lease dated 29/06/2015 which are annexed to the application. The Applicants have demonstrated to this court that the said land parcel still stands in the name of the deceased. It is therefore, in order to include it in the estate, but for purposes of completing the transaction on behalf of the deceased. This is important in light of the law on gifts inter vivos and their effect in law.
9. Importantly also, as this property is intestate, the grant shall now be letters of administration with will annexed.

## Conclusion

10. In view of the foregoing, this court finds that the application is merited and orders as follows:
  - i. The certificate of confirmation of grant dated 19/07/2017 is reviewed.
  - ii. Unit Number C4 in Block C erected on land reference number 2/220(original number 2/37/1/1) be included in the schedule of the properties of the deceased.
  - iii. The said property to go to Sanaipei Deborah Ntimama.
  - iv. No orders as to costs.
11. Orders accordingly.

**DATED, SIGNED, AND DELIVERED AT NAROK THROUGH TEAMS APPLICATION, THIS 22ND DAY OF MAY 2024.**

.....

**F. Gikonyo M**

**Judge**



**In the presence of:**

**Onyango/Mumbi for applicant**

**Otolo C/A**

