



REPUBLIC OF KENYA



In re Estate of Tom Kano Abondo Amondi (Deceased) (Miscellaneous Succession Cause E055 of 2024) [2024] KEHC 12694 (KLR) (17 October 2024) (Ruling)

Neutral citation: [2024] KEHC 12694 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT KISUMU

MISCELLANEOUS SUCCESSION CAUSE E055 OF 2024

RE ABURILI, J

OCTOBER 17, 2024

IN THE MATTER OF THE ESTATE OF TOM KANO ABONDO AMONDI (DECEASED)

AND

**IN THE MATTER OF PETITION OF LETTERS OF ADMINISTRATION
BY ANNE AWINO ABONDO – APPLICANT/PETITIONER**

(ARISING FROM ORIGINAL KISUMU HC SUCCESSION CAUSE NO. 232 OF 1995)

RULING

1. The deceased Tom Kano Abondo Amondi died on 28th April 1995 intestate. He was aged 51 years old.
2. On 4th August 1995, Margaret Atieno, and Anne Awino Onono Abondo petitioned vide Succession Cause No. 232 of 1995 at Kisumu High Court for a grant of letters of Administration Intestate, to administer the estate of the deceased Tom Kano Abondo Amondi. The Petitioners were his widows.
3. They were issued with a grant on 15th August 1995, which grant was confirmed on 23rd July 1996. That was the end of that cause and it was not until 8th February 2018 that Anne Atieno Anono wrote to court requesting for another grant as she had lost the grant issued to her. She is now back to court seeking for rectification of grant and certificate of confirmation of grant to substitute her now deceased co-administratrix Margaret Atieno Abondo who died in 1999 and to include other assets which were left out of the estate.
4. I have considered the application dated 19th July 2024. It is clear that the administratrices went to slumber in 1996 after confirmation of the grant.
5. It also clear that the grant issued and confirmed in their favour became useless and inoperative as it never aided in the administration or distribution of the deceased's estate. It was also defective in substance as the Petitioners left out other assets of the estate of the deceased and therefore the P&A 5 affidavit sworn on 4th August 1995 was not correct.



6. Upon confirmation of the grant, the administrators were expected to distribute the estate to the beneficiaries within 6 months and file into court accurate accounts as stipulated in Section 83 of the *Law of Succession Act*. That never happened todate.
7. Additionally, although there are many beneficiaries listed in P&A 5, the certificate of confirmation dated 23rd July 1996 gives to the administratices sole and whole ownership of the estate assets and is without any distribution schedule to the beneficiaries other than the Administratices themselves. That in itself is fatally defective.
8. For all the above reasons, I find that there is no useful grant and certificate of confirmation of grant capable of being rectified.
9. I decline the application dated 19th July 2024 and dismiss it.
10. In its place, I hereby invoke Section 76 of the *Law of Succession Act* and revoke and annul the grant issued on 25th August 1995 and confirmed on 23rd July 1996 in favour of Margaret Atieno Abondo and Anne Awino Abondo and order that the beneficiaries of the estate of the deceased shall petition afresh for a fresh grant and comply with all the requirements under the *Law of Succession Act*.
11. This file is closed.
12. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 17TH DAY OF OCTOBER, 2024

R. E. ABURILI

JUDGE

