



REPUBLIC OF KENYA



KENYA LAW
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**In re Stephen Obuya Yugi (Deceased) (Succession Cause
240 of 2010) [2023] KEHC 17223 (KLR) (10 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17223 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
SUCCESSION CAUSE 240 OF 2010
RE ABURILI, J
MAY 10, 2023**

BETWEEN

BENTA AKINYI OBUYA 1ST PETITIONER

GEORGE CALVIN OLUOCH OBUYA 2ND PETITIONER

AND

ELIAS OPONDO RESA OBJECTOR

RULING

1. In the Summons for revocation of grant dated May 5, 2022, the Objector Elias Opondo Resa claims to own part of the property in the now estate of the late Stephen Obuya Yugi (deceased).
2. He claims to have purchased part of the land which was amalgamated into the disputed parcel No North Karachuonyo/Kakwajouk/467, 298 and 226 of which parcel No 199 is part of and that as he purchased the pieces of land, he caused them to be registered in the names of his younger brother, the deceased Stephen Obuya Yugi.
3. That being the case, it is clear that the issue of trust and ownership of the subject properties is at hand. Only the Environment and Land Court has jurisdiction to hear and determine such disputes relating to ownership and title to land, even if this court did confirm the grant in favour of the Administrators whose duties under the *Law of Succession Act* are well spelt out. In any case, the person claiming to be entitled to such land which was registered in the deceased's name could only do so after letters of administration are issued to a personal representative and it matters not that confirmation of the grant was done since confirmation only gives the power to distribute the estate in accordance with the law and not to personally own the property of the estate.
4. For the above reasons, and as the Objector's counsel has asked the court to have the summons for revocation of grant dated May 5, 2022 withdrawn should the court find that the court has no



jurisdiction to hear and determine that claim, I hereby mark the summons for revocation of grant dated May 5, 2022 as wholly withdrawn with no orders as to costs.

5. This file is effectively closed save for the administrators complying with the dictates of Section 83 of the *[Law of Succession Act](#)* on giving of a true and accurate account of the administration of estate of the deceased, as required by law.
6. I so order. File closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 10TH DAY OF MAY, 2023

R E ABURILI

JUDGE

