



**Republic v Reipon (Criminal Case E187 of 2025)  
[2025] KEMC 225 (KLR) (20 August 2025) (Sentence)**

Neutral citation: [2025] KEMC 225 (KLR)

**REPUBLIC OF KENYA  
IN THE MARALAL LAW COURTS  
CRIMINAL CASE E187 OF 2025  
AT SITATI, SPM  
AUGUST 20, 2025**

**BETWEEN**

**REPUBLIC ..... PROSECUTOR**

**AND**

**IRERI REIPON ..... ACCUSED**

**SENTENCE**

1. The accused person pleaded guilty to the charge of misapplication of deceased's assets contrary to section 95(1)(a) of the *Law of Succession Act* cap 160 Laws of Kenya. The particulars were that on 5th November, 2019 the accused person received Kshs 1, 018,000 as the decretal sum to the estate of the Late Joseph Lotunyeny which he was to hold until succession was done but this was not done.
2. The facts tendered to the court by the Prosecution Counsel Peter Eysimkele were that on 20th July, 2008 Joseph Lotunyeny died in Nanyuki after being knocked down by a vehicle. The deceased father and brother then consented to the accused person obtaining Limited Grant of Letters of Administration Ad Litem for the purpose of suing for the compensation which he successfully did and was paid Kshs 740,000 as net estate funds after the advocate deducted his legal fees. The further facts were that after he received this award, the accused person squandered and spent the same before confirmation proceedings hence the father and brother their lodging a complaint in the succession court which found him liable for this criminal prosecution. He admitted the facts as true and was duly convicted after the DPP produced the following as exhibits: Swift money transfer dated 5th November, 2019 for the sum of Kshs 740,000 from Stephen Thuku to the Respondent. Acknowledgment and discharge dated 4th November, 2018. Payment voucher from J.M. Mwangi Advocate dated 4th November, 2019 for the sum of Kshs 740,000/- to the Respondent herein Ileri Reipon. Limited Grant issued to Ileri Reipon by the High Court in Meru on 4th May, 2010. Letter by Chief of Baragoi location dated 6th August, 2008. Witness statement of Ileri Reipon in civil suit No.99 of 2010 Nanyuki Law Courts. Decree in civil suit no. 99 of 2010 dated 16th July, 2019.



3. Following his conviction, the DPP informed the court that he was a first offender. In mitigation through his advocate, Mr. Lenkidi Mpapa, the convict told the court that he was a first offender and had pleaded guilty. He stated that he was a married man with 7 children who depended on his income earned from employment at the Nanyuki Impala Sanctuary. He asked to be forgiven stating that he was ready to have his assets attached to make good the loss and further that he did not know that the Ad litem Grant was supposed to be followed by a further confirmation hearing. Further mitigation was that the matter arose after the family disagreed on the mode of sharing the proceeds of the court award.
4. The duty of the court is to determine the appropriate sentence.

### **Applicable Principles**

5. The convict has been charged under the *Law of Succession Act* as hereunder:
  95. Offences by personal representatives
    - (1) Any personal representative who, as regards the estate in respect of which representation has been granted to him-
      - (a) wilfully or recklessly neglects to get in any asset forming part of the estate, misapplies any such asset, or subjects any such asset to loss or damage; or
      - (b) wilfully fails to produce to the court any such inventory or account as is required by the provisions of paragraphs (e) and (g) of section 83; or
      - (c) wilfully or recklessly produces any such inventory or account which is false in any material particular; or
      - (d) knowing or having reason to believe that the estate will prove to be insolvent, continues to administer it without petitioning for administration thereof in bankruptcy, shall be guilty of an offence, and shall be liable to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.
5. As the High Court noted in the case of *In the Matter of the estate of Veronica Njoki Wakagoto (Deceased) [2013] KEHC 1930 (KLR) (W.Musyoka J.)* an administrator is liable for criminal prosecution if he acts outside the legal limits of the Letters of Administration:

"It is unfortunate that the prosecutorial authorities do not focus on offences of this kind as prosecutions are hardly ever mounted over them...It should be noted that even where a grant of representation has been obtained, the grant-holder has no power to sell any immovable asset before confirmation of the grant. This is the law under section 82(b) (ii), which states –

'Personal representatives shall, subject only to any limitation imposed by their grant, have the following powers ... to sell or otherwise turn to account ... all or any part of the assets vested in them, as they think best: provided that – no immovable property shall be sold before confirmation of the grant ...'
6. From the history of the matter, the convict had successfully obtained Limited Grant of Letters of Administration Ad Litem limited for the purpose of suing to recover the compensation due to the estate of his brother. From 2019 to 2025 he has had more than 5 years to rectify the situation but has not due to his intransigence and lack of goodwill with his family and relatives. He had an advocate on record who counselled and represented him throughout so he cannot feign ignorance of the legal effect



of the Limited grant of letters of administration ad litem. The court is satisfied that his misapplication of the estate funds was wilful.

7. The court notes, however, that the loss will be made good in full with the attachment of his properties which has just began following the court order in the succession cause. With that scenario, the court passes a sentence of the prescribed fine of Kshs 10,000/- in default 12months imprisonment owing to the prolonged refusal of the convict to come clean for more than 5 years after he was initially notified to regularize the offence. Right of appeal is 14 days.

**DATED, READ AND SIGNED AT MARALAL LAW COURTS THIS 20TH DAY OF AUGUST, 2025**

**HON.T.A. SITATI**

**SENIOR PRINCIPAL MAGISTRATE**

**MARALAL LAW COURTS**

**Present**

DPP Eysimkele

Convicted Person

Lenkidi Mpapa Advocate

Samwel Court Assistant

