



**In re Estate of Peter Kameri Kereme (Deceased) (Succession Cause
218 of 2000) [2025] KEHC 5570 (KLR) (29 April 2025) (Ruling)**

Neutral citation: [2025] KEHC 5570 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT ELDORET
SUCCESSION CAUSE 218 OF 2000
RN NYAKUNDI, J
APRIL 29, 2025**

IN THE MATTER OF THE ESTATE OF PETER KAMERI KEREME (DECEASED)

BETWEEN

TERESIA WANJIKU 1ST APPLICANT

SILVIA WANJIRU 2ND APPLICANT

AND

PIUS KIPCHUMBA 1ST PETITIONER

WESLEY KOGO 2ND PETITIONER

RULING

1. On 25th September, 2023, this Court delivered a ruling declining to revoke the grant of letters of administration issued on 26th June, 2003 and subsequently amended on 28th July, 2003. The Court determined that revoking the grant would unduly delay justice and accordingly directed all parties to file their proposed modes of distribution for the remaining portion of the estate within 14 days.
2. Taking a few steps back, on 14th July, 2003, all counsel representing the parties executed and filed a consent agreement that included previously omitted estate assets. Specifically, this consent incorporated two unregistered properties: a parcel of land at Racecourse and another at Langas. The mode of distribution was explicitly limited to these unregistered plots. The remaining issue before this Court pertains solely to the distribution of these properties.
3. The record indicates that the deceased died intestate on 5th August, 2000, survived by the following individuals: a. Edditar Wairimu Kamiri b. Francis Karanja Kamiri c. Joseph Muiro Kamiri d. Daniel Njehia Kamiri e. Teresia Wanjiku Kamiri f. Sylvia Wanjiru Kamiri.
4. Following the death of Edittar Wairimu Kamiri, Teresia Wanjiku and Silvia Wanjiru Kamiri were appointed administrators of her estate pursuant to Eldoret H.C.P. & A. Cause No. 185 of 2009. By



virtue of this appointment, they sought recognition as beneficiaries in the present estate. The Court further notes that Joseph Muiro Kamiri died without leaving any heirs.

5. Regarding the unregistered parcels of land at Racecourse and Langas, the Court acknowledges the consent agreement dated 14th July, 2003, which distributed these properties among certain beneficiaries but excluded Teresia Wanjiku and Silvia Wanjiru Kamiri. The Applicants have expressed objection to this consent agreement and the resultant court order, asserting that they did not consent to the distribution scheme.
6. As previously noted in the ruling of 25th September, 2023, the Applicants failed to demonstrate that they withheld consent from the original certificate of grant; indeed, they acknowledged their participation in and agreement to the initial mode of distribution. However, it is manifestly clear that they did not consent to the subsequent amendment that resulted in the distribution of additional properties discovered after the original consent. The Court emphasized that despite the Applicants' involvement in the initial consented mode of distribution, they were improperly excluded from the amendment process that occurred following the discovery of additional properties.
7. The Court declined to interfere with an order obtained through consent but permitted the parties to file proposed modes of distribution to remedy the Applicants' exclusion. I take note of the petitioners' position in their affidavits on record – that the parcels have already been sold out and there is nothing to distribute.

Determination

8. This is a matter requiring judicial determination on the status of unregistered properties belonging to the estate of Peter Kameri Kereme. Rule 73 is on the inherent powers of the court; it reads:

“Nothing in these Rules shall limit or otherwise affect the inherent powers 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.”
9. The Court has taken cognizance of the Petitioners' assertion, as stated in their affidavits, that the parcels in question have already been sold and that, consequently, there remains nothing to distribute. However, this claim lacks sufficient particularity and supporting evidence. The Court cannot make a fair and just determination on the distribution of these assets, or their proceeds, without a clear understanding of their current status.
10. Estate administration requires rigorous transparency and accountability. When beneficiaries are excluded from processes affecting their inheritance rights, the Court must ensure comprehensive accounting of all assets before finalizing distribution. This obligation is particularly critical when dealing with land assets, which hold significant value within our legal framework. To fulfil this responsibility, the Court relies on estate administrators who serve as essential stewards of the administration process. Their fiduciary duties are captured under Section 83 as follows:
 - a. To provide and pay out of the estate of the deceased, the expenses of a reasonable funeral for him;
 - b. To get in all free property of the deceased, including debts owing to him and moneys payable to his personal representatives by reason of his death;



- c. To pay, out of the estate of the deceased, all expenses of obtaining their grant of representation, and all other reasonable expenses of administration (including estate duty, if any);
- d. to ascertain and pay, out of the estate of the deceased, all his debts;
- e. within six months from the date of the grant, to produce to the court a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
- f. subject to section 55, to distribute or to retain on trust (as the case may require) all assets remaining after payment of expenses and debts as provided by the preceding paragraphs of this section and the income therefrom, according to the respective beneficial interests therein under the will or on intestacy, as the case may be;
- g. within six months from the date of confirmation of the grant, or such longer period as the court may allow, to complete the administration of the estate in respect of all matters other than continuing trusts, and to produce to the court a full and accurate account of the completed administration;
- h. to produce to the court, if required by the court, either of its own motion or on the application of any interested party in the estate, a full and accurate inventory of the assets and liabilities of the deceased and a full and accurate account of all dealings therewith up to the date of the account;
- i. to complete the administration of the estate in respect of all matters other than continuing trusts and if required by the court, either of its own motion or on the application of any interested party in the estate, to produce to the court a full and accurate account of the completed administration.”

11. Musyoka, J. in the High Court case of *In re Estate of Julius Mimano (Deceased)* [2019] eKLR analyzed the unique position in law held by the personal representative of a deceased person by stating as follows:

“...personal representatives administer estates on the strength of legal instruments made to them by the probate court. The vesting of the estate of the deceased on the personal representatives by virtue of section 79 of the Act, flows from the instrumentality of the grant of representation. Upon representation being made, the grant holder then becomes entitled to exercise the statutory powers conferred upon personal representatives by section 82 of the Act and incurs the duties imposed on them by section 83 of the Act. Additional powers flow from and duties are imposed by other statutes, such as the *Trustee Act*. Under section 82 of the Act, there are powers to enforce and defend causes of action on behalf of the estate, to sell or convert estate assets, to assent to vesting of bequests and legacies on the beneficiaries, among others. Acts done or actions taken on behalf of the estate or for the benefit of the estate would have to be accounted for. In other words, the personal representatives are bound to account for every action they take on behalf of the estate, for they exercise the powers on delegation.”

12. This Court recognizes that personal representatives have a fiduciary duty to properly account for and distribute all estate assets. If the Petitioners have indeed sold the properties at Racecourse and



Langas without proper disclosure to all interested parties, particularly the Applicants, such action may constitute a breach of their fiduciary responsibilities.

13. The principles of natural justice and equity demand that all beneficiaries of an estate be afforded an equal opportunity to assert their rights to inheritance. The Applicants, having been improperly excluded from the amendment process, are entitled to a clear accounting of the properties in question before any final determination can be made.
14. In light of these considerations, I find it necessary to seek clarification on the status of the properties before proceeding with the distribution of the estate. The Court must be satisfied that all assets of the deceased have been properly accounted for and that any transactions involving estate properties have been conducted with due regard to the interests of all beneficiaries.
15. In the upshot, the following orders shall abide:
 - a. The Petitioners (Pius Kipchumba and Wesley Kogo) shall, within thirty (30) days from the date of this order, file and serve an affidavit providing comprehensive particulars regarding:
 - i. The current status of the unregistered properties at Racecourse and Langas that were included in the amended consent dated 14th July, 2003;
 - ii. Full details of any sale transactions involving the said properties, including dates of sale, consideration received, identity of purchasers, and current registration status;
 - iii. Documentary evidence supporting any claims of sale, including sale agreements, transfer documents, and proof of receipt of proceeds;
 - b. In the alternative, should the Petitioners fail to provide satisfactory particulars as directed above, the Director of Land Adjudication/The Land Registrar/Community Land Registrar or as the case may be is hereby directed to: Prepare and submit to this Court, within sixty (30) days, an executive summary detailing the current registration status, ownership, and any encumbrances on the said properties
16. Each party shall bear its own costs.
17. A status conference shall be held on 30/5/2025 to confirm compliance and for further direction.

DELIVERED, DATED AND SIGNED AT ELDORET ON THIS 29TH DAY OF APRIL 2025

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R. NYAKUNDI
JUDGE

