



REPUBLIC OF KENYA



KENYA LAW
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In re Estate of Sabine Ngeza Nooricimpa alias Sabina (Deceased) (Succession Cause 2980 of 2013) [2024] KEHC 7750 (KLR) (Family) (28 June 2024) (Ruling)

Neutral citation: [2024] KEHC 7750 (KLR)

REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
SUCCESSION CAUSE 2980 OF 2013
MA ODERO, J
JUNE 28, 2024
IN THE ESTATE OF SABINE NGEZA NOORICIMPA ALIAS SABINA

RULING

1. Before this court for determination is the Amended Summons dated 5th December, 2019 by which the Applicant Christiane Nyobuntu seeks the following orders:-
 1. Spent.
 2. That the Branch Manager of Barclays Bank of Kenya Limited, Hurlingham Branch be and is hereby ordered to furnish to the Applicant's Advocates Bank Statements to Account Numbers 453xxxxxx, 658xxx,123xxxx and 374xxxx in the name of Sabine Ngeza, from the 21st day of April, 2011 when she died until the 19th day of February, 2019;
 3. That the Branch Manager of Commercial Bank of Africa Limited, Mara & Ragati Road, Upper Hill Branch, be and is hereby ordered to furnish to the Applicant's Advocates Bank Statements to Account Numbers 5421xxxxxx, 6617xxxxxx, 6617xxxxxx, 6617xxxxxx, 9410xxxxxx, Unit Trust Account Number 9321, Money Market Fund Account Number 11xxx and Equity Fund Account Number 33xxx in the name of Sabine Ngeza, from the 21st day of April 2011 when she died until the 19th day of February 2019.
 4. That the Branch Manager of Commercial Bank of Africa Limited, Village Market Branch be and is hereby ordered to furnish to the Applicant's Advocates statements to Account Number 410xxxxxx in the name of Sabine Ngeza, from the 21st day of April 2011 when she died until the 19th day of February, 2019.
 5. That the costs of this applications shall be in the cause.
2. The application was supported by the Affidavit of even date sworn by the Applicant.



3. The Summons was opposed by the Replying Affidavit dated 27th May, 2022, sworn by Stephen Atinya, the Principal Legal Counsel at NCBA Bank Kenya PLC.
4. The matter was canvassed by way of written submissions. The Applicant did not file any written submissions whilst the Respondent relied upon his written submissions dated 26th September, 2023.

Background

5. This succession cause relates to the estate of the late Sabina Ngeza Ndoricimpa alias Sabina Ngeza Ndoricimpa (hereinafter 'the Deceased'), who died intestate on 24th April, 2011.
6. The deceased was survived by the following;
 - (i) Christiane Niyobuntu - daughter.
 - (ii) Christophe Ntampirangeza - son
7. The assets of the estate were listed as follows;
 - i. Three current accounts-Entrepreneur with Commercial Bank of Africa Limited Mara and Ragati Road, Upper hill, Account Name; Sabine Ngeza Ndoricimpa customer Number 66xxxx .
Account Number Amount
 - (a) a) 6617xxxxxx - 0410xxxxxx Kshs. 8,000,000
 - (b) 6617xxxxxx - 0410xxxxxx \$ 4,00 (Kshs. 349,800)
 - (c) 667xxxxxx-0410xxxxxx 3000 Euros (Kshs. 352,230)
 - ii. Account at Barclays Bank, hurlingam Branch, Account Name: Sabine Ngeza, Account Number: 0453xxxxxx
 - iii. Account at Commercial Bank Africa Limited Mara and Ragati Road, Upper hill, Account Name: Sabine Negeza Ndoricimpa customer Number 65xxxx – Account Kshs. 2,000,000/=
7. Following the demise of the Deceased her son Christophe Njimpi Rangeza petitioned for Grant of letters of Administration Intestate which Grant was issued to him on 2nd April, 2014. The Grant was duly confirmed on 14th July, 2014.
7. The Applicant who is the daughter of the Deceased complains that the appointed Administrator has been slow and reluctant in carrying out his duties. That as a result the beneficiaries have been unable to access the assets of the estate.
10. The Applicant further accuses the Administrator of failing to locate and indicate several of the assets belonging to the estate which include the named Bank Accounts.
11. That she therefore initiated communication with the Banks in question and sought to confirm the existence and details of any accounts held by the Deceased. The applicant now seeks orders to compel the Banks in question to release the requested information to her.
12. In his Replying Affidavit dated 14th May, 2020 the Administrator denies that he has neglected to perform his duties in respect of the estate. He asserts that he has been diligently managing the assets of the Deceased.



13. The Administrator states that the information on the Bank Accounts was inadvertently overlooked and were not included in the list of Assets of the Deceased. He avers that he has no objection to the Grant being rectified in order to include the said assets.
14. The NCBA in their Replying Affidavit deny that the cited Accounts are held in the Deceased's name. That others of the cited accounts have been closed and no longer exist. They urge the court to dismiss the Application.

Analysis and Determination

15. I have carefully considered this application, the replies filed thereto as well as the written submissions filed by the Respondents.
16. It is common ground that the confirmed Grant of letters of Administration in respect of this estate are held not by the applicant but by her brother. The applicant claims that the appointed Administrator has been lax in his duties. Her remedy in that regard would be to seek to have the court compel the Administrator to carry out his duties or to file an application to have the Grant revoked.
17. Instead the Applicant took it upon herself to approach certain Banks demanding to be provided with information relating to accounts she believes were held by the Deceased. The Banks were right to decline to release such information to the Applicant as she is not the Administrator of the estate.
18. In Law the only person with authority to act for and/or on behalf of the estate of a Deceased person is the Administrator/Executor.
19. In the case of *Isaya Masira Momanyi -vs- Daniel Omwoyo & Another* [2017] eKLR the court held that:

“It is trite law that the estate of a deceased person can only be represented in any legal proceedings by a person who is duly authorized to do so on behalf of the estate. Only a person who has been issued a grant of letters of Administration has capacity to represent the estate of a deceased person” [Own emphasis]
20. Therefore no matter how aggrieved the applicant was she had no legal capacity to purport to act on behalf of the estate of the Deceased.
21. The Administrator has indicated that he is ready and willing to rectify the Grant so as to include any assets which may have been inadvertently omitted. In my view this application was totally unnecessary. There is no evidence to support the allegation that the Administrator has been lax or that he has neglected his duties.
22. Finally I find no merit in the Amended Summons dated 5th December, The same is dismissed in its entirety. Costs will be met by the Applicant.

DATED IN NYERI THIS 28TH DAY OF JUNE, 2024.

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MAUREEN A. ODERO

JUDGE

