



IN THE HIGH COURT OF UGANDA SITTING AT GULU

Reportable
Misc. Civil Application No. 0047 of 2020

In the matter between

ADONG SANTA SARAH

APPELLANT

And

ONYUTA ALBERT

RESPONDENT

Heard: 23 June, 2020.

Delivered: 23 July, 2020.

Family Law — Revocation of letters of administration— Section 234 (2) (d) of the Succession Act— permits courts to revoke letters of Administration that have become “inoperative.” A grant may have been properly made but for a reason that has occurred as a result of subsequent events, it may become necessary for the court to revoke the grant for practical reasons. — The object of the power to revoke a grant is to ensure due and proper administration of an estate and protection of the interests of those beneficially interested. There is only one way in which the name of an administrator of an estate may be removed from a grant and that is by revocation of the grant and the making of a fresh grant. A court cannot simply strike out the name of one administrator from a grant and continue on without revoking the grant. A fresh grant should be made because a grant is a public document and often must be produced to third parties as proof that the holder is the personal representative and thus enable him or her to administer the estate.

RULING

STEPHEN MUBIRU, J.

Introduction:

- [1] This is an application made under section 98 of the *Civil Procedure Act*, section 234 (2) (d) of the *Succession Act*, Cap 239 and Order 52 rules 1, 2 and 3 of the *Civil Procedure Rules*, seeking revocation of letters of administration that were granted by this court on 3rd September, 2012, to the applicant and the respondent jointly in respect of the estate of the late Ochen Willy D. of Lower Churchill Drive, Senior Quarters, Laroo Division in Gulu Municipality. The application is supported by the affidavit of the applicant stating that save for the monthly remittances of pension through the bank account of the deceased, the rest of the estate of the deceased has been distributed and final accounts duly filed in court on 10th June, 2020.
- [2] The main thrust of the application is that whereas the grant of was made to the two of them, the respondent considers his duty discharged and has no further interest in managing the monthly remittances if pension which are solely applied to the benefit of the children of the deceased. The respondent considers that their mother, the applicant, has the ability to discharge that obligation on her own. He has thus filed a renunciation of the grant and has no objection to the grant of the orders sought. As a result, the grant has become inoperative, hence the application for revocation.

Revocation of letters of Administration.

- [3] Section 234 (2) (d) of the *Succession Act*, permits courts to revoke letters of Administration that have become “inoperative.” A grant may have been properly made but for a reason that has occurred as a result of subsequent events, it may become necessary for the court to revoke the grant for practical reasons. For example where an administrator becomes incapable of managing his affairs by reason of mental or physical incapacity, the grant will be revoked, as it was *in the Goods of Galbraith [1951] p 422*. In the instant case, the respondent considers

his obligation discharged and has no interest in further management of what is left of the estate of the deceased.

- [4] The object of the power to revoke a grant is to ensure due and proper administration of an estate and protection of the interests of those beneficially interested. The principle was enunciated *In the goods of William Loveday* [1900] P 154 thus;

The real object which the court must always keep in view is the due and proper administration of the estate and the interests of the parties beneficially entitled thereto, and I can see no good reason why the court should not take fresh action in regard to the estate where it is made clear that the previous grant has turned out abortive or inefficient. If the court has in certain circumstances made a grant in the belief and hope that the person appointed will properly and fully administer the estate and it turns out that the person so appointed will not or cannot administer, I do not see why court should not revoke an inoperative grant and make a fresh grant.

- [5] There is only one way in which the name of an administrator of an estate may be removed from a grant and that is by revocation of the grant and the making of a fresh grant. A court cannot simply strike out the name of one administrator from a grant and continue on without revoking the grant. A fresh grant should be made because a grant is a public document and often must be produced to third parties as proof that the holder is the personal representative and thus enable him or her to administer the estate.
- [6] Where a grant to two or more administrators is revoked however, and a new grant is issued to one of the original administrators, a court does not require the continuing administrator to prove once more all the matters which were proved in order to obtain the original grant (see *Gould v Gould* [2005] NSWSC 914 at 9 per Campbell J). In this case it will not be necessary to go through the entire process of applying, advertising etc.

[7] Regarding the application before me, I have considered the grounds advanced and the averments contained in the pleadings and the annexures thereto. What is left of the estate of the deceased is indeed an aspect that can be managed by the applicant on her own. The applicant has made out a proper case for the revocation of that grant and it is hereby revoked.

Order:

[8] In the final result, in order to ensure the due and proper administration of the estate and protection of the interest of those beneficially interested, I direct, order and hereby make a fresh grant in respect of the estate of the late Ochen Willy D. of Lower Churchill Drive, Senior Quarters, Laroo Division in Gulu Municipality, to the applicant; Adong Santa Sarah (widow of the deceased) as sole administrator. There is no order as to costs.

Delivered electronically this 23rd day of July, 2020

.....Stephen Mubiru.....

Stephen Mubiru

Resident Judge, Gulu

Appearances

For the applicant :

For the respondent :