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The Republic of Uganda

In the High Court of Uganda at Soroti

Miscellaneous Application No. 0006 of 2024

(Arising from Administration Cause No. 0009 of 2022)

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In the matter of Late Etadu Eliphas (Deceased)

And

In the matter of an Application for revocation of Letters of Administration and
Grant instead to Abunyo Naume (Daughter)

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Before: Hon Justice Dr Henry Peter Adonyo

Ruling

1. Introduction:

This is an application by way of Notice of motion brought under section 98 of the
Civil Procedure Act, Section 234(2)(d) of the Succession Act and Order 52 Rules
20 1,2 &3 of the Civil Procedure Rules for orders that;

- a) The letters of administration granted to the applicant and the late Ecwao
Daniel (deceased) as co-administrator vide Administration Cause No. 0009
of 2022 be revoked.
- b) The applicant be granted Letters of Administration to administer the estate
25 of the deceased late Eliphas Etadu.
- c) Costs of this application be provided for.



5 2. Grounds:

The grounds of this application as set out in the application and affidavit in support sworn by the applicant Abunyo Naume are that whereas the grant of 23rd June 2022 was made to the applicants, viz; Ecwao Daniel and Abunyo Naume, the former co-administrator Ecwao Daniel unfortunately died on the 11th March 2023
10 and as a result of his death the grant has become inoperative hence this application.

The applicant was represented by M/s Ewatu and Co. Advocates and this matter proceeded by way of written submissions and the same have been considered in the determination of this application.

15 3. Determination:

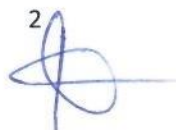
a) Revocation of a grant:

The applicant herein together with Ecwao Daniel applied for and were granted letters of administration to the estate of their late father Etadu Eliphas *vide* Administration Cause No. 0009 of 2022 on the 23rd of June 2022. A copy of the
20 grant was attached to this application as 'A1'

However, the applicant's co-administrator Ecwao Daniel passed on the 11th day of March 2023, a copy of his death certificate and death notification record from NIRA are attached to this application and are marked as 'B1' and 'B2', respectively.

25 The death certificate Reg. No UGM1850E3446C issued by one Ogwade Silvester a registration officer on the 12th of May 2023 indicates that Ecwao Daniel died at 6:00 am on the 11th of March 2023 from poisoning from noxious foodstuffs.

The death certificate shows his NIN as CM87097103AEKE which is similar to the NIN on the copy of his national ID attached to this application as 'C1'.

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5 The Succession Act (As Amended) in 2022 provides for revocation of letters of administration.

Section 234 (1) thereof provides that the grant of probate or letters of administration may be revoked or annulled for just cause.

Subsection (2) (d) defines just cause to mean that the grant has become useless
10 and inoperative through circumstances.

In this instance, a lawful grant was made on the 23rd of June 2022 to both Ecwao Daniel and Abunyo Naume has been rendered inoperative due to the proven death of the one of the administrators Ecwao Daniel. The earlier grant has thus become inoperative and ought to be revoked if the essence of the grant is to be
15 effectuated.

More so, the applicant herein under paragraph 5 of her affidavit state that at the time of her co administrator's death, the two administrators were running the late Etadu Eliphas' estate's account at Stanbic Bank vide Account No. 0310368004005. The death of Ecwao has thus rendered the joint operation of
20 the late Etadu Eliphas' estate's account inoperative to the detriment of its beneficiaries.

In law, the object of the power given to court to revoke an earlier but now inoperative grant is to ensure the due and proper administration of an estate and the protection of the interests of those beneficially interested.

25 This principle was articulated the case of *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

5 *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
10 *should not revoke an inoperative grant and make a fresh grant."*

I agree with the above principle. In this case, the court made a grant in the belief and hope that two persons who were jointly appointed to manage the estate of the late Etadu Eliphas will properly and fully administer the estate but it has now turned out that one the person so appointed will not or cannot administer the
15 same jointly with the other for the reason that one such person is proven deceased.

Invariably I do not see why this court should not revoke an inoperative grant and make a fresh grant since the applicant herein has proved on a balance of probability that her co-administrator Ecwao Daniel is dead and that his death has
20 rendered the earlier grant made by this court on 23rd June 2022 inoperative by reason of the death of one of the joint administrators.

The above facts being so proven to my satisfaction as is evidenced by the documents provided on record, I am inclined to allow to believe that this application is meritorious and has not been brought for the purposes of
25 subverting the cause of justice.

Accordingly, I do exercise my powers under section 234 (2)(d) of the Succession Act and revoke the earlier grant accordingly given by this court on the basis that it is no longer tenable for the estate of the deceased Etadu Eliphas to be managed appropriately to the interest of its beneficiary. This ground thus succeeds.

5 b) Issuance of a New Grant:

The next issue is whether a fresh grant can be issued to the applicant, the grant of 23rd June 2022 having been revoked.

The Succession (Amendment) Act, 2022 under section 47 amended section 234 of the Succession Act adding S. 234 (5) which provides thus;

- 10 **Court may, in the same process for revocation of letters of administration, grant letters of administration to another person where court determines that such a person is a fit and proper person to be granted letters of administration under this Act.**

Given the above provisions of the law, this court has the discretion to grant letters
15 of administration to the applicant where it is satisfied that the applicant is a fit and proper person and there is no objection raised to such a grant.

I note that the applicant herein earlier on already had gone through the processes preceding grant of the original letters of administration in Administration Cause 0009 of 2022 and was found fit and proper for the grant. She need not go through
20 the same processes over again.

The Ugandan I cases that address the grant of a new grant after a previous one becomes inoperative are *Oyuk v Odoi (HCT-04-CV-CA-104 OF 2013) [2017] UGHCLD 77*. In this case, the appellant sought to revoke the letters of administration granted to the respondent. The court considered whether the
25 grant should be revoked and whether a new grant of letters of administration should be made to the appellant. The court emphasized the importance of evaluating evidence properly and addressing issues related to fraud and compliance with legal requirements.

5 In *Nalebe v Bbosa & Ors (Miscellaneous Application No. 213 of 2018)*, although this case primarily dealt with other matters, it highlights the process of applying for administration of estates in Uganda thus when someone passes away without a valid will, the process of applying for administration of estates involves engaging a qualified probate attorney, gathering necessary documents, identifying the appropriate administrator, and filing the application with the Probate Registry.

Section 234(2)(d) of the Succession Act permits courts to revoke letters of administration that have become "*inoperative.*"

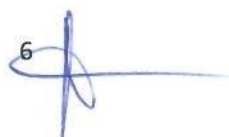
If a grant becomes inoperative due to subsequent events, the court may revoke it for practical reasons. The court then considers whether a new grant should be issued.

The above cases emphasize the need for legal compliance, proper evaluation of evidence, and the consideration of practical circumstances when dealing with grants of administration.

In this application, the consideration to make here is whether the family and beneficiaries of the estate of the late Etadu Alphans which the applicant co-administered with the late Ecwao Daniel still recommend the applicant to continue to as the administrator of his estate, the original grant and revocation notwithstanding.

To this effect, the applicant herein attached annexure 'D' to her application, minutes of a meeting held after the burial of the late Ecwao Daniel on the 16th of March 2023 which under Minute VII on the way forward there it is stated that the widows are to remain under the hands of Abunyo Naume, (who is the applicant) and were to work hand in hand with Abunyo as the head of the family. The applicant further attached annexure 'E' from the chairman

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5 Ikarugwok/Ibelakojo clan in Kongoto village dated 9th of May 2023 wherein he states that at the meeting held on the 16th of March 2023 after the death of Ecwao Daniel, the clan and family resolved that Abunyo Naume to be the principal signatory of the accounts of estates of the late Etadu Alphans and continue administering the estates following her good administration. The family
10 and clan recommended her as the sole administrator of the estate of the late Etadu Alphan's estate.

Further to the above, there is Annexure 'F' which is a letter dated 9th of May 2023 from the LC1 Chairperson Kongoto village wherein he states supports the clan's and family decision that following the death of Ecwao Daniel, the family and clan
15 had resolved that Abunyo Naume, the applicant herein be the sole administrator of the estates of the late Etadu and the principal signatory to the account of the said estate.

The above being so, I am satisfied that there is no obstacle in the grant of this application as all the proper positive ticks point to no other conclusion but the
20 grant of the same to the applicant.

From the above, I find that not only is the applicant a fit and proper person to administer the estate of the late Etadu Eliphas but there is also no objection raised to prevent her from being given the grant. This ground thus succeeds.

c) Conclusion:

25 In the final result, this application is found meritorious and is thus granted to ensure the proper administration of the estate of the Late Etadu Eliphas.

4. Orders:

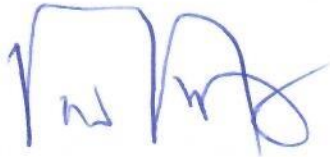
Accordingly, I do order the cancellation of the previous joint grant in Administration Cause 0009 of 2022 and doth issue a single and fresh grant in



5 respect of the estate of the late Etadu Eliphas to the surviving administrator by
named as Abunyo Naume (daughter of the deceased). I also make no order as to
costs in this application.

I do so order.

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Hon. Justice Dr Henry Peter Adonyo

Judge

11th April 2024