

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
FAMILY DIVISION
CIVIL SUIT NO.76 OF 2013

1. **TUMUSIIME PAUL**
2. **KAMUGISA IRENE**
3. **TWINOMUJUNI GODFREY**
4. **HERBERT BEITWA - ABABU.....**
.....PLAINTIFFS

VERSUS

HAJI WAHAB SEMAKULA KIBUUKA (Administrator of the estate of the late Sarah Wahab Wanyana Mukaka).....
....DEFENDANT

BEFORE HON. LADY JUSTICE PERCY NIGHT TUHAISE

JUDGMENT

The plaintiffs brought this suit against the defendant for a declaration that the defendant is not a widower of the late Sarah Wahab Wanyana Mukaka (deceased); revocation of letters of administration issued to the defendant vide **Administration Cause No. 504 of 2011**; new administrators to be appointed; permanent injunction; accountability; distribution of the estates property; that the defendant makes good cause or damage occasioned to the deceased's estate and to the prejudice of the plaintiff beneficiaries; cancellation of the defendant's name from the certificate of title and land register in the capacity of the administrator of the estate of the late Sarah Wahab Wanyana; a declaration that the defendant is not a beneficiary to the estate of the deceased; general and punitive damages; costs of the suit; and any consequential order and other reliefs this honourable court shall deem fit.

The plaintiffs' case is that they are children of the late Sarah Wahab Wanyana Mukaka (the deceased) whom she begot with their father Willis Rutambuza before commencing cohabitation with the defendant. The late Sarah Wahab died intestate on 11th June 2011. The defendant petitioned this court on 28th June 2011 for letters of administration which were granted to him on 4th November 2011. The defendant intentionally left out the plaintiffs who are also children of the deceased and known to him. The plaintiffs contend that the defendant obtained the grant by fraud, illegality and concealment of material facts, and that he has committed acts of fraud and dishonesty prior to and since assuming administration of the estate.

The defendant's case is that he is the administrator of the estate of the late Sarah Wahab Wanyana Mukaka to whom he was legally married. He was granted letters of administration to the deceased's estate on 4th November 2011. He proceeded to administer the estate. He also sold some of the properties of the estate to clear some of the estate loans. He denies any misappropriation of the estate.

At the time of hearing this case, the plaintiffs were represented by learned counsel Martin Masereka and the defendant was represented by learned counsel John Kaggwa. The case went for court annexed mediation which, according to the mediation report dated 25th January 2016, failed due to non attendance of the parties and their counsel. After scheduling of the case, witnesses of both parties filed sworn witness statements upon which they were cross examined by the opposite counsel and re examined by their respective counsel. Counsel filed written submissions within time schedules set by this Court.

The parties filed a joint scheduling memorandum before the hearing where the following facts were agreed on:-

- i) The defendant was granted letters of administration of the estate of the late Sarah Wahab Wanyana Mukaka vide **AC No. 504 of 2011**.
- ii) The plaintiffs were excluded from the list of beneficiaries and have not benefitted from the said estate.
- iii) The defendant sold some of the properties of the estate of the late Sarah Wanyana.

The matter was deliberated along the following agreed issues:-

- i) Whether the defendant obtained letters of administration of the estate of the late Sarah Wahab Wanyana Mukaka by fraud.
- ii) Whether the plaintiffs are beneficiaries of the estate of the late Sarah Wahab Wanyana Mukaka.
- iii) Whether the plaintiffs have suffered loss or damage due to the acts of the defendant.
- iv) What are the remedies available to the parties?

Issue i: Whether the defendant obtained letters of administration of the estate of the late Sarah Wahab Wanyana Mukaka by fraud.

The Supreme Court of Uganda in **Fredrick Zaabwe V Orient Bank Ltd & Others Criminal Appeal No 04/2006**, in defining fraud, stated that:-

*“Fraud according to Black’s Law Dictionary means an intentional perversion of truth for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A **false representation of a matter of fact, whether by words or by conduct, by false or misleading allegations, or by a***

concealment of that which deceives and is intended to deceive another so that he shall act upon it to his legal injury....” (emphasis mine).

Tumusiime Paul (**PW1**), who is also the 1st plaintiff, stated in paragraphs 8, 9, 10 and 14 of his sworn witness statement (exhibit **P1**) that the defendant intentionally left out the plaintiffs from the list of beneficiaries to the estate of their mother the late Sarah Wahab Wanyana Mukaka (deceased) though he knew of their existence. This evidence was not challenged during cross examination of **PW1**. The evidence of **PW1** on this aspect is strengthened by a copy of the defendant’s petition for letters of administration vide **High Court Administration Cause No 504/2011**, annexed to exhibit **P1**. The petition signed by the defendant before a commissioner for oaths on 28/06/2011 states that the deceased Sarah Mukaka was survived by Harima Nabukalu (daughter), Ibrahim Ssemwogerere (son) and Haji Wahab Semakula (widower). During cross examination the defendant (**DW1**) acknowledged that he knew the plaintiffs as children of the late Sarah Wahab whom she had before they met. He mentioned them name by name and said he can tell their names because he nurtured them. He did not explain anywhere that he left them out of the petition by error. His evidence is very clear that he knew them before he petitioned for letters of administration to the estate of their deceased mother.

The defendant agreed in the joint scheduling memorandum jointly signed by his counsel and the plaintiffs’ counsel that *“The plaintiffs were excluded from the list of beneficiaries and have not benefitted from the estate.”* This was agreed fact number (ii) in the joint scheduling memorandum signed by both counsel. It therefore stands as a proved fact under section 57 of the Evidence Act cap 16. In any case, even without considering agreed fact number (ii), the adduced evidence on record sufficiently proves to the required standards that the defendant intentionally left out the plaintiffs from the list of beneficiaries to the estate of their mother the late Sarah Wahab Wanyana Mukaka (deceased) though he knew of their existence. This was clearly a concealment of facts or representation of a matter of fact on the part of the defendant when he was petitioning for letters of administration. Such acts, omissions or conduct are stated to amount to fraud in the case of **Zaabwe** cited above.

PW1 also stated in paragraphs 11, 12 and 13 of his sworn witness statement, exhibit **P1**, that the marriage certificate the defendant presented to court to obtain the letters of administration in **AC 504/2011** was forged. This was confirmed by **PW2** Sheikh Twaibu Alimpaso who is the Registrar of Marriages at Uganda Moslem Supreme Council (UMSC). **PW2** stated in paragraphs 4, 6 and 8 of his sworn witness statement that by the time the marriage certificate was issued, the mosque that purportedly issued it had not yet been established; that by 1982 Bbutto Masjid Taqua Bweyogerere was not in existence and the marriage of 1982 could therefore not have been solemnized by the said mosque; and that the Imam who purportedly signed it could not have existed in that mosque. **PW2** stated during cross examination that Bbutto Masjid Taqua Bweyogerere, the mosque which purportedly issued the marriage certificate, was built in 1986.

PW2 also stated during cross examination that he received a request from M/S Kwanza & Co Advocates to verify the marriage; that his office forwarded the letter to Bbuto Masjid Taqua – Bweyogerere; that they responded that by 1982 Bbuto Masjid Taqua – Bweyogerere was not in existence; and that therefore no marriage could be solemnized. **PW2** stated in cross examination that he investigated the matter personally and put his findings in his letter to M/S Kwanza & Co. Advocates dated 10th November 2014 reference number UMSC/DS/11/14 (annexed to his sworn witness statement as **M**); that his investigations revealed that the marriage certificate annexed to **PW1**'s sworn witness statement was null and void because the mosque (Bbuto Masjid Taqua – Bweyogerere) purported to have issued the marriage certificate denied having issued it; and that the Religious Leaders in that mosque told him the document was not theirs. **PW2** also stated that he called Sheikh Makhi whose purported signature appears on the certificate and presented him with the certificate but he denied it; that Sheikh Makhi who purportedly conducted the said marriage has never been an Imam or a member of the committee of Bbuto Masjid Taqua – Bweyogerere; that the certificate does not show the date when it was issued; and that the said marriage certificate has never been registered with UMSC. In the letter **PW2** stated that the marriage was “invalid and not genuine”.

The defendant's counsel submitted that no thorough investigation was carried out, in that the report dated 10th November 2014 was made before the thorough investigations were carried out. Counsel submitted that the evidence of **DW2** (he meant **PW2**?) carrying out a thorough investigation should be rejected since he failed to logically justify why after his purported thorough investigation the defendant was again being invited for investigations in a consultative meeting to help come up with a report. Counsel also submitted that since **PW2** confirmed the existence of two mosques, Bbuto Masjid Taqua – Bweyogerere and Masjid Taqua, the inquiry should have involved both mosques instead of only Bbuto Masjid Taqua – Bweyogerere.

The marriage certificate on the record of **AC 504/2011** shows the marriage was conducted at Bbuto Masjid Taqua – Bweyogerere. It is shown to have been issued by the mosque of Bbuto Masjid Taqua – Bweyogerere. **PW2** stated during cross examination that in his investigations he found there were two mosques in one place – Masjid Up and Masjid Down. The other witnesses (**PW1**, **DW2**) referred to the two mosques as Masjid Taqua and Bbuto Masjid Taqua – Bweyogerere. The mosque mentioned in the marriage certificate however is Bbuto Masjid Taqua – Bweyogerere. That is the mosque **PW2** focused on because the document was purportedly issued by the said mosque.

Secondly, it may not be correct for the defendant's counsel to submit that the inquiry involved only Bbuto Masjid Taqua – Bweyogerere. It is evident from the testimony of **PW2** during cross examination that after **PW2**'s speaking to the Sheikh and the Imam at Bbuto Masjid Taqua – Bweyogerere, he went to another Masjid at the Centre where they told him that Sheikh Makhi is a businessman in Bweyogerere; that he called him and he denied the marriage certificate. I do not therefore quite appreciate the learned counsel's submissions that the inquiry should have involved both mosques instead of only Bbuto Masjid Taqua – Bweyogerere. In my opinion,

there is satisfactory evidence adduced by the plaintiffs to the required levels showing that a thorough investigation was done by the Directorate of Sharia of the UMSC.

A close scrutiny of the marriage certificate shows the date of marriage to be 21st November 1982. However the certificate does not show the date when the certificate was issued. This was stated to be an anomaly by **PW2**. **PW2** also stated that the said marriage certificate has never been registered with UMSC. The defendant's counsel however correctly submitted that the lack of registration with UMSC is of no legal consequence to the validity of a marriage. Sections 5 of the Marriage and Divorce of Mohammedans Act cap 16 requires Mohammedan marriages (and divorces) to be registered by the Registrar of Marriages, but section 16 of the same Act states that non registration of a marriage does not affect its legal effect. It was also evident during the cross examination of **PW2** that not all Muslims in Uganda subscribe to the UMSC as to register their marriages there.

The evidence of **PW1** and **PW2** was not discredited by the defence during cross examination. **DW3** Isaac Mugarura, a brother to the deceased, testified during cross examination that Sheikh Makhi the Imam of Bweyogerere mosque conducted the marriage between his sister and the defendant at their home in 1982. The defendant however did not call Sheikh Makhi, the Imam who purportedly conducted the marriage between the defendant and the deceased, as a witness. Neither did the defendant call those who signed as witnesses to the marriage. Instead, the defendant's counsel, relying sections 101 and 102 of the Evidence Act cap 6, submitted that it was incumbent on the plaintiffs to call Sheikh Makhi who signed the marriage certificate as their witness to testify as to whether his signature was forged or not. He argued that whoever alleges a fact must prove it. With respect, on the contrary, on basis of the law quoted by learned counsel, my opinion is that it is the defendant who should have called Sheikh Makhi as his witness to identify his signature to prove what he pleaded in paragraph 5(b) of his written statement of defence, and paragraph 2 of his sworn witness statement, that he was legally married to the deceased Sarah Wanyana. This is more so, where the plaintiffs' side had already called witnesses and evidence challenging the defendant's pleadings that he legally wedded Sarah Wanyana in a mosque. The defendant did not also call Mwalimu Khalid Mpagi of Kamwokya and Sulaimani Ssatale of Bhuto Kampala, who are shown on the certificate of marriage to have been the witnesses to the marriage.

In my opinion, the plaintiffs have adduced evidence which was not seriously discredited by the defendant, that the marriage certificate in respect of the marriage between the defendant and Sarah Wahab was not valid.

In view of the foregoing, I find that the defendant obtained the grant by concealing some of the beneficiaries of the estate, who are the plaintiffs in this case, and by making false representation of a matter of fact that the deceased was survived by only two children and himself as widower. This was clearly intended to deceive court to grant the letters of administration to him as widower in the circumstances in which it did. The defendant did not offer any explanation to

court as to why he did not disclose all the beneficiaries. There is also evidence that he used a forged marriage certificate when petitioning for letters of administration to the estate of the late Sarah Wahab Wanyana.

Such acts, omissions or conduct on the part of the defendant are stated to amount to fraud, as stated in the case of *Zaabwe* cited above.

Issue i) is answered in the affirmative.

Issue ii): Whether the plaintiffs are beneficiaries of the estate of the late Sarah Wahab Wanyana Mukaka.

The evidence from both sides shows that the plaintiffs were all children of the late Sarah Wanyana Mukaka from a previous relationship or marriage (**PW1, DW1, DW2, & DW3**). **DW1** himself stated during cross examination that the plaintiffs, being children of the deceased, are beneficiaries to her estate. The Succession Act lists children of a deceased person to be among the beneficiaries of an intestate estate.

Issue ii) is therefore answered in the affirmative.

Issue iii): Whether the plaintiffs have suffered loss or damage due to the acts of the defendant.

Damages are the direct probable consequence of the act complained of. Such consequences may be loss of use, loss of profit, physical inconvenience, pain and suffering.

PW1 stated in his sworn witness statement that the estate of the late Sarah Wanyana included Kibuga Block No 13 Plot 81 land at Najjanankumbi (an agreed document annexed as “**A**” to exhibit **P1**); Kibuga Block 13 Plot 391 land at Najjanankumbi (an agreed document annexed as “**B**” to exhibit **P1**); Block 218 Plot 1611 land at Najjera; LRV 2288 Folio 6 Plot 57A land at Katalima Road (an agreed document, statement of search, annexed as “**C**” to exhibit **P1**); and 40% shares in Winston Standard Academy (Memorandum and Articles of Association of Winston Academy annexed as “**D**” to exhibit **P1**).

It is an agreed fact number (iii) in the joint scheduling memorandum signed by counsel to both sides that the defendant sold some of the properties forming part of the estate of the late Sarah Wanyana. **DW1** himself stated in paragraph 8 of his sworn witness statement that he sold land comprised in Kibuga Block 13 Plot 91 at Uganda Shillings 100,000,000/= (one hundred million). This was also reflected in paragraph C(c) of his inventory. However, during cross examination, he testified that he sold it at Uganda Shillings 320,000,000/= (three hundred and twenty million). Annexure “**I**” to Exhibit **P1**, the sale agreement between Ibrahim Ssemwogerere and Vincent Kasumba, an agreed document, shows that the land was sold at Uganda Shillings 320,000,000/= (three hundred and twenty million). He testified that he sold it to pay debts. The defendant testified that property comprised in LRV 2288 Folio 6 Plot 57A Katalima Road is the

matrimonial home where he and his family reside; that it was encumbered with a loan mortgage which he paid off.

The defendant (**DW1**) testified during cross examination that the plaintiffs together with his two children Ibrahim Ssemwogerere and Halima Nabukalu are the six beneficiaries to the estate. He testified however that the land at Najjera comprised in Block 218 Plot 1611 was not distributed to them because it belonged to his mother in law. This was not backed by evidence in form of a certificate of title, or at least a search certificate, since the land is registered land. It also contradicts what he stated when he was petitioning for letters of administration to the estate (annexture **E** to exhibit **P1** agreed document paragraph 6) where he listed the said land as part of the deceased's estate. **DW1** himself stated during cross examination that the land was registered in the names of the late Sarah Wahab Wanyana Mukaka. This would therefore make it part of the estate. Indeed he listed it as being part of the estate in his petition for letters of administration to the estate. However, as yet another contradiction, it is not among the properties listed in the inventory annexed as "**C**" to his sworn witness statement (exhibit **D1**) as forming part of the estate. The defendant himself stated during cross examination that he did not include the Najjera land in the inventory.

DW1 further testified during cross examination that he distributed properties of the estate; that he gave the school (Winston Standard Academy) to all the six beneficiaries who were all children of the late Sarah Wahab Mukaka, that is, the school as business and the land; and that the title to the land where Winston Academy is situated is with a one Mordine an Asian in Industrial Area who lent them money. **PW1** Tumusiime Paul also testified during cross examination that he and his siblings have for one year been getting money from Winston Academy; that he was picking from the school one million Uganda Shillings every three months; and that the payments were made on the request of the Mediator. There was no evidence on what criteria was followed to assess the amount paid out to the plaintiffs. **DW2** Mukonyezi Darlington who is the headmaster of Winston Standard Academy confirmed that payments are made to the six children of Sarah Wahab Mukaka, that is, the four plaintiffs plus the two children the defendant had with the deceased namely Halima Namakula and Ibrahim Ssemwogerere, depending on the circumstances like the number of children at the school; that no minutes are taken of their meetings which are informal; that everything is on mutual trust and there are no written documents.

The defendant testified that he used the money obtained from selling some of the land to pay off the deceased's debts. However there was no evidence tendered to show the payment of such debts. Other than his sworn witness statement and his testimony on cross examination and re examination, together with his counsel's submitting about the properties from the Bar, the defendant (**DW1**) did not tender in any supporting evidence regarding the clearing or servicing of the said debts. The statement of search in respect of land comprised in LRV 2288 Folio 6 Plot 57A at Katalima Road, annexed to the defendant's sworn witness statement exhibit **D1** shows the land had has various encumbrances as at 20/03/2012. The defendant testified that he paid off the

mortgage. He did not tender in evidence any document to show that he had redeemed the mortgage or removed the caveats or other encumbrances. The same applies to property comprised in Kibuga Block 13 Plot 391 land at Najjanankumbi where Winston Standard Academy is located.

The defendant's counsel submitted that the plaintiffs together with the defendant and the defendant's two children have all benefitted from the estate of the late Sarah Wahab Mukaka. However, other than the money that was stated to have been paid out to the plaintiff's out of the proceeds from the business of Winston Standard Academy, there is nothing else to show that there was distribution of the estate of the late Sarah Wahab Mukaka among the beneficiaries.

The adduced evidence shows that the defendant obtained the letters of administration from this court on 4th November 2011. It is now more than five years since he obtained the grant, but there is nothing on record to show that the defendant has concluded the distribution of the estate, or that the court extended the time within which he would file his final account of the estate. He is required by the Succession Act cap 162 to have filed an account of how he distributed the estate within one year from the date of the grant or within such further time as the court may appoint.

The adduced evidence also shows that the marriage certificate the defendant used to obtain the grant as a widower of the deceased was not valid. Thus, though the defendant lived with and had two children with the deceased Sarah Mukaka, it does not make him a legally recognized widower of the deceased, or consequently, a beneficiary of her estate. It was held in **Christine Male & Another V Mary Namanda & Another [1982] HCB 140** that the mere fact that somebody had children with a man does not entitle her to have a share in the estate of the deceased.

It is evident from the adduced evidence, and, concerning sale of property, by way of admission or agreed fact, that the defendant sold off some property that formed part of the estate of the late Sarah Wanyana. It is also evident from adduced evidence that he did not distribute some of the proceeds from the sale to the beneficiaries of the estate, and that no property has been distributed to the plaintiffs as some of the beneficiaries to the estate. It was moreover an agreed fact number (ii) in the joint scheduling memorandum signed by both counsel, which need not be proved under section 57 of the Evidence Act, that, "*the plaintiffs were excluded from the list of beneficiaries and have not benefitted from the said estate*"(emphasis mine). Also see **Mudiima Issa & 5 Others V Elly Yanja & 2 others HCCS No 0232/2009**.

This has clearly prejudiced the plaintiffs as beneficiaries to the said estate. On that basis, this court finds that the plaintiffs have suffered loss or damage due to the acts of the defendant.

Issue iii) is answered in the affirmative.

Issue iv): What are the remedies available to the parties?

The plaintiffs prayed for revocation of the letters of administration issued to the defendant vide **Administration Cause No 504/2011**.

Section 234 of the Succession Act Cap 162 provides that the grant of probate or letters of administration shall be revoked for just cause. Just cause is defined to mean that the proceedings to obtain the grant were defective in substance; the grant was obtained fraudulently by making a false suggestion or concealing from court something material to the case; the grant was obtained by means of an untrue allegation of a fact essential in a point of law to justify the grant though the allegation was made in ignorance or inadvertently; the grant has become useless and inoperative through circumstances; or the person to whom the grant was made has willfully and without reasonable cause omitted to exhibit an inventory or account under Part XXXIV of the Act, or has exhibited an inventory which is untrue in a material aspect.

The evidence of **PW1, DW1 and DW2** established that the defendant did not include the plaintiffs, who are all children of the deceased Sarah Wanyana, as beneficiaries in his petition for letters of administration vide **AC 504/2011**. In any case these facts were agreed facts in the scheduling memorandum and need not therefore be proved as provided for under section 57 of the Evidence Act and on the authority of *Mudiima Issa & 5 Others V Elly Yanja & 2 others* cited above. This was done despite the fact that the defendant knew all the said children and acknowledged their mother was the late Sarah Wanyana Mukaka. This prejudiced the plaintiffs as beneficiaries to the said estate.

In that regard, based on the adduced evidence and authorities, it is my finding that there is just cause for the revocation of the grant of letters of administration to the defendant regarding the estate of the late Sarah Wanyana Mukaka. This is on the grounds that the grant was obtained fraudulently by making a false suggestion or concealing from court something material to the case. This is because the plaintiffs have adduced evidence to show that the marriage certificate used by the defendant to obtain the letters of administration as a widower to the estate of the late Sarah Wahab Mukaka was not valid; and also that the defendant, in his petition to obtain letters of administration, intentionally left out the names of the plaintiffs as beneficiaries to the estate, and only listed himself as the widower together with two children he had with the deceased Sarah Wahab Mukaka. The plaintiffs have proved their case against the defendant that the grant was obtained fraudulently by making a false suggestion or concealing from court something material to the case.

The plaintiffs prayed for damages for loss due to the acts of the defendant. These damages included general damages and punitive damages.

Regarding general damages, there is evidence that the defendant obtained the grant by fraud and used it to sell off property that formed part of the estate of the late Sarah Wanyana to the prejudice of the plaintiffs who were beneficiaries to the estate. The land sold was registered land situated in prime areas in Kampala. This would entitle the beneficiaries to general damages as

beneficiaries to the estate. I would in the circumstances award general damages to the tune of Uganda Shillings 60,000,000/= (sixty million).

On punitive damages, they are normally awarded to punish the defendant and deter him/her from repeating his wrongful conduct. They are the same as exemplary damages awarded out and above compensatory damages where aggravating circumstances have been such that due to the defendant's conduct or intention the plaintiff is a victim of arbitrary oppressive or unconstitutional behavior at the hands of government, among other things. See **Ongom & Another V AG & Others [1979] HCB 267**. Exemplary damages are not meant to enrich the plaintiff but to punish the defendant and deter him from repeating his wrongful conduct. A claim for punitive damages has to be specifically pleaded in the body of the plaint together with full particulars of facts relied on to support the claim and not merely the prayer. See **Obong V Municipal Council of Kisumu [1971]EA 91; Obwolo V Barclays Bank of Uganda [1992 - 1993] HCB 179**.

In this case, the plaintiffs merely prayed for punitive damages but did not plead it in the body of the plaint, neither did they set out full particulars of facts relied on to support the claim. In that respect I decline to grant punitive damages against the defendant.

The plaintiffs prayed for an order for the appointment of the 1st plaintiff to be administrator. This court is empowered under section 33 of the Judicature Act to grant such remedies, on such terms and conditions it thinks just, as any of the parties is entitled to in respect of any legal or equitable claim, so that matters in dispute may be completely or finally disposed of and multiplicities of legal proceedings are avoided. This is in addition to section 98 of the Civil Procedure Act which leaves this court with inherent powers to make such orders as may be necessary for the ends of justice or to prevent abuse of court process.

Thus, on matters concerning appointment of an administrator to the estate it would, in my opinion, only be fair and just that all the interests of the beneficiaries to the estate be taken into account. This court did not have opportunity to hear all the beneficiaries on the said matters since all of them were not called as witnesses. Such matters would rather be resolved in a meeting of all beneficiaries to the estate within court given time limits, since the conclusion of the administration of this estate is long overdue. This is especially so in view of the apparent mutual suspicions and differences of opinion between the defendant and the 1st plaintiff, which were evident during the hearing, as deduced from their demeanour in court. All in all, I find that the plaintiffs are entitled to the orders sought against the defendant.

I therefore enter judgment for the plaintiffs against the defendant for the following orders, including consequential orders, and or declarations:-

- i) A declaration that the defendant is not a widower of the late Sarah Wahab Wanyana Mukaka (the deceased).

- ii) The letters of administration issued to the defendant vide Administration **Cause No. 504 of 2011** to the defendant are revoked.
- iii) New administrators should be appointed in a meeting of all beneficiaries to the estate of the late Sarah Wahab Wanyana Mukaka (the deceased) within two months from the date of this judgement.
- iv) A permanent injunction restraining the defendant from dealing with the estate of the late Sarah Wahab Wanyana Mukaka (the deceased) is issued.
- v) The defendant is to make good the damage occasioned to the deceased's estate to the prejudice of the plaintiffs as beneficiaries;
- vi) The defendant to account to court that part of the estate that he has distributed and to declare the residue of the estate.
- vii) The defendant's name is to be cancelled from the certificate of title and land register in his capacity of the administrator of the estate of the late Sarah Wahab Wanyana, and the names of the deceased Sarah Wanyana are to be reinstated on the title;
- viii) It is declared that the defendant is not a beneficiary to the estate of the deceased;
- ix) General damages to the tune of Uganda shillings 60,000,000/= (sixty million).
- x) Costs of the suit.

Dated at Kampala this 14th day of July 2017.

Percy Night Tuhaise

Judge.