



THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT MBARARA  
HCT-05-CV-MC-0033-2023

5

IN THE MATTER OF MUTEREBBA ISAAH, A PERSON OF UNSOUND MIND  
AND

IN THE MATTER OF AN APPLICATION BY ANYIJUKIRE WILBER FOR  
APPOINTMENT AS MANAGER OF THE ESTATE OF A PERSON OF UNSOUND MIND

10

Before: Hon. Justice Nshimye Allan Paul M.

**RULING**

**REPRESENTATION**

15

The Applicant was represented by Advocate Bruno Muhwezi from M/s  
Twinamatsiko & Agaba Advocates.

**BACKGROUND**

20

The applicant filed is an ex-parte application by way of chamber summons stating  
in his application that it is brought under Section 2 of the Administration of Estates  
of Persons of Unsound Mind Act, Rules 3,4,7,8 and 9 of the Administration of  
Estates of Persons of Unsound Mind (Procedure) Rules, seeking orders;

25

1. That Mutereba Isaiah be declared a person of unsound mind.
2. That Anyijukire Wilber be appointed manager of the estate of Mutereba  
Isaiah a person of unsound mind.
3. That costs of this Application be provided for.

**GROUND**

30

The grounds as stated in the notice of motions are that;

- i. The patient is admitted at Care First Recovery Homes Uganda (CFRHU) Ltd  
and has been diagnosed with among others delusional disorder.

ii. It is fair and in the interest of justice that this application allowed.

The application is supported by an affidavit deposed by the Applicant – Anyijukire Wilber wherein he averred that Mutereba Isaiah is his father, aged 75 years, and is currently receiving psychopharmacological and intensive psychotherapy treatment at Care First Recovery Homes Uganda (CFRHU) Ltd. He added that the patient is indebted to the tune of UGX146,936,228/= and that he is qualified to perform duties of manager of the patient's estate.

#### **SUBMISSIONS**

The applicant filed written submissions on 23<sup>rd</sup> November 2023. He submitted that Mutereba Isaiah is a patient currently receiving psychopharmacological and intensive psychotherapy treatment at Care First Recovery Homes Uganda (CFRHU) Ltd. He added that the patient is indebted to the tune of UGX 146,936,228/= and the maintenance cost of the patient, who is his biological father is UGX 32,496000 according to the medical charges of the medical facility (see page 1 of the submissions)

The applicant referred to section 2 of the Mental Health Act 2018 in respect to the definition of mental illness. He then stated that as a relative he has priority to be appointed and is qualified to perform duties of manager of the patient's estate. (see page 2 of the submissions).

#### **DETERMINATION**

I have perused the chamber summons, read the supporting affidavit, considered the annexures attached thereto and I also read the submissions. I note that the application was brought under the law in the Administration of Estates of Persons of Unsound Mind Act, in the submissions the applicant made reference to the Mental Health Act (See page 1 of the submissions) and also stated Mental Illness Act (See page 3 of the submissions), I believe the later was a mistake since there has never been any law in Uganda called the Mental Illness Act.



In principle when an Act is repealed, it ceases to have effect from the time the repeal takes effect, as is stated in the Law in Section 13 of the Interpretation Act Chapter 3 of the Laws of Uganda. The evidence that can be deduced from the application as is drafted, is that, it shows that the Application was lodged under a repealed law.

The application states that it was brought under Section 2 of the Administration of Estates of Persons of Unsound Mind Act Cap 155, and Rules 3,4,7,8 and 9 of the Administration of Estates of Persons of Unsound Mind (Procedure) Rules SI 155-1. The quoted law in the application was repealed by Section 77(b) of the Mental Health Act 2019.

This application by way of Chamber Summons was lodged in the High Court registry on 27<sup>th</sup> September, 2023, yet the Mental Health Act 2019 was assented to by the President of the Republic of Uganda on 25<sup>th</sup> December, 2018, and was gazetted in September, 2019, thereafter it came into force on 18<sup>th</sup> February, 2021 as per **Regulation 2 of The Mental Health Act (Commencement) Instrument, SI No.14 Of 2021**. Since then, applications for appointment of a manager to the estate of a person of unsound mind have been lodged under the Mental Health Act 2019, as was done in **RE AYELLA GODFREY – IN THE MATTER OF AN APPLICATION BY AKOBA PROSCOVIA TO MANAGE THE ESTATE OF AYELLA GODFREY MISC CAUSE NO.226 OF 2022** before His Lordship Justice George Okello at the High Court of Uganda at Gulu

An application under a repealed law cannot stand and is incurable since it is based on a law that does not exist at the time when it was filed in court.

In conclusion, I hereby dismiss this Application.

  
.....  
NSHIMYE ALLAN PAUL M.

JUDGE

01-12-2023