

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

FAMILY DIVISION

MISC. CAUSE No. 75 of 2018

5 **IN THE MATTER OF OCOUN PATRICK (PATIENT)**

AND

**IN THE MATTER OF AN APPLICATION FOR APPOINTMENT AS MANAGER BY
NAKATE MARGARET (BIOLOGICAL MOTHER)**

10 **Before: Hon. Lady Justice Olive Kazaarwe Mukwaya**

RULING

Background

This is an ex parte application brought by Ms. Nakate Margaret for an order that she be appointed as manager to administer the estate of her biological son Ocoun Patrick, the patient. It is brought under Section 2 of the Administration of Estates of Persons of Unsound Mind Act Cap 155 and Rule 3 of the Administration of Estates of Persons of Unsound mind (Procedure) Rules S.155-1. Ms. Nakate Margaret swore an affidavit in support of the application.

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Facts

Mr. Ocoun Patrick was born on the 14th May 1978 to the applicant and a Mr. Oreste Harry Ocoun. His birth certificate was attached to the application and marked 'WB'. On the 28th of November 2017, Mr. Ocoun was adjudged a person of unsound mind by Her Worship Agnes Nabafu, Senior Magistrate Grade 1 sitting at Kajjansi in Entebbe. This was following proceedings under the Mental Treatment Act Cap 279. The order of court was attached and marked 'WA'.

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The Patient's Illness

Mr. Ocoun has been an out-patient of Butabika, Uganda's Mental Referral Hospital, since 7th June 2017. A medical report was attached and marked 'WD'. The patient was diagnosed with a psychotic illness called Post Traumatic Stress Disorder. His illness was first detected in 2010.

5 Mr. Ocoun is currently under psychiatric medication to keep his condition under control. Dr. Apio Irene Wengi, a Psychiatrist at Butabika Hospital prepared the report dated July 25th 2017. The patient currently resides at Kitende with his three children under the care of the applicant.

The Estate of the Patient

10 The estate of the patient comprises of land at Seguku measuring approximately 90 x 70ft and savings from the National Social Security Fund estimated at Forty Million Shillings (UGX. 40,000,000/=). These savings were acquired during the time the patient was an Assistant Cashier at Nkumba University, which position he resigned sometime in January 2012. A letter detailing the same was attached and marked 'WC.'

15 It is the applicant's prayer that she be appointed manager of the patient's estate to protect his interests and ensure that he and his children are well taken care of.

Issues

1. **Whether the patient was a person of unsound mind.**
2. **Whether the applicant qualified to be appointed manager of his estate.**

Issue 1

20 S.1 of the Administration of Estates of Persons of Unsound Mind Act Cap 155 defines a 'person of unsound mind' as *any person adjudged to be of unsound mind under S.4 of the Mental Treatment Act or any person detained under S. 113 or 117 of the Magistrate's Courts Act*. In the instant case, Her Worship Agnes Nabafu issued an order marked 'WA'. By that order Mr. Patrick Ocoun, the patient, was adjudged a person of unsound mind. In addition, there was
25 sufficient medical evidence adduced before this court to support the conclusion of the Magistrate. This court is satisfied that the patient is a person of unsound mind.

Issue 2

Ms. Nakate Margaret is the biological mother of Mr. Ocoun. She has been living with him at her home and providing for his welfare and that of his three children ever since he became unable to manage his affairs. It was submitted by Mr. Wetaka, Counsel for the applicant, that she has been caretaking his property in Seguku as well.

5 The applicant stated that she had become overwhelmed by the cost of supporting her son and his children. Her prayer to this court is to be able to access his NSSF savings which would assist her in continuing with his care and that of his family. Upon this court's direction, copies of school fees receipts for Kisa Patience, Kalanja Harrison and Bera Precious dating from 2012 to April 2019 were attached as proof that the children were all in school. Court further directed that the
10 birth certificates of the children be furnished by the applicant. The three certificates were produced on the 13th May 2019 and perused by this court. They indicated that Kisa Patience was born on the 1st April 2005, Kalanja Harrison was born on the 14th April 2007 and Bera Precious was born on the 14th August 2010. Mr. Ocoun Patrick was named as their father and a Ms. Kiconco Florence was named as their mother.

15 This court is satisfied that the applicant, Ms. Nakate Margaret has ably demonstrated her willingness and ability to care for her mentally ill biological son and his family. She is a fit and proper person to be appointed manager of Mr. Ocoun's estate.

I hereby make the following orders:

1. The applicant Nakate Margaret is appointed manager of Mr. Ocoun Patrick (a
20 person of unsound mind)'s estate.
2. The applicant/ manager shall execute a non-cash bond of Uganda shillings 5,000,000 (five million) for the due administration of the Mr. Ocoun Patrick estate. This bond will be without sureties.
3. The applicant/manager shall not without special, express permission of this court,
25 mortgage, charge, or transfer by sale, gift, surrender, exchange or otherwise, any immovable property of which the estate may consist, or lease any such property for a term exceeding 5 years.
4. The applicant/ manager shall file in this court within three (3) months from today an inventory of the property belonging to Mr. Ocoun Patrick (and of all such sums of

money, goods, and effects as she will receive on account of the estate together with a statement of all the debts due from and credits due to Mr. Ocoun Patrick.

5. The manager herein appointed shall serve gratuitously.
6. Costs of this application are not to be charged to the estate of Mr. Ocoun Patrick.

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Olive Kazaarwe Mukwaya

JUDGE

10 **Dated at Kampala this 14th day of May 2019**