

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISC. APPLICATION NO. 841 OF 2014
(ARISING FROM MIS.CAUSE NO. 841 OF 2014)
(ARISING FROM CIVIL SUIT NO. 397 OF 2011)**

**1. BETTY KITO SEMPANDA
2. JOHN KIVUMU
MOSES MUKIIBI..... APPLICANTS
(Administrators of the estate of the late Godfrey Semakula Sempanda)**

VERSUS

**1. U-TURN SERVICES LIMITED
2. EDGAR MUTAMBA KARAZARWE RESPONDENTS**

RULING

BEFORE HONOURABLE LADY JUSTICE EVA K. LUSWATA

This application is presented by motion under Section 98 CPA.024 R.1.3 (1) and 12 CPR, seeking an order for the substitution of the applicants for Godfrey Semakula in Civil Suit No.397/11 plaintiff and the costs to be provided for. The application is supported by the affidavit of Betty Kityo Sempanda the plaintiff's widow. There was no response to the application.

On 29/4/15, I allowed *ex parte* proceedings after I was satisfied that the respondents were effectively served with the motion through M/s Joel Olweny & Co., Advocates, and their legal representatives. Counsel for the applicant submitted no oral or written submissions indicating that the application and its supporting affidavit were sufficient.

Order 22 CPR makes provision for the substitution of a deceased party in a suit. This is because, the death of a party to a suit does not necessarily cause the cause of action to abate. Specifically under rule 3 and 12, the legal representatives of the estate of a deceased person who is a party to

a suit, may, where the cause of action outlives such party, apply to be substituted for such deceased party.

In her affidavit, Ms Sempanda states that the plaintiff died on 24/9/12 after filing the suit. That the applicants were on 24/3/14, appointed administrators of his estate vide a Grant of Letters of Administration with the will annexed in Administration Cause No.922/12. I have seen a copy of the grant attached to the affidavit as Annexure "A". I have no reason to doubt that such grant was made under seal of the High Court on the date stated. Having been so appointed, all three applicants have the mandate to continue with the prosecution of the main suit.

The respondent filed no response to the application an indication that they concede to its facts. They will suffer no prejudice if the applicants are substituted for the plaintiff.

I thereby allow the application and order that Betty Kityo Sempanda, John Kivumu and Moses Mukiibi, being he administrators of the estate of the late Semakula Sempanda be substituted for the plaintiff and the plaint be amended accordingly. The amended plaint shall be filed within seven days from the date of the ruling.

In addition, I order that the applicants meet the costs of this application.

I so order.

EVA K. LUSWATA
JUDGE
30th April, 2015.