

THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT MBARARA

**H.C.C.S.NO. 26 OF 2000**  
(Original Adm. Cause No. 419/99)

BEGUMISA F.)  
BAFAKI JOSEPH) .....PLAINTIFFS  
KATURAMU ALOZIO)

VS

KAKUZA EDINANSI .....DEFENDANT

BEFORE: THE HON. MR. JUSTICE P. K. MUGAMBA

**JUDGMENT**

The plaintiffs brought this action seeking for the removal of a caveat lodged by the defendant. They also seek for probate to be granted to them besides general damages and costs of the suit.

Three witnesses were called by the prosecution: Alozio Katuramu (PW1), Begumisa Fred (PW2) and Tereza Kemitooma (PW3). For the defendant the witnesses were the defendant herself as PW 1 and her daughter Natamba Evelyn Irema as PW2.

When Karoli Irema the husband of the defendant died on 25th June 1999 he left a will which had been executed on 20 November 1998. That will was tendered in evidence as Exhibit P.1. There was no evidence forthcoming from the defendant to challenge it. So it was that following the death of Irema the will was read. Among other things it named the plaintiffs as executors. Paragraph 2 of the will is to this effect. On 13th October 1999 the executors named in the will applied to this court for probate. Before probate could be sealed on 9th November 1999 the defendant lodged a caveat against the petition. This suit was filed to seek the removal of that caveat so that the plaintiffs can proceed to have probate sealed in their favour.

Counsel for the plaintiffs identified one issue necessary for determination, namely whether the authority to administer the estate of late Karoli Irema should be granted to the plaintiffs or to the

defendant. I have already shown that the deceased died testate. Section 182 of the Succession Act, Cap. 162 of the Laws of Uganda provides that probate can be granted only to an executor appointed by the will. In the will of late Karoli Irema only the plaintiffs herein were appointed. The defendant was not. Since the deceased died testate and the plaintiffs were named as executors my finding is that authority to administer the estate shall be granted to the plaintiffs and not the defendant.

Consequently, I find the caveat should not have been lodged and order for its removal. I give judgment to the plaintiffs and order that as this is a family matter their taxed costs will be recovered from the estate of the deceased.

P. K. Mugamba  
Judge

19th October 2004

Mr. Magoba for plaintiff

Parties in court

Ms Tushemereirwe court clerk/interpreter

Court:

Judgment read in court.

P. K. Mugamba  
Judge