

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA  
AT NAKAWA  
CIVIL SUIT NO. 76 OF 2011**

**MPANGA TONNY JAMES & 3 ORS .....PLAINTIFFS**

**VERSUS**

**SENTEZA GEORGE WILLIAM ..... DEFENDANT**

**BEFORE: JUSTICE WILSON MASALU MUSENE**

**JUDGMENT**

The plaintiffs **MPANGA TONNY JAMES & 3 ORS** brought this case against the defendant **SENTEZA GEORGE WILLIAM** seeking the following orders:-

- a) A revocation of Letters of Administration granted to the defendant relating to the estate of the late Victor Walusimbi Kigozi.
- b) A declaration that the plaintiffs and other beneficiaries are entitled to their respective shares in the estate of the late Victor Walusimbi Kigozi.
- c) A grant of Letters of Administration of the estate of the late Victor Walusimbi Kigozi to Nalumansi Teopista, Mpanga Tony James and Gerald Ksitu.
- d) An order to surrender to court the certificate of title for land comprised in Mawokota Block 116 Plot 18 land at Sekiwunga and also file a comprehensive true and correct statement of account of the dealings with the estate of the late Victor Walusimbi Kigozi.
- e) A permanent injunction restraining the defendant from undertaking any further dealings with the estate of the late Victor Walusimbi Kigozi.

- f) An order to pay reparation for the loss and damage negligently and willfully occasioned to the estate of the late Victor Walusimbi Kigozi
- g) Costs of the suit.

The case for the plaintiffs is that, in 1991 Victor Walusimbi Kigozi, the father of the plaintiffs passed away leaving behind a number of properties including Mawokota Block 116 Plot 18 land at Sekiwunga measuring approximately 1.13 hectares. Three years later, on the 24<sup>th</sup> March 1994, the defendant applied for and was granted Letters of Administration. Despite undertaking to furnish an inventory and an account of the estate within six months after grant of the said Letters of Administration, the defendant did not do so. The defendant instead disposed of the estate property and converted the proceeds to his selfish ends. He left the estate in a state of disrepair and mismanagement leading, for example, to the collapse of the deceased's main residential home in Mpigi. The deceased also converted the deceased's pension benefits from the East African Community. Generally and the defendant turned uncooperative and started hiding from the beneficiaries (plaintiffs) of the estate.

On the 10<sup>th</sup> May 2010, the clan cultural head convened a meeting at the deceased's home and investigated the defendant's conduct. The defendant was then stripped of his cultural authority over the late Walusimbi's estate leaving him with only the Letters of Administration as the basis of his authority hence this suit.

Counsel for the Plaintiffs submitted that, upon service of the summons on to the defendant, he filed a written statement of defence through M/s Wameli & Co. advocates. And in the said defence, the defendant generally denied the remedies sought against him but specifically admits being the administrator of the estate to whom letters on administration were granted.

The defendant further claimed that, he did not fail in his duties of administrator but that it was the applicants who made it impossible for him

to do his work and that he has properly maintained the estate without any intentions of defrauding the plaintiffs or the beneficiaries.

The defendant further denied receiving the deceased's pension from the East African Community and that he has never disposed off or sub-decided the land comprised in Block 116 Plot 18 at Sekiwunga.

He therefore prayed that the suit be dismissed with costs.

Counsel for the plaintiffs further submitted that, when the matter came for hearing, it was directed that the parties file scheduling notes and witness statements and despite repeated service of the Hearing Notices upon the defendant, he appeared in court a couple of times and then ceased appearing altogether.

Counsel for the Plaintiffs further submitted that, the plaintiff's complied with the court's directions and served the defendant both the scheduling notes and the witness statements .And an oral application was thus made under **0.17 r4 CPR** to have the matter determined in the absence of the defendant hence these submissions for the Plaintiffs.

**The following issues are now for determination.**

- 1. Whether the defendant has mismanaged the estate.**
- 2. What remedies are available to the Plaintiffs.**

As far as the first issue of whether the defendant has mismanaged the estate,the plaintiffs called two witnesses and according to PW1 who is also the lead plaintiffs, Mpanga Tony James, the deceased Victor Walusimbi Kigozi was both this witness's and the defendant's father together with sixteen (16) other children and upon death of their father, the defendant acquired Letters of Administration to the estate. Rather than distribute the estate to its beneficiaries, the defendant embarked on dissipation of the same by selling

off nearly all the properties and converting the proceeds to his selfish gain. The defendant has never filed an inventory or otherwise accounted to court on how he has discharged the powers delegated to him concerning the estate.

And attempts were made on various occasions to have the defendant account to the beneficiaries but all these attempts were futile and as a family, it was resolved that the defendant be stripped of his powers over the estate and the witness, his sister Nalumansi Teopista and uncle Gerald Kisitu be jointly appointed administrators and in a bid to protect what was left of the estate, a caveat was lodged prior to these proceedings and an interim order subsequently issued during the pendency of this suit, protecting land comprised in Mawokota Block 116 Plot 18 at Sekiwunga. However, the defendant did not respect both the caveat and court order maintaining status quo as the said land was subsequently altered with a part thereof transferred to a one Ngobya Twahiri.

PW 2, Francis Ntege Lubwama's witness statement on oath is that he is the clan head of the lineal heritage to which the late Victor Walusimbi Kigozi belonged. He further testified that, sometime back his office received complaints from the deceased's children about the defendant's secretive acquisition of Letters of Administration and his subsequent mismanagement of the estate. Clan meetings were thus convened to resolve the complaints made against the defendant but the said defendant either never attended or when he attended, he did not offer any satisfactory explanation why the deceased's estate was being mismanagement. On the 10<sup>th</sup> May 2010 at one such clan meeting, the defendant's cultural appointment as heir was withdrawn and bestowed upon Francis Ssenoga.

This court has considered the testimonies of the witnesses and the written submissions by Counsel for the Plaintiff.

It is trite law that the High court has unlimited jurisdiction in all matters to grant such remedies or make any order as may its opinion be just to effectively settle the issued in controversy between the parties and to curtail a multiplicity of matters or suits arising out of the same facts and issues. [See: **Art. 139 of the 1995 Constitution, Section 33 Judicature Act Cap 16 and Section 98 Civil Procedure Act Cap 71**].

**Under section 234 Succession Act**, the grant of Letters of Administration may be revoked or annulled for just cause. The meaning of just cause is given in the same section to include inter alia, that the grant has become useless and inoperative through circumstances or that the person to whom the grant was made has willfully and without reasonable cause omitted to exhibit an inventory or account.

**Further, Section 265 Succession Act**, provides that in any case before the High Court in which there is contention, the proceedings shall take, as nearly as may be, the form of a regular suit in accordance with the law relating to civil procedure.

In the instant case, the defendant brought himself within the unlimited jurisdiction of this court by filing a defence to the plaintiff's suit in which he made a number of admissions and denies several facts. The uncontroverted evidence of the plaintiffs is that the defendant has mismanaged the late Kigozi's estate and he has also failed to furnish an inventory without any reasonable cause. The plaintiffs also contended that the grant has become inoperative because the clan to which the deceased and the defendant belonged, decided to withdraw cultural recognition of the defendant as the heir/administrator of the deceased's estate and vested that authority in someone else.

And despite the withdrawal of the cultural recognition, the defendant is still in possession of the grant issued to him by Court. I agree with the

submissions of Counsel for the Plaintiff that under S.15 of the Judicature Act, the High Court is obliged to enforce the customary law in so far as it is not repugnant to Natural Justice, Equity and good conscience. There is no contention by the Defendant that the withdrawal of his cultural appointment or recognition as Heir/Administrator of the Late Kigozi's Estate was in violation of the provisions of the Judicature Act. No explanation is offered by the Defendant as to why he should continue holding the Court authority when the cultural authority has been withdrawn.

This Court further agrees with the submissions of Counsel for the Plaintiff that the Defendant does not dispute the fact that he has not filed any inventory as required by the Law. In the premises, I find and hold that the Defendant has no just cause to continue holding out as the Administrator of the Late Kigozi's Estate. The grant has become unoperative.

I accordingly do hereby enter judgment in favour of the Plaintiffs and against the Defendant. The following Orders are hereby made:-

- i. The grant of Letters of Administration to the Defendant in respect of the Estate of the Late Victor Walusimbi Kigozi is hereby revoked.
- ii. A declaration that the Plaintiffs and other beneficiaries are entitled to their respective shares in the Estate of the Late Victor Walusimbi Kigozi.
- iii. A grant of Letters of Administration to the Estate of the Late Victor Walusimbi Kigozi to Nalumansi Teopista, Mpanga Tonny James and Gerald Kisitu.
- iv. The Defendant is hereby ordered to surrender to the new Administrators the Certificate of Title for land comprised in Mawokota Block 116 Plot 18, land at Sekiwunga.
- v. The Defendant is hereby restrained from any further dealings with the Estate of the Late Victor Walusimbi Kigozi.
- vi. The Defendant shall pay costs of the suit to the Plaintiffs.

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**WILSON MASALU MUSENE**  
**JUDGE**  
**03/12/2013**