

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT JINJA

MISCELLANEOUS APPLICATION NO. 011 OF 2024

(ARISING FROM ADMINISTRATION CAUSE NO. 61 OF 2012)

**IN THE MATTER OF THE ESTATE OF THE LATE YAFESI KIWANUKA
SSERWANGA**

NANSUBUGA LUBOWA MARGARET

(Administrator of the Estate)

..... APPLICANT

VERSUS

1. NALWOGA ALLEN

2. NSUBUGA JOHNES

3. NALWANGA ANNET

4. NAMUTEBI PROSSY

5. NAKAZZI SUZAN

6. MUBIRU DICKSON

7. NDAGIRE FLORENCE

8. NABACWA AIDA (Beneficiaries) RESPONDENTS

BEFORE: HON LADY JUSTICE FARIDAH SHAMILAH BUKIRWA NTAMBI

RULING

Introduction

This application was brought by way of Notice of Motion under Section 98 of the Civil Procedure Act, Section 278(1) of the Succession Act Cap 162 (as amended) and Order 52 Rule 1 & 3 of the Civil Procedure Rules for orders that:

1. Leave be granted to the Applicant to enlarge time within which to file an inventory and account of the estate, to enable the Administrator of the estate to file the same.
2. Costs of the Application be provided for.



The application was supported by an affidavit deposed by the Applicant.

The Applicant was represented by Counsel James Kyazze of Kyazze, Kankaka & Co. Advocates who made oral submissions to Court, which, together with the application and supporting affidavit, have been considered in determining this matter.

Issue for determination

Whether there are sufficient grounds for the Applicant to be granted leave to file an inventory out of time.

Decision

Section 278(1) of the Succession Act (as amended) provides that:

An executor or administrator shall, within six months from the grant of probate or letters of administration, or within such further time as the court which granted the probate or letters may from time to time appoint, exhibit in that court an inventory containing a full and true estimate of all the property in possession, and all the credits, and also all the debts owing by any person to which the executor or administrator is entitled in that character; and shall in like manner within one year from the grant, or within such further time as the court may from time to time appoint, exhibit an account of the estate, showing the assets which have come to his or her hands, and the manner in which they have been applied or disposed of.

In the case of **Abubaker Sebalamu Ganya V Yasmin Nalwoga SCCA No. 14 of 2017**, Justice Nshimye, AG, JSC stated that, *the filing of an inventory/ account is one of the paramount duties of an administrator/ executor of a deceased's estate. Section 278(1) makes the filing of an inventory by an executor/ administrator mandatory and time specific.*

In **Hajjat Ndagire & Anor V Muhammad Kasozi & Ors HCCS No. 40 of 2014**, court stated that;

" the prescribed period for filing an inventory is six months. If the administrator finds herself unable to file the inventory within the prescribed time, she/ he is duty bound to apply to the court which issued the grant for extension of time, stating the reasons for her/ his inability to perform the required task within the 6 – month period. The court, if persuaded by the administrator's grounds for extension of time, may grant the application.



The case of **Molly Kyallikunda Turinawe & others V Engineer Turinawe & Anor – SCCA No. 27 of 2010** provided for the three questions to be determined before disposing of an application for extension of time like this one. The said questions are;

1. *Whether the Applicant has established sufficient reasons for the court to extend time.*
2. *Whether the Applicant is guilty of dilatory conduct.*
3. *Whether any injustice will be caused if the application is not granted.*

In the case of **Mugo and ors V Wanjiru & another [1970] EA 481** at page 484 it was stated that;

“each application must be decided in the particular circumstances of each case but as a general rule, the applicant must satisfactorily explain the reason for delay and should also satisfy court as to whether or not there will be denial of justice by the refusal or granting the application”

The Applicant averred that since she obtained grant of letters of administration, she did not know about mandatory timelines and or the court procedure of exhibiting an inventory and account.

In the case of **The Registered Trustees of the Archdiocese of Dar es Salaam V The Chairman Bunju Village Government & Ors** which quoted **Gideon Mosa Onchwati V Kenya Oil Co. Ltd & Anor [2017] KLR** it is stated:

“it is difficult to attempt to define the meaning of the words sufficient cause. It is generally accepted however, that the words should receive a liberal construction in order to advance substantial justice, when no negligence or inaction or want of bonafides is imputed to the appellant.”

I agree with the definition of sufficient cause stated above. Courts have the discretion to determine what amounts to sufficient cause and in the cases of estate property, the Applicant must show that the reason for the delay in filing an inventory was beyond her control and it was not because of negligence or unreasonably delay.

The Applicant justifies the delay for filing the inventory due to ignorance of the requirement to do so. The Applicant also averred that it took her a while to obtain the certificate of title for the estate and that further delays in managing the estate were occasioned by Police investigations into the affairs of the estate.



As was rightly observed by my learned sister **Hon. Lady Justice Jeanne Rwakakooko in The Matter of the Estate of the Late Fenekasi Kabuye Misc. Application No. 1362 of 2023 (arising from Administration Cause No. 918 of 2011) High Court Family Division**, the filing of an inventory is simply a report to court on what the estate of the deceased comprises of and the current status of the said estate as at the time they are granted letters of administration/ probate until the date on which they are to file the same by. Ignorance, though justifiable, would not have been a very good reason for late filing of the inventory which actually should be filed by the Administrator.

I will allow the application. It is therefore the finding of this court that the Applicant has demonstrated that there was failure to file the inventory within the six months stipulated by the law which was occasioned by the reasons given above and this amounts to sufficient cause.

In my view, the Applicant has succeeded to show that there is sufficient cause to extend time within which to file an inventory. I accordingly allow this application with a finding that the present application merits extension of time.

Orders

In the premises, the Applicant's application succeeds and I hereby order as follows;

1. The Applicant is hereby granted leave to file the inventory vide Administration Cause No. 61 of 2012 out of time.
2. The Applicant is directed to file an inventory with this court within 21 (twenty-one) days from delivery of this Ruling.

I so order.



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JUSTICE FARIDAH SHAMILAH BUKIRWA NTAMBI
Ruling delivered by email on 2nd February, 2024.