

UGANDA / JUDGMENT

In Re: Nanjobe(Patient) (Misc. Cause No. 27 of 2017) [2019] UGHCFD 30 (27 March 2019) [2019] UGHCFD 30

COURT

HC: Family Division (Uganda)

BEFORE

Mukwaya, J

CASE / FILE NUMBER

Misc. Cause No. 27 of 2017

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

FAMILY DIVISION

MISC. CAUSE No. 27 of 2017

IN THE MATTER OF SOLOME NANJOBE (PATIENT)

AND

**IN THE MATTER OF AN APPLICATION FOR APPOINTMENT AS MANAGER BY MUGABI NTAMBI
APOLLO (BIOLOGICAL BROTHER)**

Before: Hon. Lady Justice Olive Kazaarwe Mukwaya

RULING

This is an ex parte application brought by Mugabi Ntambi Apollo for an order that he be appointed as manager to administer the estate of the patient, his biological sister Nanjobe Solome.

The application is brought under Section 14, 33 and 39 of the Judicature Act Cap 13, Section 45 of the Mental Treatment Act Cap 279, S.2 of the Administration of Estates of Persons of Unsound Mind Act cap 155, Rules 3 of the Administration of Estates of Persons of Unsound mind (Procedure) Rules S.155-1. The application is supported by the affidavit of the applicant, Mugabi Ntambi Apollo.

By way of background to this application, the patient Nanjobe Solome has been a person of unsound mind since 1997. She has two children to wit; Rita Nabosa (27) and Lydia Nakimbugwe Nanziri (23) who live with their father and are not dependent on her.

Ms. Nanjobe was examined at Butabika Hospital and was diagnosed with Acute Bipolar Affective Disorder in Manic phase characterised with Psychomotor Hyperactive Irritability, hearing commanding voices, aggressive and violent behaviours, over activity, insomnia, sudden outbursts of laughs and crying where she continues to receive treatment. This is according to the medical report annexure 'C' dated 5th August 2016 prepared by Dr. Opio Alfred, a Psychiatrist at Butabika Hospital.

The patient was adjudged to be a person of unsound mind Vide Nabweru Chief Magistrates Court Holden at Matugga Miscellaneous Application No. 07 of 2016. Attached to the application is a copy of the order marked "D". The patient is not an inmate in a mental hospital. She is a resident of Maganjo Zone "A" Kagoma under the care of the applicant and Betty Nabagesera, her biological mother. A copy of a letter from the Chairman LC 1, Maganjo Zone "A" Kagoma is attached and marked "E".

According to the affidavit in support of the application sworn by the applicant, the estate of the patient comprises of 14.33 acres on land comprised in Block 260 Plot 204 Kyadondo acquired from the estate of their late father Christopher Sekimpi and 15.10 acres of land originally comprised in Block 260 Plots 10 and 11 Kyadondo from the estate of the late Dina Nakandi. Copies of a consent judgment and an inventory from the Administrator General were attached to the application and marked "F" and "G" respectively.

The applicant while acting as the patient's next friend instituted a suit against the Administrator General in an attempt to realise the patient's share in the estate of the late Dina Nakandi as per a copy of the plaint attached to the application and marked "I". It is the applicant's wish that he manages the patient's estate to protect her interests and ensure that her children benefit from the said estate as well.

It was the duty of this court to determine the following:

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

As regards the first issue, 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, Annexure 'D' is a court order issued by Her Worship Kagoya Jackline sitting at the Magistrates' court at Matugga under Nabweru Chief Magistrate's court. It is dated 11th April 2017. The Magistrate in that order adjudged the patient as a person of unsound mind. The order presupposes, which supposition has not been rebutted, that there was sufficient medical evidence to lead the court to the conclusion that the patient was a person of unsound mind. This court is satisfied that the patient is a person of unsound mind.

Turning to the second issue, the applicant is the biological brother of the patient. This court interacted with the patient who appeared to be lucid at the time of hearing this application. She stated that her illness hindered her ability to manage her own her affairs. The patient identified the applicant as her brother with whom she lives and who takes care of her and her mother who was also in court as her primary care giver.

The applicant in his affidavit specified the purpose for the application and that was to pursue the patient's legal interests as a beneficiary in the estates of their late father Christopher Sekimpi and her Grand Aunt, Dina Nakandi. The applicant is 45 years old and a Writer/ Journalist by profession. Mr. Mugabi Ntambi Apollo undertook to comply with any directions by this court in the event that the order is granted.

This court is satisfied that the applicant is a fit and proper person to be appointed manager of the patient's estate.

I hereby make the following orders;

1. The applicant Mugabi Ntambi Apollo is appointed manager of Ms. Nanjobe Solome (a person of unsound mind)'s estate.
2. The applicant/ manager shall execute a non-cash bond of Uganda shillings 10,000,000/= (ten million) for the due administration of the Ms. Nanjobe Solome (a person of unsound mind)'s estate. This bond will be without sureties.
3. The applicant/manager shall not without special, express permission of this court, 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 Ms. Nanjobe Solome (a person of unsound mind) and of all such sums of money, goods, and effects as he will receive on account of the estate together with a statement of all the debts due from and credits due to Ms. Nanjobe Solome (a person of unsound mind).
5. The manager herein appointed shall serve gratuitously.
6. Costs of this application are not to be charged to the estate of Ms. Solome Nanjobe (a person of unsound mind).

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Olive Kazaarwe Mukwaya

JUDGE

Dated at Kampala this 27th day of March 2019

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