

UGANDA / JUDGMENT

Margaret Nkangi Tomusange v Fred Tomusange and Others (Miscellaneous Application No. 4067 of 2025) [2025] UGHCFD 34 (16 June 2025)

[2025] UGHCFD 34

COURT

HC: Family Division (Uganda)

BEFORE

Busingye, J

CASE / FILE NUMBER

Miscellaneous Application No. 4067 of 2025

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5 THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

FAMILY DIVISION

MISCELLANEOUS APPLICATION NO. 4067 OF 2025

(ARISING OUT OF ADMINISTRATION CAUSE NO. 1229 OF 2017)

10 IN THE MATTER OF THE ESTATE OF THE LATE ERASTUS BATUMA TOM TOMUSANGE

AND

AND IN THE MATTER OF AN APPLICATION FOR EXTENSION OF LETTERS OF ADMINISTRATION TO MARGARET NKANGI 15 TOMUSANGE (ADMISTRATOR) AND LEAVE TO FILE AN INVENTORY OUT OF TIME

1. MARGARET NKANGI TOMUSANGE :::::::::::::::::::: APPLICANTS

VERSUS

- 1. FRED TOMUSANGE

- 20 2. ROBERT TOMUSANGE
- 3. MICHEAL TOMUSANGE
- 4. CLAIRE TOMUSANGE
- 5. HELLEN TOMUSANGE
- 6. NABWAMI CONSTANCE ::::::::::::::::::::::::::::::: RESPONDENTS

25 BEFORE: HON LADY JUSTICE IMMACULATE BUSINGYE BYARUHANGA

RULING

Introduction

This application was brought by way of Notice of Motion under Sections 234, 256, 30 278 and 337 of the Succession Act, Section 96 and 98 of the Civil Procedure Act, and Order 52 rules 1 & 3 of the Civil Procedure Rules seeking for orders that; -

1. The letters of Administration of the estate of the Late Tom Tomusange vide Administration Cause No. 1229 of 2017 be extended.
- 5 2. The time to file an inventory be enlarged.
- 3. Costs of the application be provided for.

The application is supported by an affidavit jointly sworn by **Margaret Nkangi Tomusange**, the administrator of the deceased's estate, wherein letters of administration was granted vide Administration Cause No. 1229 of 2017. The 10 grounds of the application are laid out in the application and the affidavit in support of the application but briefly they are the following;

- 1. That letters of administration of the late Erastus Batuma Tom Tomusange have become inoperative since letters of administration have expired.
- 2. That the delay was caused upon conducting a search of unknown property left
- 15 behind by the deceased and financial crises to process the necessary documents from the names of the deceased to the administrators and lastly to the beneficiaries.
- 3. That the applicant has found a lot of difficulty to administer the said estate without applying for fresh letters of administration, since the ones issued on 2 nd 20 day of October 2017 have expired.
- 4. That for effective management of the estate of the deceased's estate, the original letters of administration issued on 2nd October 2017 have expired thus fresh letters be issued to the applicants.

- 5. That the Administrator has taken some steps in administering the said estate 25 that is to say transmission was completed, the title is in the names of the Administrators.
- 6. That the process of administration cannot be completed without the grant of fresh letters of administration since property has not been fully distributed.
- 7. That this application has been made without unreasonable delay.

5 8. That in the interest of administering the original letters of administration issued on 2nd day of October 2017 have expired thus fresh letters be issued to the applicants and leave to file an inventory out of time be enlarged.

Background

Following the demise of Erastus Batuma Tom Tomusange on 14th June 2017, having 10 died intestate, the applicant petitioned court for letters of Administration vide Administration Cause No. 1229 of 2017, which was granted on 2 nd October 2017 by the **Hon. Justice David Matovu**. To date no inventory has been filed on record yet the said letters of administration for the deceased's estate have expired by operation of law by virtue of Section 337 (2) of the Succession Act, before the finalization of 15 the applicant's administration and distribution of the deceased's estate hence this

application.

Representation

In the instant application, the applicants were self-represented.

Issue for Determination

20 I have perused the applicant's written submission and no issues were framed. This notwithstanding, this court has the power to frame issues for determination by virtue of **Order 15 rule 5 of the Civil Procedure Rules**; court has resolved that there are two main issues for determination being, **whether there is sufficient cause for the Letters of Administration to be extended/ renewed and whether there is 25 sufficient cause for the full account inventory to be filed out of time.**

Parties' submissions

It is the applicant's submission that the continued administration and management of the deceased's estate has been hindered by the in operation of the letters of

5 administration which are due to expire by operation of law. The applicant further argued that as administrator of the said estate, she has not fully distributed the deceased's estate following financial constraints that were faced in the transmission of the estate property into her names as administrator and the discovery other properties that formed part of the deceased's estate. It was argued that the above 10 furnished reasons highlight sufficient cause to justify the grant of an extension on the grant and the enlargement of time within which to file an inventory.

In support of his arguments, counsel cited cases like **Hadijah Ndagire Anor vs. Mohammed Kasozi & 15 ors HCCS No. 40 of 2014** and **Ketti Nankanja versus Yefesi Wamala & Anor HCMA No. 1 of 2019**.

15 *Resolution*

1. Whether there is sufficient cause for the Letters of Administration to be extended/ renewed

From the on sate, it is important that this Court draws a clear distinction between the renewal of a grant and the extension of a grant. The **Black's Law Dictionary (8th 20 ed. 2004) at page 1756**, defines the term **extension** as the continuation of the same contract for a specified period, whereas, **renewal** is defined at **page 4048 of the**

same dictionary as the act of restoring or reestablishing.

Simply put, an extension relates to a grant that is still valid meaning, the same has not yet expired, while a renewal relates to an already expired grant. In the instant 25 case, the grant for letters of administration of the deceased's estate were issued on 2 nd October 2017, therefore, the applicants applied the right law being Section 337 (2) which stipulates that;

5 *"A grant of probate or letters of administration issued by a court of competent jurisdiction before the 31st day of May 2022, shall remain in force for a period of three years from the 31st day of May 2022".*

I have observed that the applicants filed the instant application on 30th May 2025, before, hence the grant expired on 31st May 2025. In the premises the instant 10 application is for extension of the grant and not renewal.

Onto the merits of the application, the crux of this matter as can be deduced is that the applicants have been unable to file the inventory of the deceased's estate owing to the fact that the letters of probate issued by this court have since expired by operation of law.

15 Applications of this nature are catered for under **Section 337(4) of the Succession Act** which provides that;

"The duration of a grant of probate or letters of administration referred to in subsection (2) may, on application to court by the ... administrator or administratrix of an estate, be extended for a reasonable period 20 *determined by court".*

In paragraphs 3-6 of the affidavit in support of the application, the deponent stated that the delay in administration of the deceased's estate was occasioned by financial constraints and discovery of unknown properties forming part of the deceased's estate which have hindered the administration of the said estate. It was further 25 contended that, with the expiration of the grant, the applicant shall face great difficulty to administer and complete the distribution of the deceased's estate with an expired grant. In addition, I have observed that the beneficiaries of the deceased's estate have consented to the extension. Though not a requirement of law by virtue of Section 337 of the Succession Act, it is beneficial to have family consent as the 30 same is proof that the beneficiaries of the deceased's estate have endorsed the actions of the executors or administrators of the deceased's estate.

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5 In light of all of these facts and evidence, I am convinced that the applicants have presented sufficient cause to warrant an extension of the letters of Probate for the **Estate of Late Erastus Batuma Tom Tomusange issued via Administrative Cause No. 1229 of 2017.**

Issue No.2 Whether there is sufficient cause for the full account inventory to be filed

10 out of time

Applications of this nature are provided for under **Section 273(1)** (formerly section 278(1)) of the **Succession Act** (as amended) which provides that*:*

"An executor or executrix or administrator or administratrix shall, within six months from the grant of probate or letters of 15 *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 executrix or* 20 *administrator or administratrix; 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* 25 *disposed of."*

In the case of **Hadijah 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*

30 *for extension of time, stating the reasons for her/his inability to perform the required task within the 6(six) months period. The court, if persuaded by the administrator's grounds for extension of time, may grant the application.* The case of **Molly Kyalikunda Turinawe & others vs Engineer Ephraim Turinawe & Anor – Supreme Court Civil Application No. 27 of 2010** provided for the 3 questions to

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- 5 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*
- 10 *3. Whether any injustice will be caused if the application is not granted.*

Similarly, in the case of **Mugo and ors vs 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"

15 *explain the reason for delay and should also satisfy court as to whether or not there will be a denial of justice by the refusal or granting of the application" (emphasis on the underlined)*

In the case of **The Registered Trustees of the Archdiocese of Dar es Salam versus the Chairman Bunju Village Government & Ors** which quoted **Gideon Mosa**

20 Onchwati versus Kenya Oil Co. Ltd & Anor [2017] KLR where it was 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* 25 *appellant."*

I agree with the definition of sufficient cause presented in the authorities 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 his or her control and it was not because of 30 negligence or unreasonable delay.

I have examined the reasons furnished by the applicants stated above and in my view, the aforementioned reasons qualify as sufficient cause to extend time within 5 which to file the inventory. I accordingly allow this application with a finding that the present application merits extension of time within which to file the inventory out of time and an extension of the letters of Administration so as to facilitate the further administration of the deceased's estate.

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

- 10 *1) This application is allowed.*
- *2) Letters of Probate for the Estate of the Late Erastus Batuma Tom Tomusange issued via Administrative Cause No. 1229 of 2017 to the applicants are hereby extended by one year from 17th June 2025.*

- *3) The Applicant is granted leave to file the final account inventory of the* 15 *estate vide Administration Cause. 1229 of 2017 out of time within six months from today the 16th day of June 2025.*
- *4) The Applicant is directed to file the updated inventory clearly showing the following;*
- *a. the name of the deceased; date of death; Administration Cause* 20 *number; Date of Issuance of the Letters of Administration; Names of Administrator; Date of Submission of Inventory.*
- *b. Properties that formed part of the deceased's estate as at the date of death. For immovable properties, attach certified documentary evidence and for moveable properties, a list with details and* 25 *descriptions. A status update of these properties should be given as at the date of filing of this inventory.*
- *c. Credits of the deceased*
- *d. Debts of the deceased*
- *e. List of beneficiaries of the deceased and their National IDs*
- 30 *f. Proposed distribution of properties among the beneficiaries and justification for this proposed distribution i.e. family minutes consenting to the proposed distribution, duly signed by the beneficiaries and the Administrators.*
- *g. For property already distributed before the filing of the inventory, a* 35 *list of properties distributed and to whom it was distributed among the beneficiaries and a justification for the distribution and proof that the said beneficiary received the same.*
- *5) The said inventory should be filed within six months from the date of this Ruling.*

40 I so order,

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Immaculate Busingye Byaruhanga

JUDGE

Ruling delivered on this 16th day of June 2025 via ECCMIS

2.

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