

UGANDA / JUDGMENT

Mayombo v Kiminta and Others (HCT-01-CV-CS-0018-2013) [2025] UGHC 553 (14 July 2025) [2025] UGHC 553

COURT

High Court of Uganda

BEFORE

Wagona, J

CASE / FILE NUMBER

HCT-01-CV-CS-0018-2013

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT FORT PORTAL

HCT-01-CV-CS-0018-2013

JOHN MAYOMBO (SUING THROUGH

ASOBORA DAMSON HIS LAWFUL ATTORNEY) ::::::::::: PLAINTIFF

VERSUS

- **1. PRINSLOO THOMAS KIMINTA**
- **2. STEVEN LEONARD WILLIAMS**

(Administrators to the Estate of the Late J. C. Palgrave Simpson)

3. KIJURA TEA COMPANY LIMITED

4. UGANDA REGISTRATION SERVICES BUREAU :::: DEFENDANTS

BEFORE: HON. JUSTICE VINCENT WAGONA

RULING ON A PRELIMINARY OBJECTION

Introduction:

1. By an amended Plaintiff filed in this court on 25th April 2023, the Plaintiff brought this suit against all the Defendants jointly and severally, inter alia, seeking a declaration that the 3rd and 4th Defendants' transfer of shares

belonging to the Plaintiff, to the then late John Charles Palgrave Simpson and subsequently to the 1st and 2nd Defendants (as his administrator and beneficiaries) was fraudulent and unlawful. The 1st and 2nd Defendants, who are said to be adult male British citizens of sound mind, were sued in their capacity as administrators to the estate of the late John Charles Palgrave Simpson.

Preliminary Objection

2. When the matter was called for defense hearing on 12th June 2025, learned Counsel for the 1st and 2nd Defendants, *Mr. Paul Rutisya* submitted that the 1st and 2nd Defendants obtained a grant of letters of probate to the estate of the late John Charles Palgrave Simpson on 28th June 2015 and that under **Section 337 (2) of the Succession Act Cap 268**, their said letters of probate expired on 31st May 2025 and they have no interest in applying for their extension as they have completed their roles. That as a result, the 1st and 2nd Defendants no longer have authority to appear before this Court in this matter. Further that the option of extending their mandate as administrators under **Section 337 (4) of the Act** can only be exercised upon the filing of a formal Application to that effect in which they are not interested.

Response by the Plaintiff

3. In response, learned Counsel for the Plaintiff, *Mr. James Kaija* submitted that this is a case of 2013 and that it is the 1st and 2nd Defendants who have deliberately delayed the hearing and conclusion of this case on purpose. That one of their duties as administrators is to pay the deceased's debts, and that they cannot come up to say that their mandate has expired. Counsel further submitted that this Court has power under **Section 98** of the Civil Procedure Act to renew and extend the 1st and 2nd Defendants' mandate as administrators to the estate of the late John Charles Palgrave Simpson for the interest of justice to be met.

CONSIDERATION BY COURT:**Issues:**

- 4. In my view, there are two preliminary issues arising out of the above submission of Learned Counsel for the 1st and 2nd Defendants namely:
- (1) *Whether the 1st and 2nd Defendants, as administrators of the estate of the late John Charles Palgrave Simpson, have locus standi to continue representing the estate in this suit, given the alleged expiry of their letters of probate under Section 337(2) of the Succession Act, Cap 268.*
- *(2)What remedies are available to the parties?*

Resolution of the Issues:

- 5. A grant of letters of administration is meant to enable the administration of the estate of the deceased by holders of probate or letters of administration which may involve performing the following roles: preserving the estate, paying debts, providing for the immediate needs of beneficiaries, distributing the estate, filing an inventory and account, and reporting to court. Other roles include obtaining the consent of the beneficiaries before carrying out certain actions, acting in the best interest of the beneficiaries and the estate; and, relevant for this case, if necessary, apply to the court for an extension of the duration of letters of administration or probate.
- 6. It is emphasized in the context of this case, that the duties of administrators in relation to suits involving the estate, would include the following: (1) representing the deceased: the administrator represents the deceased person in court proceedings; (2) defending or initiating lawsuits: they may need to defend or initiate lawsuits on behalf of the estate; (3) managing estate litigation: the administrator handles litigation related to the estate, ensuring that the estate's interests are protected; (4) complying with court orders: they must comply with court orders and directives in the course of litigation; (5)

acting in the best interest: the administrator must act in the best interest of the estate and its beneficiaries, avoiding conflicts of interest and ensuring that the estate's assets are protected.

- 7. In this case, there is an on-going law suit that involves the estate but the 1st and 2nd defendants being administrators, contend that they cannot continue as defendants in the suit because they no longer have locus, and they have no interest in extending the duration of their letters of administration that have now expired.

- 8. The 1st and 2nd Defendants were granted letters of probate on 28th June 2015, and indeed, according to **Section 337(2)** of the **Succession Act, Cap 268**, these letters would have expired on May 31, 2025.
- 9. Regarding the extension of the duration of letters of administration, **Section 337 (2)** of the **Succession Act, Cap 268** provides that: *"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."* And **Section 337 (4)** provides that, *"the duration of a grant of probate or letters of administration referred to in subsections (2) and (3) may, on application to court by the executor or executrix or an**

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**administrator or administratrix of an estate, be extended for a reasonable period determined by court."*

- 10. From the above provisions, it appears that a court cannot on its own motion extend the duration of letters of administration that have expired. The court may extend the duration of expired letters of administration or probate upon application by the administrator or executor. The court can grant an extension for a reasonable period.
- 11. The expiration of letters of administration however, does not extinguish the rights of beneficiaries or the administrator's responsibilities and obligations. The expiration of the letters of administration does not absolve the administrators of their responsibilities or liabilities in relation to the estate. It simply bars the administrator from continuing to act under the lapsed grant.
- 12. Notably, also, the law is silent and does not expressly bar the court from extending the duration of letters of administration on its own motion. In my view, **Section 98** of the **Civil Procedure Act** grants the court broad inherent powers to ensure that the ends of justice are met. **Section 37** of the **Judicature Act** also empowers this court to grant all such remedies as any of the parties to a cause or matter is entitled to, so that as far as possible all matters in

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controversy between the parties may be completely and finally determined and all multiplicities of legal proceedings concerning any of those matters avoided.

- 13. I therefore find that, while the typical scenario involves an application by the administrator, the court is not limited to acting only upon such applications, in order to extend the duration of letters of administration. If the court is aware that the administrators are refusing to apply for extension of letters of administration as a way to evade their responsibilities or their legal obligations, the court can, on its own motion, initiate the

process or extend the letters of administration to ensure that the estate is properly administered and its interests protected.

- 14. The court will likely consider whether there is "just cause" for extending the letters of administration. This could include circumstances like herein where the administrators are unwilling to act or are deliberately delaying the process to avoid their responsibilities. The court's power to act on its own motion is crucial in preventing administrators from abusing the process and evading their legal obligations related to the deceased's estate. In essence, the court has the authority to ensure the proper administration of estates, even when faced with recalcitrant administrators, by extending the letters of administration on its own motion.

- 15. The purpose behind the Succession (Amendment) Act, 2022, and specifically the introduction of expiry dates for grants of letters of probate and letters of administration, was not meant to provide a shield for administrators to evade their duties or liabilities in ongoing matters. Instead, the legislative intent, as gleaned from the mischief rule, was to address the widespread problem of protracted estate administration, to ensure administrators act diligently, to promote accountability, and ultimately, to safeguard the interests of beneficiaries by ensuring timely winding up of estates. To allow the 1st and 2nd Defendants to simply withdraw from these proceedings, thereby potentially avoiding accountability for actions (or inactions) that occurred during the validity of their grant, would utterly defeat these legislative objectives. It would create an absurdity where deliberate delay, as alleged by the Plaintiff, could effectively become a strategy to escape justice.
- 16. Furthermore, this Court is bound by the spirit of **Article 126(2)(e) of the Constitution**, which commands that substantive justice shall be administered without undue regard to technicalities. The Supreme Court has consistently reiterated this principle. In **Utex Industries Ltd vs. Attorney General, SCCA**

No. 52 of 1997, it was clearly stated that procedural rules are "handmaids to

justice" and should not be applied so rigidly as to defeat the ultimate goal of fairness. Similarly, in **Mulindwa vs. Kisubuka Civil Appeal 2014/12 {2018} UGSC 38**, the Supreme Court affirmed that while rules of procedure must be followed, courts should not let technicalities overshadow the substantive merits of a case to the detriment of justice. Discharging the Defendants simply because their grant expired while this suit, initiated in 2013, remains unresolved, would be an undue and unjust regard for a technicality. The substantive claim against the estate, and the alleged fraudulent actions leading to the suit, did not cease to exist upon the expiry of the grant. The Defendants held a fiduciary position, and their duties flowed from that position.

17. To require the Plaintiff to embark on a new process of having fresh administrators appointed, or to delay the ongoing trial while the Defendants make a formal application for extension, would result in further and undue delay, expense, and an affront to judicial efficiency. This would undoubtedly prejudice the Plaintiff, who has waited for over a decade for resolution. This Court cannot sanction a situation where a party, through a procedural lapse (or alleged deliberate omission), effectively brings an ongoing trial to a halt and potentially escapes accountability. The continuous duty of an administrator to the estate, particularly in defending existing claims, does not cease merely

because the formal instrument of appointment has a temporal limit, especially when the law provides a mechanism for extension.

- 18. I find that the most appropriate course of action is to ensure that the ends of justice are met. While the Defendants' letters of probate have indeed expired according to a literal reading of **Section 337(2)**, their responsibilities and liabilities arising from their tenure as administrators, and specifically in this suit, cannot be permitted to automatically evaporate.
- 19. I find that it is in the interest of justice to invoke the inherent powers of this court under Section 98 of the Civil Procedure Act to ensure the 1st and 2nd Defendants continue representing the estate of the late John Charles Palgrave Simpson. I therefore hereby extend the 1st and 2nd Defendant's mandate as administrators/executors of the estate of the late John Charles Palgrave Simpson for the purpose and duration of this suit and any matters arising out of the suit. At the same time, the 1st and 2nd Defendants are at liberty to apply for the general extension of their letters of administration or probate as the case may be.
- 20. In the final result, I make the following Order:

- **(1)It is hereby ordered that 1st and 2nd Defendants' mandate as administrators/executors of the estate of the late John Charles Palgrave Simpson is hereby extended for the purpose and duration of this suit and any matters arising out of the suit.**
- **(2)The 1st and 2nd Defendants are at liberty to make an Application for a general extension of their letters of administration or probate as the case may be.**
- **(3)Costs of this application shall be in the cause.**

I so order.

Dated at Fort Portal this 4th day of July 2025

Vincent Wagona

High Court Judge

FORTPORTAL

Ruling delivered on 14th July 2025.

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