

In the High Court of Fiji

At Suva

Civil Jurisdiction

Civil Action No. HPP 23 of 2020

Sera Salavou Nailagovesi Tagicakibau

Plaintiff

v

Lutu Grace Tagicakibau

Defendant

Counsel: Ms L. Vaurasi for the plaintiff

Mr K. Skiba with Ms L. Tavaiqia for the defendant

Date of hearing: 2nd March, 2021

Date of Judgment: 3rd May, 2023

Judgment

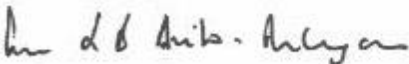
1. The plaintiff, a daughter of Mosese Nailagovesi Tagicakibau (deceased) seeks to be appointed as the Administratrix of his estate.

2. The affidavit in support of her originating summons states that the deceased passed away intestate on 11 July, 2019. The defendant is his legal wife and a beneficiary of the estate. The deceased owned motor vehicle registration number FK 301 and an agreement to lease with the iTaukei Land Trust Board. The plaintiff placed a caveat on the grant of administration of the estate, as she was concerned that the defendant would not administer the estate. Her siblings Ruth Rusila Tagicakibau and Sakiusa Tagicakibau have given their consent to the plaintiff to be appointed as Administratrix. The plaintiff's birth certificate, the deceased's death certification and deeds of renunciation from her siblings are attached.
3. The defendant in her affidavit in opposition states the deceased only owned a motor vehicle registration number FK 301. There is no lease agreement with TLTB, only an offer to lease letter. She requested that his name be not included in the TLTB lease agreement. She distributed the deceased's FNPf funds to all the beneficiaries.
4. The plaintiff, in her reply states that the defendant did not distribute her late father's retirement funds to his children. The lease is part of the estate. The defendant is unemployed and unable her to meet the financial obligations to pay the outstanding amount and annual ground rent.

The determination

5. The deceased passed away intestate on 11 July, 2019.
6. The defendant has not filed application for administration of the estate.
7. Section 7 of the Succession, Probate and Administration Act sets out the order of priority of entitlement to the grant of letters of administration as follows:
 - a. The wife or husband or *de facto* partner of the deceased;
 - b. If there is no wife or husband or *de facto* partner, to one or more of the next of kin in order of priority of entitlement .. in the distribution of the estate.

8. Section 31 of the Succession, Probate and Administration Act provides that where an executor neglects to apply for probate within 6 months from the death of the testator, the Court may, on the application of any person interested in the estate grant administration to the applicant.
9. In my judgment, it is in the interest of all the beneficiaries of the deceased that the estate of the deceased be administered.
10. I find that the siblings have given consent to the plaintiff being appointed as administratrix. I make order accordingly.
11. **Orders**
 - a. The plaintiff is appointed as administratrix of the estate of Mosese Nailagovesi Tagicakibau.
 - b. I make no order as to costs.


A.L.B. Brito-Mutunayagam
JUDGE

3rd May, 2023

