

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

(PROBATE)

PROBATE CASE NO. 70 of 2015

IN THE MATTER of Application for
Letters of Administration in the
Estate of the late Franco Zuchetto

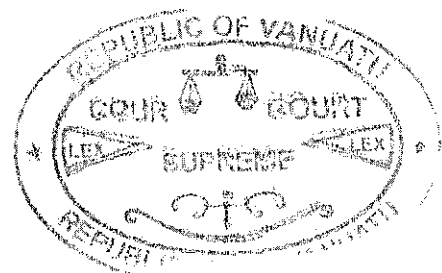
AND IN THE MATTER of Section 2.3
and 2.5 of the Probate and
Administration Rules 2003 and
Section 6 and 7 of the Queen's
Regulation No.7 of 1972

Date: 16th February, 2016
Delivered: 7th December, 2016
Before: ~~The Master Cybelle Cenac-Maragh~~
In Attendance: **Less Napuati counsel for the Applicant**
Joelle Galinie, Edward Nalyal counsel for
the Respondents Lavinia and Ray
Zuchetto,

Present: **Joelle Galinie, Ray Zuchetto and Lavinia Zuchetto**

ORAL JUDGMENT

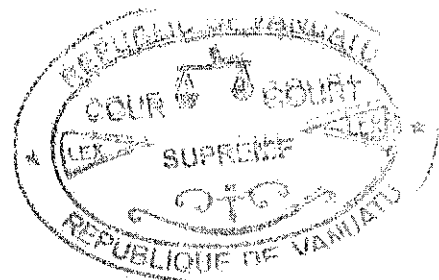
1. This is not a full judgment but an oral one. Should reasons be required for purposes of an appeal then the requisite party should inform the Clerk of Court.
2. An Application for administration of the Estate of Franco Zuchetto (hereinafter called "the deceased") was filed by Joelle Galinie on the 2nd September, 2015 in which she claimed that the only heirs of the deceased were herself, as de facto wife, and their adopted daughter Jessica Zuchetto.
3. Prior to a grant being made an objection to the application was laid by Lavinia and Ray Zuchetto, purporting to be the children of the deceased.
4. The court had to determine the following issues:
 - (i) Are Ray and Lavinia heirs of the deceased.
 - (ii) Who are all the heirs of the deceased.
 - (iii) What makes up the estate of the deceased.



- (iv) Who and how much are the heirs entitled to from the estate.
5. The court accepted the version of events of Ray and Lavinia as to their relationship with the deceased in knowing and understanding that he was their father. This was corroborated by their birth certificates and the evidence of Joelle Galinie that the deceased had told her and at some point introduced her to each of his children. Though they were illegitimate it was clear that he accepted paternity and therefore they fall to be heirs under the Queens's Regulations.
6. Notwithstanding the Application of Ms. Galinie that only she, as de facto wife and her daughter were heirs to the deceased, the court finds, in accordance with the law, that Ms. Galinie is not an heir to the deceased but that her daughter is, having been civilly adopted by the deceased together with herself. The heirs of the deceased therefore are:
- (i) Lavinia Zuchetto
(ii) Ray Zuchetto, and
(iii) Jessica Zuchetto
- Who would all be entitled to an equal share in the estate of the deceased, that is, 1/3rd each.

7. The evidence put forward by both sides is that the estate of the deceased is made up of:

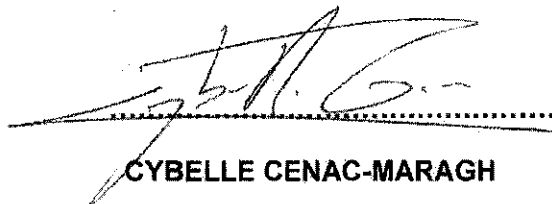
- Leasehold Title 12/0912/523
- Stink cutter
- Taloch machine helicopter
- Siraamic tile
- Grass lawnmower
- Tools for building
- Talcoh machine
- Gas cooker
- Cartons of plates
- Cartons of books
- Grillage
- Chicken wire
- Toys for Jessica
- 2 TV screens
- 1 fiberglass tank
- White minivan
- Aluminium boat on Makira island
- Funds in NBV
- 4 guns, 1 pistol and 1 crossbow
- Personal items [clothes, shoes]
- 1 40 foot container of building tools
- Gold chain
- Original death certificate of deceased father



8. The land register for the abovementioned leasehold reflects that the property was owned in joint proprietorship with the Applicant under section 75 of the Land Leases Act and consequently the Applicant, upon the death of the other proprietor becomes sole surviving proprietor. This means therefore, that Ms. Galinie is the sole owner of the leasehold title and it does not fall to be considered as part of the estate of the deceased. The remaining items listed form part of the estate and are to be sold and the proceeds distributed equally among the 3 heirs of the deceased.
9. As Lavinia Zuchetto is over the age of 21 years old and seemingly intelligent enough and capable based on the court's assessment of her in this matter she will be granted administration of the estate of the deceased and is to take immediate charge of the assets for the purpose of sale and distribution. As Jessica is underage and her mother, the Applicant is her lawful guardian, Lavinia is to provide Ms. Galinie with a full account of all the assets collected and to inform her of the proceeds of sale of the items of which Jessica's share is to be delivered to her mother to hold on trust for her.
10. This matter is to come up for status update on the 25th April, 2017 at 9:30 a.m.

DATED at Port Vila this 7th day of December, 2016.

BY THE COURT


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CYBELLE CENAC-MARAGH
MASTER

