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IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

(PROBATE)

PROBATE CASE NO. 672 OF 2024

IN THE MATTER of Application for  
Letters of Administration in the  
Estate of the late **NABON MARIE  
MADELEINE**

AND IN THE MATTER of Section 2.4  
and 2.5 of the Probate and  
Administration Rules 2003 and  
Section 6 and 7 of the Queen's  
Regulation No.7 of 1972

BETWEEN

**MARIE HELEN NABON**

Applicant

AND

**MARIE PAULE NABON**

Respondent

ORDER

BEFORE : Aurélie TAMSEUL

(Deputy Master)

DATED: 18<sup>th</sup> day of September, 2024

ENTERED: *26<sup>th</sup>* day of September, 2024

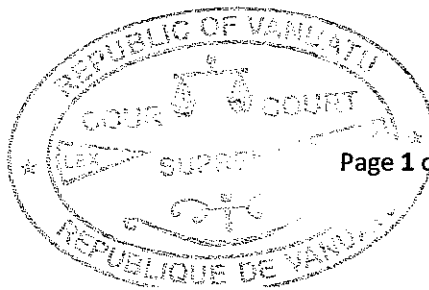
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DECISION

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a. Introduction

1. The Applicant filed on the 15<sup>th</sup> March, 2024 an Application for Letters of Administration with sworn statement filed on the same date in support.



2. The estate consists of Property title 11/OG21/008 wherein both the Applicant and the Respondent reside.
3. A sworn statement of advertisement was filed on the 6<sup>th</sup> May, 2024 and the 28 days lapse on 5<sup>th</sup> June, 2024.
4. The Respondent filed on the 22<sup>nd</sup> May, 2024 a Response with sworn statement in support.
5. We will now consider the law, each party's submission and apply the rule to the facts to arrive at a conclusion.

b. Law

6. Duties of an administrator

***"Succession to property on intestacy.***

6. (1) Subject to the provisions of the last preceding Part hereof, the administrator on intestacy or, in the case of partial intestacy, the executor or administrator with the will annexed, **shall hold the property as to which a person dies intestate on or after the date of commencement of this Regulation on trust to pay the debts, funeral and testamentary expenses of the deceased and to distribute the residue as follows: -..."**<sup>1</sup> ***(my emphasis)***

7. Persons entitled to grant

***"Persons entitled to grant.***

7. The court may grant administration of the estate of a person dying intestate to the following persons (separately or conjointly) being not less than twenty-one years of age –

(a) the husband or wife of the deceased; or

***(b) if there is no husband or wife to one or not more than four or the next of kin in order of priority of entitlement under this Regulation in the distribution of the estate of the deceased; or (my emphasis)***

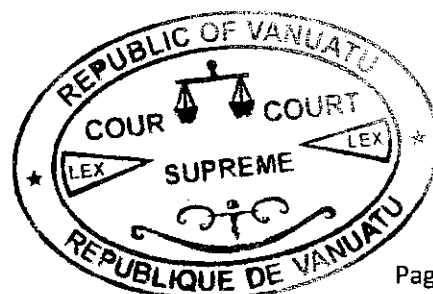
(c) any other person, whether a creditor or not, if there is no person entitled to a grant under the preceding paragraphs of this section resident within the jurisdiction and fit to be so entrusted, or if the person entitled as aforesaid fails, when duly cited, to appear and apply for administration.<sup>2</sup>

c. Respondent's submission

8. The Respondent is a child of the deceased and is a beneficiary to the estate. She wishes to be joined as an Administrator to ensure that all the beneficiaries get their share of the estate.
9. The Respondent, based on their current situation with the Applicant, fears that the latter may abuse her powers once Administration is granted to evict the former from the said property.

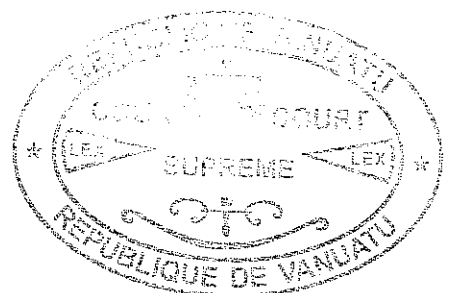
<sup>1</sup> Queens Regulation No.07 of 1972

<sup>2</sup> Queens Regulation No.07 of 1972



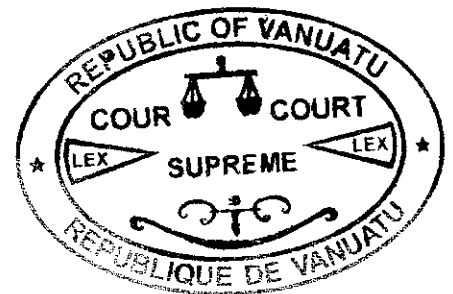
**d. Applicant's submission**

10. The Applicant submits that the deceased has four children but one passed away. The remaining surviving children are as follows:
- a. Marie-Helen Nabon (Applicant);
  - b. Rose-Marie Nabon;
  - c. Marie Paule Nabon (Respondent).
11. The Applicant submits that she is in the best position or best candidate to administrate the estate for the following reasons outlined in paragraph 18 of her submission filed on the 13th September, 2024, to wit:
- a. *She is the eldest in the family;*
  - b. *She had been taking responsibility over the affairs of the family before and after the death of their parents;*
  - c. *She paid the outstanding loan of VT 132,000 of the estate when her mother passed away;*
  - d. *She has been solely responsible in paying the property taxes of the estate since 1991 and 1992 since the parents died;*
  - e. *She has moved into the estate and undertake repairs and maintenance until today;*
12. The Applicant added further reasons, to justify her being the appropriate person entitled to grant, in paragraph 19 of her submission filed on the 13th September, 2024, to wit:
- a. *She took care of the parents when they were sick and bed ridden;*
  - b. *She paid for the parents' funeral expenses;*
  - c. *She permitted the Respondent to come and live with her from June, 2006;*
  - d. *She had paid for the Respondent's outstanding rental payment of VT 100,000;*
  - e. *The Respondent relied on her for all the expenses and taxes in relation to the estate.*
13. The Applicant further submits that Marie Rose Nabon, who currently lives in New Caledonia, should not be considered as a potential Administrator because she is outside of the country and does not know who is taking responsibility here in Vanuatu. In addition, Marie Rose Nabon has, at no point in time, assisted their late parents or in managing the estate since the latter passed away.
14. The Applicant therefore submits that for all the above reasons, she is better place to administer the estate.



e. Discussion

15. Section 6 of the Queen Regulation<sup>3</sup> is very clear on the duties of an administrator and there is nothing further to be added.
16. It is apparent from the submissions that since the date of death of deceased on the **1 June 1991** and for almost 33 years neither party applied for Letters of Administration. There being no explanation provided on the long delay in applying for letters of Administration. Had one party applied sooner, there will be no issue of maintenance expenses and payment of property tax because upon grant, the estate would have been distributed to all beneficiaries and arrangements could have been made, unfortunately, no such action has taken place.
17. Furthermore, the Applicant claims expenses yet provided no receipts of such payment. However, the Applicant, not being the named registered proprietor, was under no obligation to pay for the property tax no maintain the property. The only logical explanation drawn from the information provided regarding payment of property tax is because the Applicant is living on the property. It is in her best interest that she pays for the property tax to avoid penalties. The Applicant also maintains the property for her benefit and use as she resides there.
18. The Applicant put herself in that financial position, whether or no she has been acting in ignorance of the law, for having not applied sooner for a grant to allow her to distribute the estate and avoid all the expenses she incurred.
19. Furthermore, the Applicant needs to understand that being the eldest of the family, having paid for expenses and maintenance of the property or taken care of their late parents does not put her in a higher position than the other beneficiaries under the law to be entitled to grant.
20. The law, in particular, Section 7 (b)<sup>4</sup> allows for a grant to be made to not more than four of the next of kin in order of priority of entitlement under the Queens Regulation in the distribution of the estate.
21. Though the proceeding was initiated by one beneficiary but opposed by another beneficiary, section 7(b) put both parties in equal footing of being entitled to the grant of Administration.



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<sup>3</sup> Queens Regulation No.07 of 1972


<sup>4</sup> Queens Regulation No.07 of 1972

f. **Finding**

22. Administration is granted jointly to the Applicant and the Respondent over the estate of the deceased.

23. The joint administrators are reminded of their duties under Section 6(1) of the ***Queens Regulation No.07 of 1972.***

24. That each party to bear their own costs.

BY THE COURT  
  
DEPUTY MASTER

