

**IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA,
SITTING IN ITS MARCH TERM, A.D. 2021**

BEFORE HIS HONOR: FRANCIS S. KORKPOR, SR.CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.....ASSOCIATE JUSTICE
BEFORE HER HONOR: SIE-A-NYENE G. YUOH.....ASSOCIATE JUSTICE
BEFORE HIS HONOR: JOSEPH N. NAGBE..... ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA.....ASSOCIATE JUSTICE

The Intestate Estate of Adolph N. Ajavon by)
and through its Administrators, WahAjavon and)
Justin Ajavon of the City of Monrovia)
..... Appellant)

Versus)

Appeal)

Ajele Ajavon-Cox of the City of Monrovia,)
Liberia Appellee)

GROWING OUT OF THE CASE:)

Ajele Ajavon-Cox of the City of Monrovia,)
Liberia Movant)

Versus)

Motion to Dismiss)

The Intestate Estate of Adolph N. Ajavon by)
and through its Administrators, Wah Ajavon,)
Justin Ajavon, Leona Ajavon, Joseph Ajavon)
Emira Woods Effua Mogowan et all of the)
City of Monrovia..... Respondent)

GROWING OUT OF THE CASE:)

The Intestate Estate of Adolph N. Ajavon by)
and through its Administrators, WahAjavon,)
Justin Ajavon, Leona Ajavon,)
..... Petitioner)

Versus)

Amended Petition for
the Revocation of
Letter of Administration)

Ajele Ajavon-Cox of the City of Monrovia,)
Liberia..... Respondent)

GROWING OUT OF THE CASE:)

The Intestate Estate of Adolph N. Ajavon by)
and through its Administrators, WahAjavon,)
Justin Ajavon, Leona Ajavon, Joseph Ajavon)
Emira Woods Effua Mogowan et all of the)
City of Monrovia..... Petitioners)

Versus)	Petition for the
)	Revocation of
Ajele Ajavon-Cox of the City of Monrovia, Liberia..... Respondent)	Letter of Administration
)	

Heard: July 21, 2020

Decided: August 20, 2021

MADAM JUSTICE YUOH DELIVERED THE OPINION OF THE COURT

This appeal emanates from a July 2, 2019, ruling of the Judge of the Monthly and Probate Court for Montserrado County, His Honor J. Vinton Holder, on a motion to dismiss a petition for the revocation of letters of administration.

The records show that the proceedings leading to the said July 2, 2019 ruling commenced on January 10, 2008, when the Monthly and Probate Court for Montserrado County, granted the petition of Equa H. Davies to administer the Intestate Estate of her grandfather, Adolph N. Ajavon. The appellee herein and co-petitioner in the trial court, Dr. Ayele Ajavon Cox, along with some of the administrators of the intestate estate, the appellant, to include the present representatives of the appellant, Wah Ajavon, Joseph Ayite Ajavon, Leona Ajoua Ajavon, Ida Burphy Ajavon, Abraham Ajavon, and Ayorkor Ajavon filed a five (5) count petition praying for the revocation of the letters of administration issued in favor of Equa H. Davies, principally alleging that the said administrator was not a lineal heir of the estate, and as such the petitioners, as lineal heirs and next in order of priority of successors, were the rightful parties to administer their late father's estate.

On January 18, 2008, Equa H. Davies, in her capacity as administrator of the Intestate Estate of Adolph N. Ajavon, filed her returns to the petition, asserting *inter alia*, that the issuance of letters of administration did not necessarily have to be in a standard of sequence as was being advanced by the petitioners, but could be issued to any person having interest in the estate of the intestate; that she being a granddaughter of the decedent, had interest in his estate, and could petition the court to grant her letters of administration over said estate so as to avoid it going to waste; that prior to her appointment as administrator, the Intestate Estate of Adolph N. Ajavon was also administered by another grandchild at the instance of co-petitioner Dr. Ayele Ajavon Cox, one of the children of the decedent.

On January 29, 2008, the petitioners filed their reply, affirming therein the averments in their petition and requesting the trial court to strike the answer filed by Equa H. Davies for reason that same was served out of the statutory period of ten (10) days; the reply was accompanied by a motion to strike averring the same content of the reply as to the late service of the answer upon the petitioners.

The records indicate that a motion for an interim order and the motion to strike were granted, thereby suspending the letters of administration issued in favor of Equa H. Davies as administrator of the Intestate Estate of Adolph N. Ajavon, and the subsequent appointment of the curator of the Monthly and Probate Court for Montserrado County as administrator *ad interim*, and the striking of her Answer from the records, respectively.

The records also show that trial was had on the merits of the petition, and thereafter the trial court ruled thereon, granting the petition, and revoking the letters of administration issued in favor of Equa H. Davies.

Subsequently, Dr. Ayele Ajavon Cox, the appellee, petitioned the probate court for letters of administration, and on June 9, 2009, she was granted same, making her the sole administratrix of the Intestate Estate of Adolph N. Ajavon, her father. Again on May 4, 2010, Dr. Ayele Ajavon Cox petitioned the court for another letters of administration, but this time around, the records are devoid of the outcome of said petition.

The records are again silent as to the events within the Ajavon Intestate Estate or the proceedings in the trial court from the time of the issuance of letters of administration to the appellee, Dr. Ayele Ajavon Cox in June, 2009. However, we note that eight (8) years later, that is, on October 27, 2017, amended letters of administration was issued to Dr. Ayele Ajavon Cox, Mr. Wah Ajavon, and Mr. Abraham Ajavon as joint administrators of the Intestate Estate of Adolph N. Ajavon. Subsequently, on October 29, 2018, another amended letters of administration was again issued out of the Monthly and Probate Court for Montserrado County, but this time to only Wah Ajavon and Abraham Ajavon, grandchildren of the decedent. The records give no reason for this action by the probate court, in appointing the grandchildren in place of their aunt, the present appellee.

Nevertheless, the records show that on February 19, 2019, extended letters of administration was issued to the appellee herein, again as the sole administrator of the Ajavon Intestate Estate. The records are also wanting of any proceedings in the trial court wherein the letters of administration issued by the court in favor of Wah Ajavon and Abraham Ajavon were ever revoked as required by law or had expired on its own terms.

Predicated on the issuance of the February 19, 2019, extended letters of administration to the appellee, the appellant now the Intestate Estate of Adolph N. Ajavon, by and thru its administrators, Wah Ajavon and Justin Kwesi Ajavon, filed a petition to revoke the said extended letters of administration of the appellee, and which petition was subsequently withdrawn, amended, and re-filed on March 25, 2019. We quote below pertinent excerpts of the said amended petition, to wit:

“Petitioner’s Amended Petition

4. That the Respondent entered into a lease agreement with Aminata and Sons for a period of ten (10) year, July 14, 2007 to July 13, 2017 for portion of the estate, a gas station located on Carey Street for a payment of Ten Thousand United States Dollars, payable in advance annually. Clause 2(a) of the agreement states that Twenty Thousand United States Dollars (US\$20,000.00) for two (2) years to be paid at signing of the agreement.

5. That the respondent subsequently received the rental income of the property up to July 13, 2017, which each of the nine (9) branches of the Adolph N. Ajavon Estate was entitled to US\$1,111.11, yet each branch was receiving only US\$800.00. Therefore a balance a balance of US\$311.11 per family branch was unaccounted for during the eight (8) years of her administration, after receiving the first Twenty Thousand United States

Dollars (US\$20,000.00) at the signing of the agreement for two (2) year. The accounted amount of eight (8) years Twenty-Two Thousand Four Hundred United States Dollars (US\$22,400.00) plus Twenty Thousand United States Dollars (US\$20,000.00), two years rent equals a total of Forty-Two Thousand Four Hundred United States Dollars (US\$42,400.00).

7. That the Respondent herein was one of those jointly administering said estate with Wah Ajavon and Abraham Ajavon by the strength of Letters of Administration granted by this court. However, because the respondent wrote a letter to the Management Team of the said estate that she is withdrawing her signature from a document that purports to setting up a Management Team, the Co-petitioners, Wah Ajavon and Justin Ajavon herein petition this court and attached the minutes of a meeting of the Management Team which a majority of the team voted authorizing the Petitioners to petition this court thru their lawyers for amended letters of administration, which was granted.

9. That Letters of Administration granted to the respondent on February 19, 2020, having been granted as a result of misrepresentation, deliberately made by the respondent for the sole purpose of depriving Petitioners of partaking in the administration of the father and grandfather intestate estate and to continuously deprive them of their just benefits as was done for ten (10) consecutive years, is a fit subject of revocation as in keeping with law.

10. That eight (8) of the family branches (beneficiaries) have agreed for a petition to revoke Respondent's Letters of Administration be filed with the Monthly and Probate court of Montserrado County..."

On April 2, 2019, the appellee filed her returns to the amended petition for the revocation of her letters of administration along with a motion to dismiss said amended petition. In her returns to the petition, the appellee contended *inter alia*, that she is the only child of the late Adolph N. Ajavon who is resident in Liberia, thus giving her the right and legal authority under Chapter 111 Section 111.1 of the Decedents Estates Law of Liberia to administer her late father's properties since her two other siblings are permanent residents of the United States of America.

As ground for her motion to dismiss the petition, the appellee asserted that in terms of priority, the Decedents Estates Law gives her first preference over the petitioners in administering the affairs of the said estate, given that the appellants are grandchildren and great grandchildren of the late Adolph N. Ajavon, thereby having no legal standing to serve as administrators.

Following a hearing on the motion to dismiss, the trial judge ruled and granted the motion to dismiss in favor of the appellee, citing as his rationale thereof, that the law, in order of priority, gives preference to children than grandchildren in the administration of an intestate estate; that the appellee being a lineal heir of the intestate, she had legal standing to petition the trial court for letters of administration, and was legally preferred to the parties seeking to be administrators. The appellant noted its exceptions to the trial court's ruling on the motion to dismiss, and announced an appeal to the Supreme Court for review of the matter via a nine (9) count bill of exceptions which we quote verbatim as follows:

“Appellant’s Bill of Exceptions

Appellants/Respondents, the Intestate Estate of the late Adolph N. Ajavon by and thru its Administrators Wah Ajavon and Justin Kwesi Ajavon say that on the 2nd day of July, A.D. 2019, Your Honor rendered your Final Ruling granting Appellee’s/Movant’s Motion to Dismiss and denying and dismissing in its entirety, Appellant’s Returns. Appellant excepted to said Final Ruling and announced an Appeal to the Honorable Supreme Court of the Republic of Liberia sitting in its October Term A.D. 2019. Consequently, Appellant hereby submits this Bill of Exceptions for your approval, as follows, to wit:-

1. Respondents/Appellants say that your Honor committed reversible error when you disregarded and overlooked the substance of Appellants’ returns to the Movant/Appellee’s Motion to Dismiss which is that this Court granted Letters of Administration to Wah Ajavon and Justin Kwesi Ajavon dated October 29, 2018. While this Letter of Administration was in force, without the Appellee/Movant filing a Petition to revoke same, another letter of administration was granted the Movant/Appellee dated February 19, 2019, seven (7) months prior to the expiration of Appellants’/Respondents’ Letters of Administration.
2. Respondents/Appellants say that your Honor, further committed reversible error in granting Movant’s Motion when you disregarded the two (2) letters addressed to you and filed with the Clerk of this court on May 31, 2019, informing this Court that they (Joe Ayite Ajavon & Leona A. Ajavon) in the U.S.A. are siblings of the Appellee/Movant and children of the late Adolph N. Ajavon which makes them beneficiaries of the Intestate Estate of the late Adolph N. Ajavon thus having interest in the Estate; therefore should have the right to take part in deciding who can represent their interest in the administration of said Estate.
3. Further to Count two (2) above, Appellants/Respondents aver that your Honor again committed reversible error when you granted Movant’s Motion disregarding the substance of the two letters which inform this Court of their agreement for Wah Ajavon and Justin Kwesi Ajavon to administer the Estate due to the fact that for the short time these Administrators were entrusted with family finances they exhibited a high degree of integrity and not their sister Appellee/Movant because Appellee/Movant is not capable of administering the Estate in that she is currently using her daughter, Mrs. Verda Nyoth Simpson as her spokesperson for matters pertaining to the Estate whose participation has been disruptive and nonproductive; and that Appellee/Movant serve as Administratrix of said estate with minimal progress to the estate and has outstanding financial obligations to the other branches (beneficiaries) and has not given account from the rental income from the gas station in Monrovia (leased-hold property) and from the activities of the farm, portion of the estate in Bong County.
4. Appellants/Respondents contend that it was reversible error for your Honor to have granted Movant’s Motion when you ruled that “in careful

consideration of the statutes controlling, Movant Motion to dismissed is granted and the resistance denied when the Movant did not prove that she had the capacity to represent the estate as Administratrix by exhibiting any instrument to Movant's Motion from the Probate Court.

5. Appellants/Respondents contend also that it was reversible error for you to have ruled on the basis of distribution of the estate when the Motion to dismissed and the returns thereto contentious issue was the revocation of the Letters of Administration issued the Movant.
6. Respondents/Appellants say that it was reversible error for your Honor to have ruled at a conference level without taking minutes during arguments and also without the parties making a stipulation that they have agreed for a ruling to be made and binding at the conference level.
7. That Respondents/Appellants further says that it was reversible error your Honor to have ruled that the Movant had the legal standing and preference to petition this Court for Letter of Administration even though two of Movant's siblings in the USA wrote a letter to you and filed same with this court expressing their disagreement for the Movant to administer the Interstate Estate of the late Adolph N. Ajavon, their late father due to the mismanagement of funds of the estate and the incapability of the Movant to administer the estate.
8. That Respondents/Appellants say that it was reversible error for your Honor to have ruled and denied Appellants/Respondents returns to Movant's Motion to Dismiss without the Movant/Appellee stating any of the grounds as laid down in section 11.2 (Motion to Dismiss) of our Civil Procedure Law.
9. That your Honor made reversible error when you ruled in granting Movant's motion without the Movant stating any of the grounds for granting a Motion to dismiss and disregarding a hearing of the Petitioner's Motion for the revocation of Movant's Letters of Administration which could have gone to the merits of the case; hearing the merits of the case could have been the best decision since your Honor admitted in your ruling that the Letters of Administration granted the Respondents was granted by your Honor and this Honorable Court inadvertently..."

The allegations of errors contained in the bill of exceptions present a single issue for our consideration and determination which we state as follow:

Whether or not the trial court acted within the pale of the law when it granted the appellee's motion to dismiss the appellant's petition for revocation of the appellee's extended letters of administration issued by the said court.

It is imperative that we recap the chronology of events leading to the filing of the petition for the revocation of the appellee's letters of administration to make a determination of the question before us.

The records are not clear as to the exact year of the death of Adolph N. Ajavon, but from the various pleadings, some set the date at 1977 while others place same in 1978. Albeit, the records show that his intestate estate has been administered by the present appellee, the only child residing in Liberia and at different intervals, by his grandchildren.

Prior to June 9, 2009, the date of issuance of the appellee's first letter of administration, the Ajavon's estate was administered by Equa H. Davies, a grandchild of the intestate. The records also indicate that prior to Equa H. Davies serving as administrator, the Intestate Estate was administered by Ruby Ajavon Harris, another grandchild of the late Adolph N. Ajavon.

Again, on October 27, 2017, the probate court issued joint amended letters of administration to the appellee and her nephews, another set of grandchildren of the intestate who are representing the appellant herein.

On October 29, 2018, the probate court again issued amended letters of administration exclusively to the representatives of the appellant, who were previously co-administrators along with their aunt, the appellee herein.

Finally on February 19, 2019, the probate Court issued extended letters of administration exclusively to the appellee, which act by the probate court was challenged by the appellant through the filing of a petition for the revocation of the appellee's letters of administration. We note count 10 of the petition states that the appellant had the backing of beneficiaries referred to as "eight (8) of the family branches." The appellee subsequently filed a motion to dismiss the appellant's petition for the revocation of her letters of administration, which was heard and granted by the probate court on the basis that it inadvertently issued letters of administration to the grandchildren contrary to section 111.1 of the Decedents Estates Law, which priorities the letters to the appellee. The present appeal emanates from the said ruling.

It is undisputed that the appellee is the only child of the late Adolph N. Ajavon presently residing in Liberia, and that the representatives of the appellant herein are grandchildren of the late Adolph N. Ajavon.

As it pertains to the issuance of letters of administration, the Decedents Estates Law states thus:

"Order of priority for granting letters of administration.

Letters of administration must be granted to the persons who are distributees of an intestate estate and who are eligible and qualify, in the following order:

- (a) the surviving spouse;
- (b) the children;
- (c) the grandchildren;
- (d) the father or mother;
- (e) the brothers or sisters;
- (f) any other persons who are distributees, preference, however, being given to the person entitled to the largest share in the estate. *Rev. Code 9:111.1*

Pursuant to the above quoted mandatory provision of the law, the appellee must be given priority for the issuance of letters of administration. The representatives of

the appellant herein, who are grandchildren of the decedent, although lineal heirs, their right of succession is subservient to the appellee's. We therefore hold that the law and practice extant in this jurisdiction, relative to the issuance of letters of administration to distributees of an estate, requires that the children of the decedent be given priority over grandchildren for purposes of administration of the estate; hence, the Judge of the Monthly and Probate Court for Montserrado County did not err when he dismissed the appellant's petition for the revocation of the appellee's letters of administration.

More importantly, this Court notes that from the chronology of the events outlined *supra*, regarding the issuance of the numerous letters of administration to administer the Intestate Estate of Adolph N. Ajavon, same span a period of almost forty-four (44) years contrary to the mandate contained in the said letters of administration, that administrators are to submit a report of their administration to the probate court and have the said estate closed within the period of twelve (12) months. The Intestate Estate of Adolph N. Ajavon remains opened up to the present. In the mind of this Court, the inaction of the probate court to enforce this mandatory provision of the law as contained in the letters of administration and its continuous issuance of letters of administration over these many years served as the root cause of the present controversy and we are convinced, is affecting other estates similarly situated.

The applicable provision of the Rules for the Governance of the Monthly and Probate Court, Rule 11 prescribes the manner and form in which all estates are to be administered and subsequently closed. Rule 11 states thus:

“Within twelve months after the qualification for administering an estate, the executor or executrix, administrator or administratrix, having completed all the business of the estate in keeping with law, shall apply to the court and give notice of the closing of the estate; in case the business of the estate has not been completed within the twelve months required by statute, a written report shall be filed in court showing the reasons making it impossible for the estate to be closed. In all such cases the court, if satisfied with the reasons given, shall grant additional up to six months...”

The Supreme Court has opined that decedents' estates ought to be closed within the time period of twelve (12) months, exception being instances involving foreign claims, and even in such cases, the period for the closure of an intestate estate is limited at most to eighteen (18) months. *Nungbor v. Fiske*, 13 LLR 304, 308 (1958); *Knowlden v. Johnson et al.*, 39 LLR 345, 364 (1999)

The laws cited stated above are clear and unambiguous, to the effect that even where the estate is not closed within the 12 month period, the probate court can only extend the period for compliance upon convincing proof shown the court through a written report indicating the reason(s) for the impossibility of closing the estate within 12 months.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the Monthly and Probate Court for Montserrado County is affirmed. Given the protracted period of approximately forty four (44) years since the death of Adolph Ajavon in 1977, and the estate remains opened, the Judge of the Monthly and Probate Court for Montserrado County is mandated to ensure the closure of the said estate within ninety (90) days, as of the date of the rendition of this Judgment. The Clerk of this Court is ordered to send a mandate to the Monthly and Probate Court for

Montserrado County, commanding the judge presiding therein to resume jurisdiction over this case and give effect to this Judgment. Costs are ruled against the appellant. AND IT IS HEREBY SO ORDERED.

Affirmed with Modification

When this case was called for hearing Counsellor Peter W. Howard of the Howard and Partners, Inc. appeared for the appellant. Counsellor Jura A. Lynch appeared for the appellee.