IN THE HONORABLE SUPREME COURT OF THE REPUBLIC OF LIBERIA
SITTING IN ITS OCTOBER TERM, A.D. 2024

BEFORE HER HONOR: SIE-A-NYENE G. YUOH ……..……..…...CHIEF JUSTICE
BEFORE HER HONOR: JAMESETTA H. WOLOKOLIE.……..ASSOCIATE JUSTICE
BEFORE HIS HONOR: YUSSIF D. KABA…….……..ASSOCIATE JUSTICE
BEFORE HIS HONOR: YAMIE QUIQUI GBEISAY, SR……....ASSOCIATE JUSTICE
BEFORE HER HONOR: CEAINEH D. CLINTON JOHNSON……ASSOCIATE JUSTICE

Lysander G. Martin, Sr., and Attorney Etmonia M. Martin of Monrovia, Liberia……..……....Informants	)
Versus	) BILL OF INFORMATION
George S. Wiles, Jr., Administrator of the Intestate Estate of Mardea E. Martin Wiles, of the City of Monrovia, Liberia ……Respondents	)
GROWING OUT OF THE CASE:	)
Lysander G. Martin, Sr., an Attorney Etmonia M. Martin of Monrovia, Liberia……...Appellants	)
Versus	) APPEAL
The Intestate Estate of Mardea E. Martin Wiles, by and thru its Administrator, George S. Wiles, Jr., of the City of Monrovia Liberia…….Appellee	)
GROWING OUT OF THE CASE:	)
The Intestate Estate of Mardea E. Martin Wiles, by and thru its Administrator, George S. Wiles, Jr., of the City of Monrovia, Liberia……Petitioner	)
Versus	) PETITION FOR THE WRIT OF PROHIBITION
His Honor, Scheaplor R. Dunbar, Assigned Judge, Monthly and Probate Court for Montserrado County……1st Respondent	)
AND	)
Lysander G. Martin, Sr., and Attorney Etmonia M. Martin of Monrovia, Liberia……..2nd Respondent	)

Heard: October 30, 2024 Decided: December 19, 2024

MR. JUSTICE GBEISAY DELIVERED THE OPINION OF THE COURT

This case is before this Court based upon a ruling made by Her Honor, Chief Justice Sie-A-Nyene G. Youh, when she served as an Associate Justice presiding in chambers. Lysander G. Martin, Sr., and Attorney Etmonia M. Martin, informants and appellants herein, have argued before this Court through their legal counsel that the ruling of the Chambers Justice is contrary to the laws controlling in our jurisdiction and has urged this Court to overturn the said ruling. George S. Wiles, Jr., appellee and respondent herein has, through his legal counsel, argued in defense of the Chambers Justice ruling and has prayed this Court to affirm same. While the appeal was pending, the appellant filed a bill of information to this Court. We will consolidate both the appeal and bill of information and make a determination.

This matter originated from the Monthly and Probate Court for Montserrado County in 2021 when the wife of the appellee/respondent herein sadly departed this life on July 21, 2021. Following her interment, the appellee/respondent petitioned the Monthly and Probate Court for Montserrado County for Letters of Administration to administer his late wife's estate and same was granted by the then judge, His Honor, Vinton Holder of sainted memory. Surprisingly, notwithstanding the issuance of Letters of Administration to the appellee/respondent for the intestate estate of his late wife, the same judge and same court, without revoking the previous Letters of Administration issued to the appellee/respondent herein, issued yet another Letters of Administration in favor of the appellee/respondent's late wife's father, Mr. Lysander G. Martin and her sister Etmonia Martin, appellants/informants herein, to administer the same estate for which the first Letters of Administration was issued to the appellee/respondent.

The appellee/respondent, upon learning that a second Letters of Administration had been issued to his father in-law and sister in-law, filed a petition for revocation of the Letters of Administration issued to his father in-law and sister in-law. Subsequently, the appellee withdrew the application for revocation and filed a petition for a writ of prohibition before the justice presiding in chambers contending that the second letter of administration was wrongfully and illegally issued to the father in-law and sister in-law to administer the deceased estate which he as a surviving spouse was as a matter of law entitled to administer.

The respondent filed their returns and contended that they were administering properties owned by the deceased in her maiden name prior to her marriage and property owned by her in which she earned during the marriage through her own efforts, some of which while she

was alive, she placed her father in charge as a way demonstrating that she did not want her husband to have anything to do with same.

Following arguments pros et con, the Justice in Chambers ruled, granting the petitioner's petition and espoused that there being no doubt that the petitioner is the surviving spouse of the deceased, he by law enjoys the right to administer his late wife intestate estate and that the probate judge proceeded by the wrong rule in issuing a second letters of administration to the respondent and that such arbitrary and irregular action on the part of the probate judge squarely falls within the office of prohibition so as to undo what the judge has illegally done.

To this ruling, respondents excepted and announced an appeal to the full bench of the Supreme Court. While the appeal is pending undetermined, the appellant/informant respondent filed a bill of information contending amongst other things that the appellee/respondent, has re-married thereby disqualifying him to serve as administrator of his late wife's estate and that he has abandoned he and his late wife's children to his former girlfriend's daughter in the United States. That further, the appellee/respondent has successfully prevented the maternal grandmother and aunt of the children, who live in the United States, from having access to the children to visit them and as the consequence of that, the aunt and the maternal grandmother of the children had filed a petition for the right of visitation to the children in the United States family court in Delaware and the family court had entered a judgment in favor of the grandmother and the aunt. Appellant/informant further maintained that in an effort to evade the judgment of the United States family court, appellee/respondent, without notice to the court or the grandmother relocated the children to Liberia.

Appellant/informant therefore prayed this Court to rule the respondent/appellee is no longer a surviving spouse of the deceased and reverse the ruling of the Chambers Justice; declare that the appellee/respondent lacks standing as outlined in the bill of information; rule all costs against the appellee/respondent, and grant unto the appellant/informant all relief as ascribed by law and equity.

The appellee/respondent filed his returns to the bill of information, and challenged the appellant/informant to show a law which made him incompetent to administer his deceased wife's estate because he had re-married, he also denied the other allegations contained in the bill of information and contended that the children were in Liberia and attending an international school equivalent to any school in the United States.

From the above facts and circumstances narrated, there are two issues determinative of this case:

1. Is the ruling of the Justice in Chambers consistent with the law in this jurisdiction?

2. Does a widow or widower who remarries forfeit his/her right to administer his/her deceased spouse intestate estate?

As to the first issue, the Court answers yes. Firstly, this Court agrees with the Chambers Justice full interpretation of the Decedents Estates Law, Rev. Code. 8.111.1 (2) (b) and the interpretation of the office and authority of the office of prohibition.

The above-referenced law provides the order of priority for the granting of Letters of Administration. This law provides that:

"Letters of administration must be granted to the persons who are distributees of an intestate 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." See also: *Constance v. Constance,* 40 LLR 738, 746 (2001).

The wording of the text is without doubt and by the plain meaning interpretation of the law, it is clear the appellee/respondent is the appropriate person in line to administer the intestate estate of his late wife. We are not persuaded by the appellants/informants' argument in their bill of information that because the appellee/respondent has re-married, he therefore forfeits any right or claim he had to administer the property of his late wife.

We do not find this argument of the appellant/informant feasible as it is not supported anywhere in the law controlling. Had the authors of the law intended for two Letters of Administration to be procured for the intestate estate of a person whose surviving spouse subsequently remarried or that the surviving spouse should lose his/her rights to administer the intestate estate of his/her late spouse, or that, a separate letter of administration should be issued for property, a surviving spouse owned in her maiden name and another letter of administration for property she acquired during her marriage, they would have provided an exception to the referenced section of the Decedents and Estates Law cited above. But as it stands, the cited law squarely and clearly gives priority to the surviving spouse to administer his/her deceased spouse estate with no wiggle room.

The duty of this Court and every other court is limited to the interpretation of law and not to make law. In line with *Rev. Code* 8*:* 111.1 (2) (b), the husband/wife is the first priority to administer a deceased earthly possession in the absence of the spouse, the children are the second priority, in the absence of the children, the grandchildren are the third priority. The parents of the deceased come in the fourth place. Assuming that the appellee/respondent had some legal impediments that disqualified him to administer his wife's estate, by law, the next qualified category would be the children who in the instant case are all minors; therefore,

the action of the judge of the Monthly and Probate Court of Montserrado County, in issuing a second Letters of Administration to the decedent's father and sister, when he had previously issued Letters of Administration to the surviving spouse, is *ultra vires,* illegal and erroneous.

As the natural father of the children, assuming they were the qualified category, the appellee, would also be the appropriate person to serve as a guardian for the minor children. Hence, in any case, the appellee has priority over the parents and siblings of the deceased. Reference to the appellant's contention that the late Mardea Wiles put the property subject of the dispute in possession of her father, for which they attached a notice to their returns, this Court says, the document in question is a mere notice which provided alternative for rent payment for the convenience of the renters to pay to Mr. Martin, not even in his capacity as the father, but in his capacity as the manager. We provide the said letter verbatim for clarity of this opinion:

NOTICE TO TENANT

Tenants of Mardea E. Martin Estate
Rehab Community
Lower Johnsonville
Montserrado County, Liberia

TO WHOM IT MAY CONCERN

Dear Sir/Madam:

Re: Notice of Rental Payments

I present my compliments and wish to inform you about the new protocol for the payment of rent for the unit you currently occupy as follows:

1. *All outstanding rental payment (s) must be paid in full and up to date as of June 30, 2021. Note: (As of June 30th, all rent must be paid in full including June 2021).*

2. *As of July 1, 2021, all tenants are required to pay not less than three (3) months in advance. You can pay more if you so choose. Absolutely, no consideration will be given.*

3. *As of July 1, 2021, monthly rental payment is hereby increased by US$5.00 (Five United States Dollars).*

Pleas ensure that all payments are made directly to my accounts:

Account Name for both accounts: Mardea E. Martin
Ecobank: 610015352
LBDI: 002USD40116463701

OR TO THE MANAGER IN CHARGE: MR. LYSANDER G. MARTIN, SR. [Emphasis added]

If you find these conditions unfavorable, please consider this as a notice to vacate the premises; but ensure that your payment is up to date and apartment is turned over in the same condition as you met it when you moved in. Please ensure that all rentals which are past due are paid. If not, legal or other enforced collection action shall be taken to recover the rental, if permitted by law, legal costs will also be added to the amounts due.

Kind regards,
Mardea E. Martin-Wiles
Property Owner/Landlord

This letter in no way shows or has the legal authority to prove that the deceased transferred or conveyed her property to the appellants/informants. The said notice, if anything, only created a principal/agent relationship or served as a power of attorney to the appellants/informants and by operation of law, a principal/agent relationship or a power of attorney seized to exist upon the demise of the principal. *Tuning et. al v. Thomas et. al,* 21 LLR 33, 38 (1972).

The appellants/informants have also argued that the Constitution provides that the property which a person possesses before marriage and also acquired during marriage by whoever cannot be alienated by the husband. We do not find this reliance upon the Constitutional provision cited by the appellants/informants applicable to the facts and circumstances in this situation.

The Constitutional provision relied upon by the appellants/informants is Chapter 23 (a) of the 1986 Constitution which provides: *"The property which a person possesses at the time of marriage or which may afterwards be acquired as a result of one's own labors shall not be held for or otherwise applied to the liquidation of the debts or other obligations of the spouse, whether contracted before or after marriage; nor shall the property which by law is to be secured to a man or a woman be alienated or be controlled by that person's spouse save by free and voluntary consent.*"

The wording of this constitutional provision is clear and need no different interpretation from the plain meaning. This provision provides security against alienating one's property against his/her free and voluntary consent.

Alienate as defined by the Black's Law Dictionary Deluxe, Eleventh Edition is: "*Conveyance or transfer of property to another."*

Ergo, any transfer of real estate short of a conveyance of the title is not an alienation of the estate and the right of the surviving spouse to administer his deceased spouse's estate cannot be construed as alienation.

To administer an estate simply means to manage and does not necessarily mean the property is for the administrator to the exclusion of the beneficiary who in this case may include the deceased parents and siblings.

Reference to the question of the appellee being remarried, the respondent did not state with specificity the provision of the law which estopped a surviving spouse from administering the estate of his deceased wife once he is remarried. Moreover, assuming that there is a law in

control, this Court is of the opinion that such an issue cannot be raised for the first time before the Supreme Court which by law cannot take evidence. Such an issue ought to be raised before the subordinate court to enable it pass on same and take evidence, hence that question is not worthy of this Court's consideration at this point in time.

We therefore hold that the final ruling of the Justice in Chamber is confirmed.

WHEREFORE AND IN VIEW OF THE FOREGOING, the ruling of the Justice in Chambers is affirmed, the alternative writ issued upheld, and the peremptory writ ordered issued granted. The Clerk of this Court is hereby ordered to send a mandate to the court below commanding the judge therein to resume jurisdiction over this case and give effect to this judgment emanating from this Opinion. IT IS HEREBY SO ORDERED.

Judgment affirmed.

WHEN THIS CASE WAS CALLED FOR HEARING, COUNSELLORS LAWRENCE TOMAH AND KEBEH FREEMAN SIRYON APPEARED FOR APPELLANTS. COUNSELLOR MARK M. M. MARVEY APPEARED FOR THE APPELLEE.