

IN THE HIGH COURT OF SIERRA LEONE

BETWEEN:

PRINCESS ADENIKE MADUCHESE  
 Lawful daughter and one of the beneficiaries  
 Lawfully entitled to the estate of  
 ROSETTA AYOKUNLE WILSON (deceased)  
 By her Attorney SHUBU LEOPOLD  
 26c Main Motor Road  
 Congo Cross

- PLAINTIFF

AND

TUNJI WILSON  
 Administrator of the estate  
 ROSETTA AYOKUNLE WILSON  
 37A Grassfield  
 Babadorie  
 Lumley

- DEFENDANT

CORAM: The Hon. Justice A.N. Bankole-Stronge

*Hearing: 23.5.05, 9.6.05, 17.6.05, 1.11.05, 26.11.05, 29.11.05, 8.12.05, 15.2.06, 21.2.06, 1.3.06,  
 9.3.06, 10.3.06, 28.3.06, 5.4.06, 25.4.06*

*Judgment: 5.5.06**Advocates:**Oliver O. Nylander Esq. for Plaintiff -**D. B. Quee Esq. for Defendant*JUDGMENT

Delivered this 5th day of May, 2006.

By specially indorsed WRIT OF SUMMONS dated the 21<sup>st</sup> day of October, 2004, the plaintiff herein, Princess Adenike Maduchese, a lawful daughter and one of the beneficiaries lawfully entitled to the estate of Rosetta Ayokunle Wilson (deceased) by her Attorney SHUBU LEOPOLD, commenced proceedings against the Defendant, Tunji Wilson, Administrator of the estate of Rosetta Ayokunle Wilson.

The plaintiff's claims against the defendant are:-

- (1) To call in Letters of Administration of the estate of Rosetta Ayokunle Wilson deceased granted him on the 9<sup>th</sup> day of January 2004 by the High Court of Sierra Leone in its Probate Jurisdiction.
- (2) DECLARATION that the said grant is null and void.
- (3) Revocation of the said GRANT.
- (4) That the said grant was irregularly obtained.

By affidavit sworn to by SHUBU Leopold on the 8<sup>th</sup> day of October, 2004, the deponent deposed as follows:-

1. That Rosetta Ayokunle Wilson died on the 2<sup>nd</sup> day of August, 2003, intestate in Freetown, Sierra Leone.
2. That by a Power of Attorney created on the 4<sup>th</sup> day of March, 2004 Princess Adenike Maduchese (Nee Wilson) at presently residing at 3438 Calthe Way, Silver Spring Maryland, 20904 United States of America and the eldest lawful daughter and next-of-kin of Rosetta Ayokunle Wilson deceased appointed me to be her lawful Attorney for the purpose of obtaining Letters of Administration to the estate of the said Rosetta Ayokunle Wilson deceased to be granted by the High Court of Sierra Leone Probate Jurisdiction.
3. That Letters of Administration was on the 9<sup>th</sup> day of January 2004 granted by the High Court of Sierra Leone in its Probate Jurisdiction to Tunji Wilson as thereon and next-of-kin according to law to administer all and singular the real and personal estate effect of Rosetta Ayokunle Wilson deceased.

4. That I further make oath and say that the said Letters of Administration is now in the possession within the power of the control of the said Tunji Wilson.
5. That Tunji Wilson is not the eldest child of the said deceased and he has no intention to institute a court action in respect of any realty which forms part of the estate of the deceased as he fraudulently represented in order to obtain Letters of Administration PENDENTE LITE in respect of the said estate.
6. That I the said Deponent, I am desirous that the said Letters of Administration be brought to Probate Registry of Probate Division of the High Court so that the letters of Administration shall be revoked and declared null and void.

The affidavit of Jonathan Eddie Wray sworn to on the 10<sup>th</sup> day of November, 2004 disclose that the deponent, a Bailiff of the Under-Sheriff's Office served the specially Indorsed Writ of Summon on the Defendant on the 6<sup>th</sup> day of November, 2004.

By Memorandum of Appearance dated the 16<sup>th</sup> day of November, 2004, the defendant by his Solicitor, D.B. QUEE, Esq. entered An Appearance. The defendant did not defend the Action and was not present throughout the hearing and was not represented.

Hearing commenced, on the 8<sup>th</sup> December, 2005. The first witness for the plaintiff was Ekundayo Pratt, a clerk at the office of the Administrator and Registrar-General, who tendered Exh. "A", a Power of Attorney dated 4<sup>th</sup> March, 2004 made between Princess Adenike Maduechesi and SHUBU LEOPOLD. The next witness for the plaintiff was Andrew Marke, an officer in charge of Probate in the Judicial Department. He testified that the original Letters of Administration in the estate of Rosetta Ayokunle Wilson on the 9<sup>th</sup> January, 2004 to the defendant has not been deposited in the Probate Registry of the Court

pursuant to a citation dated 18<sup>th</sup> October, 2004, to call in the grant. He produced and tendered the office copy of the said Letters of Administration which is Exhibit "C".

The plaintiff, Subulokun Lewis Leopold gave evidence. He testified that the late Rosetta Ayokunle Wilson died possessed of Real Estate comprising property at No.26C Off Motor Main Road, Congo Cross, property at No.21 Aitkins Street, Murray Town and property at No.6, Hennessy Street, Kingtom. He knew Princess Adenike Maduchese who is the eldest daughter of Rosetta Ayokunle Wilson, deceased, who is at present in the United States of America. He was in the process of acting on Exhibit "A" when he discovered that a NIL Grant in the Estate of Rosetta Ayokunle Wilson, deceased, had been granted by the High Court in its Probate Jurisdiction to the defendant, Tunji Wilson. He thereupon instructed his Solicitor to institute proceedings to call in the GRANT. He identified Exhibit "C" as the NIL GRANT. He finally testified that no legal proceedings have been instituted relating to the estate of Rosetta Ayokunle Wilson, deceased, either before or after the NIL GRANT.

Dandeson Tucker of No.21, Aitkins Street, Murray Town, gave evidence that he was a tenant of the late Rosetta Ayokunle Wilson since 1994 and after her death paid his rental to Mr. Oliver Nylander, Solicitor for the deceased's estate.

According to this witness there has not been any adverse claim to the property during his tenancy.

Kenneth Akinshola Thomas, an Auctioneer and Estate Agent was the next witness. He carried out a valuation of the estate of the late Rosetta Ayokunle Wilson and prepared a certificate which he produced and tendered as Exhibit "D".

In his submission Mr. Nylander, Counsel for the plaintiff urged this Court to withdraw and revoke Exhibit "C" as it was obtained fraudulently. Particulars of the alleged Fraud are that the defendant obtained the NIL GRANT by falsely deposing in his affidavit sworn to on the 8<sup>th</sup> January, 2003 inter alia as follows:-

2. That I intend to institute a Court Action in respect of Realty which forms part of the estate of the said deceased.
3. That I therefore swear to this solemn affidavit in support of my application for a grant of Letters of Administration PENDENTE LITE in respect of the said estate.
4. That the contents herein are true and correct to the best of my knowledge and ability.

It is noteworthy that paragraphs 2, 3 and 4 are contained in the affidavit of INTENDED ADMINISTRATOR. There is evidence that no legal proceedings have been instituted either before or after the NIL GRANT. This was the reason given by the defendant for the application for a NIL GRANT. After service on him, the defendant, of the Writ of Summons to which was attached the CITATION he caused an Appearance to be entered on his behalf but failed to defend the action. A citation to bring in a grant is necessary when a grant must be revoked, or when it is desired to commence an action for the revocation of a grant, and the grantee neglects or refuses to bring the grant into a probate Registry. In this case the plaintiff claims that the NIL GRANT, EXHIBIT "C" must be revoked as it was fraudulently obtained. In *TRISTAM AND COOTES PROBATE PRACTICE 24<sup>TH</sup> Edition, CHAPTER 17 at Page 468, the Learned Author lists amongst the GROUNDS FOR REVOCATION of a grant – FALSE Statement. It states "Where a grant has been made to a person who was not entitled thereto, either where he has acted in ignorance of the true facts or where he has acted fraudulently, e.g. by making a false statement or by concealing some material fact from the Court".*

From the evidence it is clear that the defendant acted fraudulently in obtaining the NIL GRANT by making a false statement, to wit, that he intended instituting a Court action in respect of the Realty which forms part of the estate of the deceased, Rosetta Ayokunle Wilson.

He obtained the NIL GRANT on the 9<sup>th</sup> January, 2004. Up to Wednesday, 1<sup>st</sup> March, 2006, when P.W.3, Subulokun Lewis Leopold, gave evidence, the defendant had not instituted any proceedings regarding the Real Estate of the deceased. He caused an Appearance to be entered on his behalf but failed to defend the action. He has failed to deposit the original Letters of Administration granted to him pursuant to the CITATION served on him dated 18<sup>th</sup> October, 2004.

In the premises Judgment is entered in favour of the plaintiff on her claim. In the event, I make the following orders:-

1. The defendant, Tunji Wilson, is ordered to deposit the Letters of Administration of the Estate of Rosetta Ayokunle Wilson, deceased, granted to him on the 9<sup>th</sup> January, 2004, by the High Court of Sierra Leone in its Probate Jurisdiction.
2. The said Grant is hereby declared NULL AND VOID AB INITIO and is hereby REVOKED.
3. The defendant is ordered to pay the costs of this action assessed at Le.1,000,000.00 (One Million Leones).
4. Liberty to apply.

  
Hon. Justice A.N. Bankole-Stronge