

BETWEEN: TONY EDSON PATUNVANU
Claimant

AND: LEO PATUNVANU, KATHERINE PATUNVANU, JENECK
PATUNVANU AND VISO PATUNVANU
Defendants

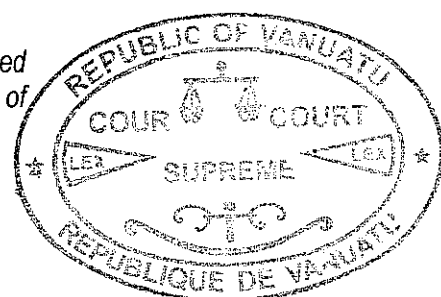
Date: 28th day of April, 2024
Before: Justice W. K. Hastings
Distribution: Mr P. Fiuka for the Claimant
Mr H. Vira for Mr Viso Patunvanu

DECISION

1. Letters of Administration were granted to Leo, Katherine, Jeneck and Viso Patunvanu on 11 December 2019 to administer the estate of the late David Edson Patunvanu.
2. On 11 November 2020, Tony Edson Patunvanu and his brother Viso Patunvanu signed a "memorandum of agreement" to "take back properties and other funds Assets which belong to their Late Father David Edson Patunvanu." In his sworn statement dated 19 October 2023, Viso states that he "was influenced by cousin brothers and sister of the deceased to apply for the probate without the knowledge and consent of the eldest son [Tony]." He states that he "admitted to his brother Tony Edson Patunvanu that he was influenced by family members and now agree through a memorandum of agreement to work together in administering the estate of the deceased."
3. On 20 September 2021, the present Applicants Tony Edson Patunvanu and Viso Patunvanu filed an amended application to revoke the orders dated 11 December 2019 granting Letters of Administration to Leo, Katherine and Jeneck Patunvanu. The Applicants state that they are the biological children of the deceased and should have been granted the Letters of Administration, not the three defendants who they describe as their "cousin brothers" and "cousin sister." Tony says the Letters of Administration were granted to the Defendants without his knowledge.
4. The application relies on Regulation 36 of the Succession, Probate and Administration Regulation 1972 which provides that:

The court may for any reason which appears to it to be sufficient, either upon the application of any person interested in the estate of any deceased person ... and either before or after a grant of probate has been made

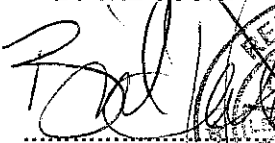
- (a) *Make an order removing any executor of the will of such deceased person from office as such executor and revoking any grant of probate already made to him; and*



- (b) *By the same or any subsequent order appoint an administrator with the will annexed of such estate; and*
- (c) *Make such orders as it thinks fit for vesting the estate in the administrator and for enabling the administrator to obtain possession of control thereof; and*
- (d) *Make such further order or consequential orders as it may consider necessary in the circumstances.*
5. Service has been an issue throughout these proceedings. The claim has had to be renewed several times as a result. This matter came before Andrée Wiltens J on 9 September 2021. In an unreported judgment dated 11 September 2019, his Lordship was satisfied that Regulation 36 gave the Court jurisdiction to consider the application, but he required the Applicants to personally serve the Respondents before the matter could be progressed.
 6. Each of the Respondents has now been served with the application.
 7. There is proof that Leo was served at the Public Solicitor's Office at Port Vila on 22 November 2022. Attached to this proof of service is a "defence statement" filed the same day in which Leo agrees "that the probate and administration of the late David Edson Patunvanu belong to his surviving children, Tony Edson Patunvanu and Viso Patunvanu, I don't have a right and saying about late David Edson Patunvanu."
 8. There is proof that Jeneck was served on 7 July 2022. His signature appears on the sworn statement of service of John Sam of the Public Solicitor's Office in Port Vila dated 7 July 2022. There is no statement similar to Leo's annexed to this proof of service.
 9. There is proof that Katherine was served at the Education Office in Santo on 31 August 2023. There is no statement similar to Leo's annexed to this proof of service.
 10. Apart from Leo, and despite being served, there has been no response to the application from the remaining Respondents. Jeneck has had 22 months to respond. Katherine has had 8 months to respond.
 11. In his sworn statement dated 19 October 2023, Tony Edson Patunvanu has annexed his birth certificate (TD1) and that of Viso (TD4). Each shows his father to be Edson Patunvanu.
 12. On the evidence before me, and in the absence of any evidence or submissions from Katherine or Jeneck, I am satisfied that the Applicants have provided sufficient reasons under Regulation 36 of the Succession, Probate and Administration Regulation 1972 for the Court to grant the application.
 13. The orders of 11 December 2019 are revoked and replaced with letters of administration on the same terms but in the names of Tony Edson Patunvanu and Viso Patunvanu.

Dated at Port Vila this 30th day of April, 2024

BY THE COURT


 Justice W. K. Hastings

