

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

(PROBATE)

PROBATE CASE NO. 3427 OF 2024

IN THE MATTER of Application for
Letters of Administration in the
Estate of the late **RORY CHARLOT**

AND IN THE MATTER of Section 2.3
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

CHRISTELLE RORY

Applicant

AND

LEONTINE RORY

Respondent

BEFORE: Aurélie TAMSEUL

(Deputy Master)

DATED: 17th day of September, 2025

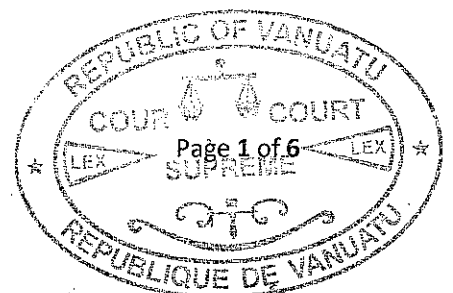
ENTERED ^{2nd October} day of September, 2025

COUNSEL: Kylie B. Karu counsel for the Applicant,

Leong Malantugun counsel for the Respondent

Decision

Headnotes: Letters of Administration- succession to property on intestacy- Persons entitled to grant- joint administration- duty of administrator.



a. Introduction

1. The Applicant filed on the 29th October, 2024 an Application for Letters of Administration in the estate of the deceased with a sworn statement filed on the same date in support.
2. The Applicant filed on the 21st January, 2025 a sworn statement of advertisement.
3. The Respondent filed on the 7th February, 2025 a Response objecting to the grant being made to the Applicant.
4. The Applicant is the deceased daughter and the Respondent is the deceased wife.
5. Both parties were invited to file written submissions addressing the following issues, to wit:
 - (i) Who is entitled to grant;
 - (ii) Possibility of Joint Administration;
 - (iii) Duties of an Administrator;
 - (iv) Parties' capacity to administer the estate;
6. The decision is as follows.

b. Law

"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: -

(a) if the intestate leaves a wife, or husband, with or without issue, the surviving wife or husband shall take the personal chattels absolutely, and -

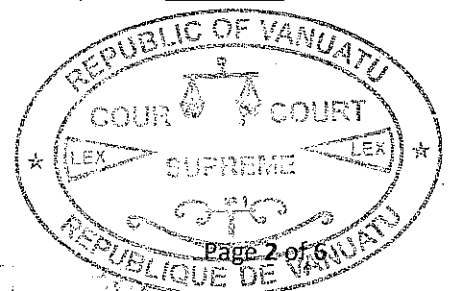
(i) if the net value of the residuary estate of the intestate, other than the personal chattels, does not exceed ten thousand dollars the residuary estate absolutely; or

(ii) if the net value of the residuary estate exceeds ten thousand dollars, the sum of ten thousand dollars absolutely;

(b) if the intestate leaves no issue, the surviving wife or husband shall, in addition to the interests taken under paragraph (a) of this subsection, take one-half of the residuary estate absolutely;

(c) if the intestate leaves issue, the surviving wife or husband shall, in addition to the interests taken under paragraph (a) of this subsection, taken one-third only of the residuary estate absolutely, and the issue shall take per stirpes and not per capita the remaining two-thirds of the residuary estate absolutely;

(e) (l)



(2) For the purposes of the last preceding subsection –

(a) the net value of the property of a deceased person is the net value of that property at the date of the death of that person: (my emphasis)

(b) any income derived from the property of a deceased person shall be distributed among the persons entitled on distribution to that property in the same respective proportions to which they are entitled to share on the distribution of that property.

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 – **(my emphasis)**

(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.

Duties of Administrator

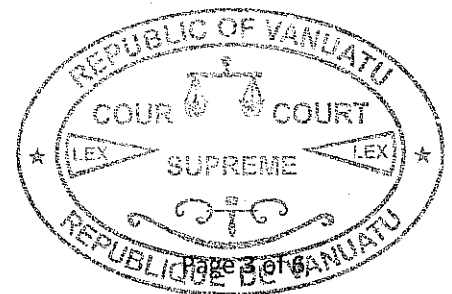
7. The duty of the Administrator is to ensure that **Section 6 of the Queens Regulation¹** is complied with. The said duty is further elaborated in the Court of Appeal case of **In re Estate of Molivono²** and I quote:

“...The second point to be made about this litigation is that the granting of probate or administration does nothing to determine ultimate ownership of the personal property of the person who has died. Not only in this case but in others as well we have seen suggestions that the grant of the right to administer an estate meant there was a determination of what property was owned by the estate and also governed its future ownership. Obtaining probate or administration is placing on an individual an extraordinarily solemn duty. It is the duty first to call in and collect all the properties of the deceased person apart from any interest in custom land. Then, they must pay all the debts of the estate. **Their solemn obligation is to ensure that what is left is distributed either in accordance with the terms of the will or in accordance with the rules laid down in Queen’s Regulations 7. It provides for the executor or administrator no rights of ownership or personal benefit. (my emphasis)**”

A person who is granted probate or administration is answerable to the Court for the proper exercise of the obligation which he or she has chosen to take up....”

¹ Succession, Probate and Administration Regulation 1972, URL: www.paclii.org/vu

² In re Estate of Molivono [2007] VUCA 22; Civil Appeal Case 37 of 2007 (30 November 2007)



c. Consideration

succession to property on intestacy

8. The Applicant is the deceased daughter and the Respondent is the deceased wife.
9. The Applicant's interest is found in **Section 6 (1) (c)** while the Respondent's interest in the estate is outlined in **Section 6 (1) (a)**.
10. Though in the priority of ranking of inheritance, under **Section 6**, the Respondent's interest precedes that of the Applicant, both parties are beneficiaries of the estate.

Persons entitled to grant

11. In the preceding part thereof, we have established that both the Applicant and the Respondent are beneficiaries of the estate therefore having an interest therein.
12. In deciding the persons entitled to grant, consideration will first be given to those who have an interest under **section 6**³.
13. The legislation in **Section 7**⁴ gives the Court discretion to grant administration separately or conjointly to the list of persons outlined therein **section 6**.
14. The Respondent's status is recognized under **Section 7(a)**⁵ subsequently followed by that of the Applicant in **Section 7 (b)**⁶.
15. Thus, both the Applicant and the Respondent are persons entitled to grant.

Joint Administration

16. I have invited both parties to address the Court on the possibility of joint administration.
17. Counsel, on behalf of the Applicant, is agreeable to joint administration.
18. Counsel, on behalf of the Respondent, strongly objects to joint administration.
19. Counsel's objection derives from their personal interpretation of **section 7**⁷ to mean that the Court could only consider joint administration when **section 7(a)**⁸ is not satisfied.

³ Succession, Probate and Administration Regulation 1972

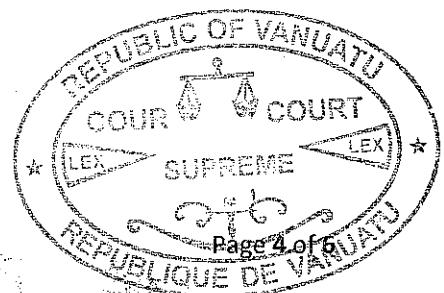
⁴ Succession, Probate and Administration Regulation 1972

⁵ Succession, Probate and Administration Regulation 1972

⁶ Succession, Probate and Administration Regulation 1972

⁷ Succession, Probate and Administration Regulation 1972

⁸ Succession, Probate and Administration Regulation 1972

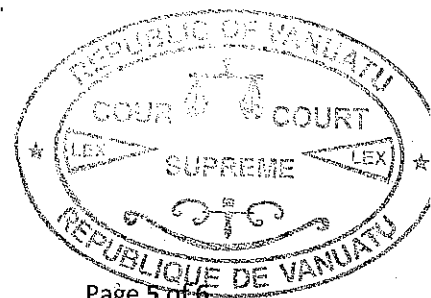


20. Counsel further submitted that, had his client consented to the Applicant's applying or had she died, only then the Applicant could apply for Letters of Administration.
21. Counsel submitted that in the present case where the Respondent is alive and has objected to the Application filed, the Court is bound to grant Letters of Administration solely to the latter.
22. Counsel's interpretation of **Section 7(a)** suggests that the Court disregards the introductory sentence of the said section which gives a discretionary power to the latter to decide to whom it may grant administration.
23. To suit his client's interest, counsel conveniently adopted a restrictive approach in his interpretation of the legislation in failing to acknowledge that prior to addressing the list of persons entitled to grant, the introductory sentence of **Section 7** specified the Court's discretionary power to decide to whom administration may be granted.
24. Therefore, in dealing with succession matters, the Court may, on a case-by-case basis, grant Administration to the list of people outlined in **Section 7**, separately or conjointly, whichever option deemed necessary in the circumstances of the case.
25. In this case, both parties are beneficiaries thus having an interest in the estate and both being persons entitled to grant.
26. Thus, for the parties' respective interests though not equivalent, it would be judicious to grant them joint administration. The joint administration will enable the parties to work together to ensure that the Administrator's preliminary duties are properly carried out and that their respective interest under the inheritance chain are safeguarded.
27. In the circumstances of this case, a joint administration would be beneficial to all parties.

Duties of the Administrator

28. A grant of Administration provides the Administrator no rights of ownership or personal benefit to the estate.
29. The parties are reminded that, as beneficiaries, their entitlements are within the remainder of the estate which is subsequent to the payment of the debts of the estate.
30. Should there be any doubts after reading **Section 6**, the parties are encouraged to read the Court of Appeal of *In re Estate of Molivono*⁹ as quoted herein above paragraph 7.

⁹ *In re Estate of Molivono* [2007] VUCA 22; Civil Appeal Case 37 of 2007 (30 November 2007)



Parties' capacity to administer the estate

31. The information submitted do not indicate if one party is better placed to administer the estate over the other.
32. Thus, in carrying out the Administrator, once will be better placed to call the former into account should there be a failure in the carriage of its legal duties.
33. Though the parties have submitted information regarding their contribution to the estate, no determination will be made herein.
34. Once appointed, the Administrator duty is to collect the real and personal estate of the deceased and proceed on to pay of the debts of the estate, if there is any, then ensure that the remainder of the estate is distributed to the beneficiaries as outlined in **Section 6**.

d. Finding

1. That Administration in the estate **Rory Charlot** late of Vao, Malakula Island in the Republic of Vanuatu who died on 24 December 2017 is granted jointly to the Applicant and the Respondent.
2. That the sworn value of the estate is estimated over VT 20,000,000.
3. That there is no order for costs.
4. That this file is now closed.

BY THE COURT

DEPUTY MASTER

