

**IN THE HIGH COURT OF SOLOMON ISLANDS**  
***Civil Jurisdiction***

**CC No. 432 of 2018**

**Between. In the Estate of Pastor Francis Feratelia**

**AND: In the matter of Wills and Probate and Administration of Act.**

Date of Hearing: 25<sup>th</sup> August 2022

Ruling: 11<sup>th</sup> October 2022

For: Applicants –Mr. Afeau P

For: First Objector Roberts Wales –In person

For: Second Objector- In person NA.

**RULING ON APPLICATION FOR LETTERS OF ADMINISTRATION AND  
OBJECTIONS**

**Kouhota PJ;**

This is an application for Letters of Administration pursuant to the Wills, Probate and Administration Act, Cap 33. The Applicant, Mrs. Ellen Feratelia is the wife of the deceased Pastor Francis Feratelia. Pastor Francis Feratelia died at the National Referral Hospital on 11<sup>th</sup> April 2018 intestate, that is without making a will.

Mrs Ellen Feratelia filed an application on 4<sup>th</sup> November 2018 and seek orders that she be granted Letters of Administration to administer the estate of her late husband Francis Feratelia. She had complied with the procedural requirements and published a notice in the Island Sun Newspaper to allow for objections.

After the publication of the notice, two letters of objection were served on her solicitor Mr Primo Afeau. The first letter is by Mr Robert Wale Feratelia dated 30<sup>th</sup> July 2018 and the Second is from Mr Bob Waleferatelia dated 2<sup>nd</sup> October 2018. Both objectors also filed sworn statements in support of the objections. I understand the two objectors are biological brothers of the deceased.

The First objector Mr Robert Wale Feratelia apart from his objections also seek to be granted letters of administration over the estate of the deceased on the basis that he considered the children of the deceased's conduct were contrary to the wishes of their father and that late Pastor Francis told him he had no confidence in his children because of their involvement in consumption of beer, kwaso and marijuana, conducts which he says are disrespectful to the family name. Mr Robert Wale Feratelia states in his sworn statement that his late brother asked him to take care of his estate. Mr Bob Feratelia's objection was basically that there is a prospect of influence by one of the family members if the applicant is appointed administrator of the estate. He suggest a joint administration by the applicant and three of her sons Wilkinson, Robert and Andrew or that Wilkinson as the first born son should be appointed administrator of the estate.

The applicant's application for grant of letters of administration was supported by her children Robert Wale Feratelia Jr, Andrew Feratelia and Zena Feratelia Arahauta as deposed to in their joint sworn statement filed on 22<sup>nd</sup> August 2022.

The order of priority in granting Letters of Administration when a person dies wholly intestate are set out in the Grant of Probate and Administration ( Order of Priority) Regulation 1996. For the purposes of this application the relevant provisions are sub section 3(1) and 3 (2), they states as follows;

3 (1)“*Where a person dies wholly intaste, the persons having a benefical interst in the estate shall be entitled to a grant of administration in the following order of priority-*

*(a) The surviving spouse;*

*(b) The children of the deceased or issues of any such child who died during the life time of the deceased;*

*(c) The father or mother of the deceased;*

*(d) Brothers or sisters of the whole blood or issues of any such brother or sisters who died during the life time of the deceased.*

3. (2) *If no person in any of the above class mentioned in paragraph (1) has survived the deceased then the following, if they have a benefical interest in the estate, shall be entitled to grant in the following order of priority-*

*(a) brothers and sisters of the half blood of the issue of any such deceased brother or sister who died during the lifetime of the deceased;*

*(b) grandparents;*

*( c ) Uncles and aunties of the whole blood or issues of any such deceased uncle or aunt who died during the lifetime of the deceased.*

In order for a person to be granted Letters of Adminstrations he or she must show that they have a beneficial interest in the estate of the deceased. In this respect while Mr Robert Wale Feratelia is biological brother of the deceased and fourth in line in the order of priority for grant of administration he was unable to show that he has any beneficial interest in the estate of the deceased.

I had considered the two objections by the brothers of the deceased but they fail to raise any legal issues which may defeat the provision of the Act and convince the Court to exercise it discretion under section 29 (2) of the Wills and Probate Act, Cap 33, which states “*Notwithstanding the order of priority prescribed by the rules made under subsection (1), where it appears to the court, that by reasons of any special circumsatnces or current customary usage, any estate ought to be administered by some other peron other than those specified in the order of priority, the court may grant administration to such person*”

I think the onus of showing the existence of any special circumstances or current customary usage is on the objectors and they must satisfy the Court that there are special circumstances or any current customary usage pertaining to the estate of the deceased and convince the Court to depart

from the order of priority set out in the regulation. A special circumstance in my view may involve situations such as the incapacity of the Applicant for Letters of Administration to properly administer the estate of the deceased.

On the materials before the Court I am satisfied the Applicant for Letters of Administration is the legal wife of the deceased late Pastor Francis Feratelia. That is not in dispute. I am also satisfied her children supported her application to be granted Letters of Administration.

The Objectors have not adduced any evidence to prove that the Applicant was incapable of administering the estate of the deceased and while they made adverse comments about the Applicant and her children, these are peripheral issues which have no bearing on the applicant's capability. I am therefore not satisfied that there exist any special circumstances or customary usage which warrants the Court to depart from the order of priority set out in the regulation. The Objections are dismissed and the Court therefore grants the Letters of Administration in respect of the estate of the late Pastor Francis Feratelia to his surviving spouse Mrs Ellen Feratelia. Cost against the Objectors to be taxed if not agreed.

THE COURT

  
JUSTICE EMMANUEL KOUHOTA  
PUISNE JUDGE



