

CF

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

(PROBATE)

PROBATE CASE NO. 727 of 2016

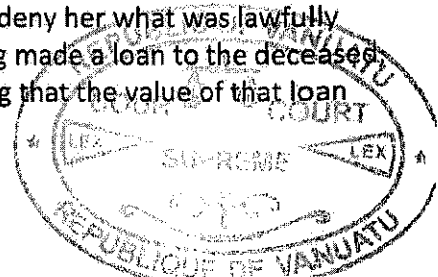
IN THE MATTER of Application for
Letters of Administration in the
Estate of the late Henri Clement
Raoul Leroux

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

Date: 29th April, 2016
Delivered: 7th December, 2016
Before: The Master Cybelle Cenac-Maragh

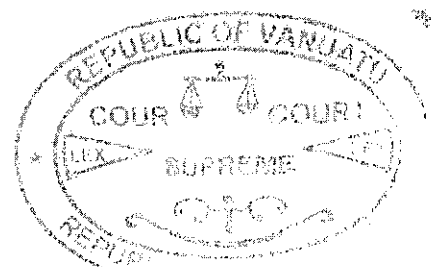
ORAL JUDGMENT

1. This is not a full judgment but an oral one. Should reasons be required for purposes of an appeal then the requisite party should inform the Clerk of Court.
2. That Edna Lew Ratonele was appointed as administrator of the Estate of Clement Henry Raoul Leroux (hereinafter called "the deceased") on the 4th February, 2014. The daughter of the deceased Manuela Alguet-Leroux applied on the 17th March, 2016 to have the administration revoked and granted to her.
3. While it is clear that Ms. Leroux is the daughter of the deceased and therefore an heir to his estate under the Queen's Regulations it did not automatically follow that she should be administrator of the estate of the deceased.
4. The evidence of Ms. Ratonele in producing certain signed documents by the deceased that he did not wish his daughter to have any dealings with his estate coupled with the fact that I could find no justifiable reason to revoke the administration led the court to maintain the status quo.
5. While I accept that the administrator failed to give a proper account to Ms. Leroux I do not believe that it was in an effort to frustrate or deny her what was lawfully hers. Ms. Ratonele, essentially being a creditor, having made a loan to the deceased, which remains to be paid by the estate, and assessing that the value of that loan



exceeded what made up the estate, she reasonably concluded that the property was due to her.

6. Based on the sworn statement in support of her application for administration filed in November of 2013 the value of the leasehold title 03/OH71/022 was estimated to be VT31,300,000 based on valuation report of Toka Robinson.
7. I accept the objection of the Applicant that the interest charged on the loan is excessive due to the fact that it was not agreed in the signed document between Ratnel and the deceased and therefore, while interest is chargeable, it can only be at the amount of 5% per annum.
8. My order therefore is as follows:
 - (i) That Edna Ratnel, as creditor, was entitled to apply for administration of the estate of the deceased to protect her family's interest and shall remain as administrator.
 - (ii) That interest on the debt is to be calculated at 5% per annum on the full amount of the debt, inclusive of the amounts already paid.
 - (iii) That accrued rental from date of occupation to date of judgment is to be provided to the court within 14 days by Ms. Ratnel.
 - (iv) That a calculation of the remaining debt with 5% interest is to be submitted to the court within the next 14 days by Ms. Ratnel.
 - (v) That the only asset of the estate is the aforementioned leasehold title.
 - (vi) That the said property is to put up for sale with an estate agent immediately.
 - (vii) That the court grants the administrator permission to offer a bid for sale to the estate agent.
 - (viii) If the administrator puts in a bid and it is accepted by the estate agent, no sale is to be concluded without the intervention of the court, at which time all bids must be presented to the court, together with that of the administrator.
 - (ix) That the proceeds of sale will first be applied to the repayment of the debt owed to Ms. Ratnel and the remaining balance, if any, is to be forwarded to Ms. Leroux.



9. This matter is to come up for status update on the 25th April, 2017 at 9:30 a.m.

DATED at Port Vila this 7th day of December, 2016.

BY THE COURT



CYBELLE CENAC-MARAGH

MASTER

