

**IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU**

**(CIVIL)**

**PROBATE CASE NO. 633 OF 2020**

**IN THE MATTER** of the application for Letters of Administration in the Estate of the late **HENRY (HENRI) FLECK**

**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 and No.9 of 1972

**CHRISTIANE LALOYER**

**Applicant**

**Date of Hearing:** 05<sup>th</sup> August, 2020  
**Delivered:** 06<sup>th</sup> August, 2020  
**Before:** Deputy Master Aurelie Tamseul  
**In Attendance:** Roger Tevi counsel for the Applicant

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**JUDGMENT**

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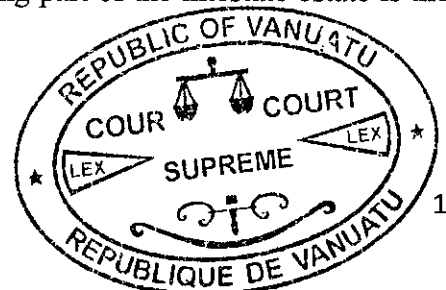
**Headnote**

Application for Letters of Administration – no beneficiaries– *intestate succession shall belong to the Crown as bona vacantia*

**Introduction**

**A. Introduction**

1. An Application had been filed on the 9<sup>th</sup> March, 2020 for Letters of Administration in the estate of the deceased. The sole property forming part of the intestate estate is the leasehold title No. 03/OJ101/001.
2. The Applicant is the deceased wife's niece.



3. The Applicant had been requested to make submission to show the Court:
- (i) If she is a beneficiary; and
  - (ii) Why Letters of Administration should be granted to her.

**B. Applicant's Case**

4. The Applicant submits that the deceased has no surviving children or wife and his parents both died in France sometime in 1956. The deceased's wife predeceased him on the 11<sup>th</sup> March, 2014.
5. The Applicant submits that she had lived with the deceased and his wife during their lifetime and cared for them as her own parents. The Applicant submits that she had been materially and financially in charge of the deceased and his late wife.
6. The Applicant submitted a Power of Attorney signed by the deceased on the 4<sup>th</sup> February, 2019 as a ground allowing her to apply for Letters of Administration.
7. The Applicant relies on section 7 (c) of Queens Regulation No. 7 of 1972 and requests that Letters of Administration be granted to her for the purpose of maintaining the said property.

*"Section 7. The court may grant administration of the estate of a person dying intestate to the allowing persons (separately or conjointly) being not less than twenty-one years of age –*

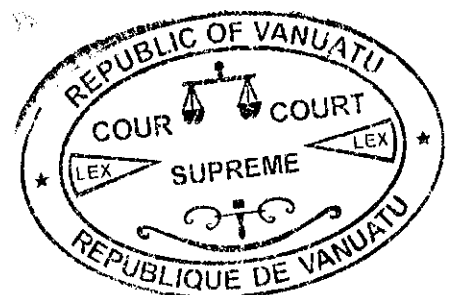
*(a)...*

*(b)...*

*(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." <sup>1</sup>*

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<sup>1</sup> Succession, Probate And Administration Regulation No.7 Of 1972



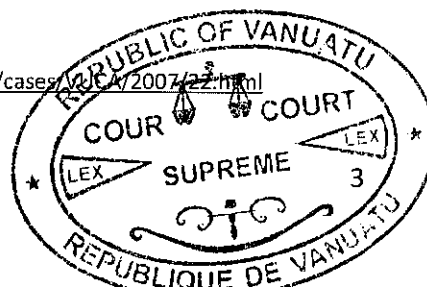
## C. Discussion

### (i) Is the Applicant a beneficiary to the estate?

8. The answer to the above question is found quite easily in section 6 (a) – (k) of the Succession, Probate and Administration Regulation No.7 Of 1972, which provides, in summary, that upon payment of debts and funeral expenses the residue of the intestate estate is to be distributed to the following person in the priority of ranking, to wit:
- i. Husband or wife,
  - ii. Children,
  - iii. Deceased parents,
  - iv. Brothers and sisters of whole blood and their children,
  - v. Brothers and sisters of half-blood and their children,
  - vi. Grandparents of the deceased,
  - vii. Uncle and aunts of the whole blood and their children,
  - viii. Uncle and aunts of the whole blood and their children
9. This Court therefore finds that the Applicant, being the niece of the deceased's late wife does not fall into the category of beneficiaries of either full blood or half-blood.
10. Having established that the Applicant is not a beneficiary, it is not necessary to address the issue of whether a grant should be made to her or not.
11. Section 6 of the Queens Regulation sets out the duties of an Administrator which is to pay the debts of the estate, the funeral expenses and to distribute the residue to the beneficiaries according to the priority of ranking as stated above. The obligations of an administrator is further discussed in the court of Appeal case of *In Re Estate of Molivono*<sup>2</sup>
- "... 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...."*
12. Where the deceased has no beneficiary, Section 6 (l) brings finality to the estate of the deceased.
- "S.6 (l) in default of any person taking an absolute interest under any of the foregoing provisions of this section the residuary estate of the intestate shall belong to the Crown as bona vacantia, and the Crown may, out of the whole or any part of the property devolving on it, provide for dependants, whether kindred or not, of the intestate, and other persons for whom the intestate might reasonably have been expected to make provision".*<sup>3</sup>
13. Consequently, there is no need to file for Letters of Administration as the intestate succession devolves to the State.

<sup>2</sup> *In Re Estate of Molivono* [2007] VUSCA 22, URL <http://www.paclii.org/vu/cases/vu/c/2007/22.html>

<sup>3</sup> Succession, Probate And Administration Regulation No.7 Of 1972



14. If the Applicant still wishes to maintain the property or obtain some other benefit from the leasehold she may make whatever necessary application to the State under Section 6(1).

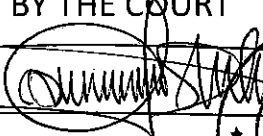
**D. Finding**

15. This Court therefore finds that the Applicant is not a beneficiary to the estate of the deceased.

16. That there being no beneficiary, the intestate succession devolves to the State.

17. That the Application for letters of administration is hereby dismissed.

18. A copy of this judgment is to be served on the State Law Office.

BY THE COURT  
  
DEPUTY MASTER

