

BETWEEN: Marie Claude Boe
Applicant

**AND: Chief Mark Bambu and Martino
Bambu**
Respondents

Date: 28 January 2022
Before: Justice G.A. Andrée Wiltens
Counsel: Ms M. Tekak for the Applicant
Mr F. Tasso for the Respondents

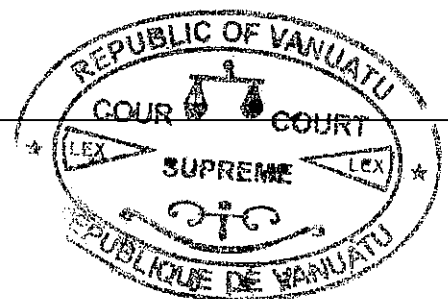
Judgment

A. Introduction

1. This case concerns an application for letters of administration for a deceased person's estate where no Last Will and Testament, indicating the deceased's intentions, exists.
2. The application was opposed.

B. Application

3. Ms Boe and the late Marko Bambu married on 8 June 1994. They had three children together, before they separated and each became involved with different partners and had further children.
4. The date of death is 14 November 2018.



5. Ms Boe sought to be permitted to administer the estate on the basis that she remained legally married to the deceased at the date of death. The application was filed on 29 October 2020.
6. In her application she records that she considers those eligible to inherit from the estate, apart from herself, are the children of the deceased with her and with his subsequent partner.

C. Response

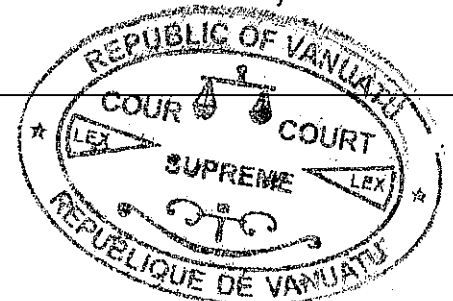
7. A Response was filed, but not in accordance with the Probate and Administration Rules 2003. The document does not follow Form 12 as required. In particular, it does not set out, as required, an alternative who should be appointed as the administrator.
8. Further, the two deponents who oppose the applicant have no obvious standing to be involved in this matter.
9. The Response is accordingly set aside.
10. The two deponents, Martino Bambu and Mark Bambu, are apparently (as explained from the bar table) brothers of the deceased, although neither stated such in their sworn statements.
11. Their concerns relate solely to the matter of entitlement to inherit, which is quite separate from administration of the estate. Neither gives any cogent reason to oppose the grant of letters of administration.
12. Their statements are accordingly also set aside.

D. Discussion

13. There is no reason that letters of administration cannot be granted to the applicant, who is eligible to be so appointed.
14. However, this is a slightly unusual situation where the estate cannot simply be distributed as per the Queen's Regulation No 7 of 1972. That is because prior to his death, the deceased was in a de facto relationship with another who bore him 3 children. She may well have inheritance rights that will need to be addressed so that any distribution complies with the law.

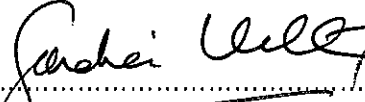
E. Result

15. The application is granted.
16. Marie Claude Bambu is granted letters of administration in respect of the estate of the later Marko Bambu.
17. Ms Bambu is accordingly able to accumulate the assets of the estate and ascertain any outstanding debts.



18. However, she requires the prior sanction of the Master of the Supreme Court to make any distribution of such assets.
19. Accordingly, prior to any distribution, she is to report to the Master the assets accumulated or to be dealt with; and set out a proposed plan as to the distribution of those assets.
20. Prior to any distribution according to the plan, the written sanction of the Master must be first obtained. In that way, the intended beneficiaries and any others with a potential interest in the assets of the estate can be consulted and will then be able to put forward their Claim to be a beneficiary/inheritor. This is a matter for the Court to determine, not the administrator of the estate.
21. Ms Bambu is entitled to costs in respect of this application. Counsel agreed the appropriate sum is VT 10,000. The costs are to be paid by Martino Bambu and Mark Bambu, on a joint and several basis, within 21 days.

Dated at Port Vila this 28th day of January 2022
BY THE COURT


Justice G.A. Andree Wiltens

