

IN THE SUPREME COURT OF THE REPUBLIC OF VANUATU

(PROBATE)

PROBATE CASE NO. 3572 OF 2024

**IN THE MATTER** of Application for  
Letters of Administration in the  
Estate of the late **NAWEN ANNO  
AMSTRONG**

**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**

**NAWEN JOLINA**

Applicant

**AND**

1. **RED NAUEN**
2. **CHARLOT NAWEN**

Respondents

**BEFORE:** Aurélie TAMSEUL

(Deputy Master)

**DATED:** 17<sup>th</sup> day of September, 2025

**ENTERED:** 15<sup>th</sup> day of ~~September~~ <sup>October</sup>, 2025

**COUNSEL:** Henzler Vira counsel for the Applicant

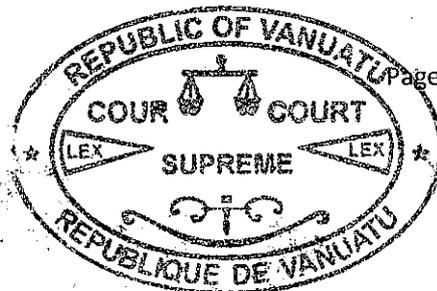
Philip Fiuka counsel for the Respondents

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**DECISION**

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



a. **Introduction**

1. The Applicant filed on the 11<sup>th</sup> November, 2024 an Application for Letters of Administration in the estate of the deceased.
  2. The Respondents filed on the 17<sup>th</sup> February, 2025 an objection on the belief that they are also beneficiaries of the estate and therefore they should be joined as Administrators.
  3. The Applicant filed on the 24<sup>th</sup> April, 2025 a sworn statement of Advertisement.
  4. The Applicant is the deceased daughter. The Respondents are the deceased father and brother respectively.
1. The parties each filed written submissions regarding the following, to wit:
    - (i) Duty of Administrator;
    - (ii) Who is entitled to grant;
    - (iii) Position vis-à-vis joint administration ;
  2. The decision is as follows.

b. **The Law:**

***"Succession to property on intestacy.<sup>1</sup>***

***"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 –***

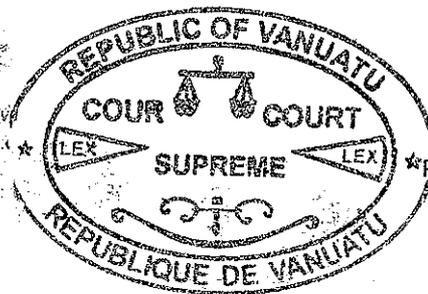
***(i) if the net value of the residuary estate of the intestate, other than the personal chattels, does not exceed ten thousand dollars the residuary estate absolutely; or***

***(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;***

***(d) if the intestate leaves issue, but no wife or husband, the issue of the intestate shall take per stirpes and not per capita the whole estate of the intestate absolutely;***



(e) if the intestate leaves no issue but both parents, then, subject to the interests of a surviving wife or husband, the father and mother of the intestate shall take the residuary estate of the intestate **absolutely** in equal shares;

(f) if the intestate leaves no issue, but one parent only then, subject to the interests of a surviving wife or husband, the surviving father or mother shall take the residuary estate **absolutely**;

(g) if the intestate leaves no issue or parent, the surviving husband or wife shall take the residuary estate of the intestate **absolutely**;

(h) if the intestate leaves no husband or wife and no issue or parents, then the brothers and sisters of the whole blood, and the children of deceased brothers and sisters of the whole blood, of the intestate shall take the whole estate of the intestate **absolutely** in equal shares, such children taking per stirpes and not per capita;

#### **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.

#### **Duty of an Administrator**

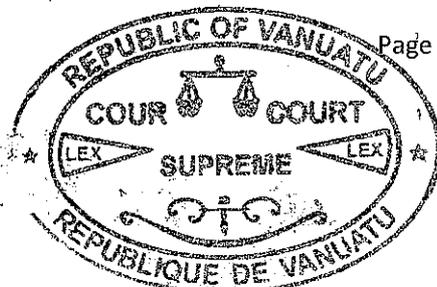
3. The duty of the Administrator is to ensure that **Section 6 of the Queens Regulation<sup>2</sup>** is complied with. The said duty is further elaborated in the Court of Appeal case of **In re Estate of Molivono<sup>3</sup>** and I quote:

"... 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...."

<sup>2</sup> Succession, Probate and Administration Regulation 1972, URL: [www.pacilii.org.vu](http://www.pacilii.org.vu)

<sup>3</sup> In re Estate of Molivono [2007] VUCA 22; Civil Appeal Case 37 of 2007 (30 November 2007)



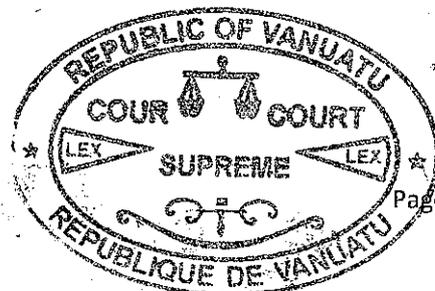
c. **Consideration**

***Succession to property on intestacy***

4. The Applicant is the deceased daughter and the Respondents are the deceased father and brother respectively.
5. The Applicant's interest in the estate is outlined in **Section 6 (1) (d)** subsequent to the deceased spouse interest outlined in **Section 6 (1) (a)- (c)**.
6. The facts of this case indicate that the deceased wife passed away on the 20<sup>th</sup> April, 2022. Therefore, the deceased spouse interest as outlined in **6 (1) (a)- (c)** will be lumped into the children's interest.
7. The chain of inheritance becomes absolute when it reaches the children in **Section 6 (1) (d)**.
8. Therefore, where the children are the sole beneficiaries of the estate and the only persons having an interest in the estate, the consideration of the subsequent chain of inheritance becomes futile.

***Duty of Administrator***

9. A grant of Administration provides the Administrator no rights of ownership or personal benefit to the estate.
10. The Administrator, upon appointment, has the primary duty to implement **Section 6<sup>4</sup>**. The said duty is further elaborated in the Court of Appeal case of ***In re Estate of Molivono*** as stated herein the above paragraph 3.
11. In the case where an Administrator is also a beneficiary, their inheritance is in the remainder of the intestate estate and it is subsequent to the payment of the estate's debts.
12. Therefore, all who think that they may have a claim against the estate must submit their claims to the Administrator who will consider them and once the claims are justified, must pay off the debts prior to distributing the remainder of the estate to the beneficiaries.
13. The Court will not make a determination of claims against the estate herein as that will be carried out by the appointed Administrator.



***Persons entitled to grant***

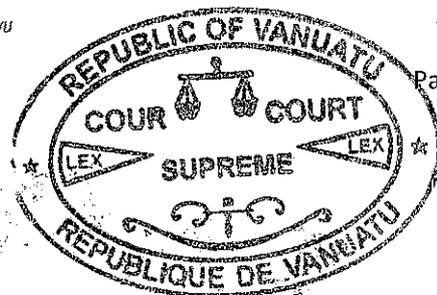
14. The Applicant is the deceased daughter. The Respondents, Nawen Red is the deceased father and Charlot Nawen is the deceased brother.
15. The consideration of list of persons entitled to grant under **section 7<sup>5</sup>** is first given to persons who have an interest in the estate as outlined in **section 6**.
16. Having therefore established that under **section 6** the deceased children will have an absolute inheritance in the estate, they are the only persons entitled to grant in this case.
17. The Applicant's siblings have signed, on the 28<sup>th</sup> October 2024, a consent allowing the former to administer the deceased estate on their behalf.
18. Therefore, the only person entitled to grant between the parties is the Applicant.

***Joint administration***

19. The Applicant and her siblings are the only beneficiaries of the estate.
20. The Applicant's siblings have consented to her being granted Administration over the deceased estate.
21. The Respondents interest in the chain of inheritance will not be activated in the case where the chain of inheritance becomes absolute upon reaching the deceased children's interest.
22. Thus, the Respondents' request to being joint administrators has not legal standing and must fall.

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<sup>5</sup> Succession, Probate and Administration Regulation 1972, URL: [www.pacii.org.vu](http://www.pacii.org.vu)



d. **Finding**

1. That the Respondent's request to be granted joint administration with the Applicant is not granted.
2. That Administration in the estate of **Nawen Anno Armstrong** late of Erakor area, Efate Island in the Republic of Vanuatu who died on the 16<sup>th</sup> July, 2024 is granted solely to the Nawen Jolina.
3. That the sworn value of the estate is estimated under VT 5,000,000.
4. That there is no order for costs.
5. That this file is now closed.

