

IN THE HIGH COURT FOR ZAMBIA

2020/HPF/095

AT THE PRINCIPAL REGISTRY

AT LUSAKA

*(Family Division)*



IN THE MATTER OF:

SECTION 19 (2) OF THE  
INTESTATE SUCCESSION ACT  
CHAPTER 59 OF THE LAWS OF  
ZAMBIA

IN THE MATTER OF:

AN APPLICATION FOR  
AUTHORITY OF THE COURT TO  
SELL PROPERTY KNOWN AS LOT  
NO. 28524/M, SITUATE IN  
LUSAKA IN THE LUSAKA  
PROVINCE OF THE REPUBLIC OF  
ZAMBIA, WHICH PROPERTY  
FORMS PART OF THE ESTATE OF  
THE LATE ANDREW FRIDAY  
SIWILA.

**JOSEPHINE KALUMBI**

**APPLICANT**

*(Administratrix of the estate of the late  
ANDREW FRIDAY SIWILA)*

**BEFORE HONOURABLE LADY JUSTICE P. K. YANGAILO, IN  
CHAMBERS, ON 22<sup>ND</sup> MAY, 2020.**

*For the Applicant:* N/A

---

# JUDGMENT

---

## LEGISLATION REFERRED TO:

1. *The Intestate Succession Act, Chapter 59 of the Laws of Zambia.*

## **1 INTRODUCTION**

1.1 The Applicant issued Originating Summons on 24<sup>th</sup> March, 2020, pursuant to **Section 19 (2)** of **The Intestate Succession Act**<sup>1</sup> and sought the following relief: -

- i) *An Order granting the Administratrix of the Estate of the late Andrew Friday Siwila, authority to sell the property on Stand No. 28524/M, Lusaka Province, which forms part of the Estate of the late Andrew Friday Siwila.*

1.2 Upon considering that Zambia is currently faced with Covid-19, a global pandemic which demands social distancing and that this is a matter which can be disposed of on Affidavit evidence whilst adhering to the social distancing guidelines given by the relevant government authorities, I have thus dispensed with hearing submissions *viva voce* and rendered this Judgment based on the Affidavit evidence.

## **2 AFFIDAVIT EVIDENCE**

2.1 The Originating Summons was accompanied by an Affidavit in Support, deposed to by the Applicant, in

which it is averred *inter alia*, that she was duly appointed Administratrix of the estate of the late *ANDREW FRIDAY SIWILA*, who demised intestate on 1<sup>st</sup> May, 2014, as shown by exhibit "JK 2" being letters of administration obtained from the Probate Registry of the High Court of Zambia. That the deceased left behind the property, which is subject of this application which she intends to dispose off for the benefit of the beneficiaries.

- 2.2 The Applicant further averred that she duly consulted with all the beneficiaries and they have given their consent to sell the said property as shown by exhibit marked "JK 3".
- 2.3 The Applicant also averred that the only beneficiaries of the deceased's estate are the children of the deceased and the Applicant herein, who is the widow of the deceased and they have all given their consent to sell the subject property. That it has now become desirable for her to sell the deceased's subject property for the benefit of the beneficiaries.

### **3 THE LAW**

- 3.1 I have considered the application, Affidavit evidence and exhibits on record. The matter has been brought pursuant to **Section 19 (2)** of ***The Intestate Succession Act***<sup>1</sup>, which provides that: -

***"Where an administrator considers that a sale of any of the property forming part of the estate of a deceased***

*person is necessary or desirable in order to carry out his duties, the administrator may, with the authority of the Court, sell the property in such manner as appears to him likely to secure receipt of the best price available for the property." (Court's emphasis)*

#### **4 ANALYSIS AND FINDINGS**

- 4.1 The Applicant has placed before this Court proof of appointment of the Applicant, as Administratrix of the estate of the late *ANDREW FRIDAY SIWILA* and a copy of the Certificate of Title issued in the name of the deceased. She also placed before the Court minutes of a meeting held with the beneficiaries, who have consented to sell the subject property.
- 4.2 I have perused the exhibits on record herein and I am satisfied that the Applicant is the duly appointed Administratrix of the estate of the late *ANDREW FRIDAY SIWILA*. One of the duties of an Administrator of an intestate estate is to effect distribution of the estate in accordance with the rights of the persons interested in the estate under this Act. The Applicant submitted that the beneficiaries of the estate of the late *ANDREW FRIDAY SIWILA*, have all consented to sell the subject property and that she truly believes that it has now become desirable that the said property be disposed off for the benefit of the beneficiaries.

5 **CONCLUSION**

- 5.1 Accordingly, on the facts presented before me, I hereby grant the Applicant authority to sell the property known as Lot No. 28524/M, situated in the Lusaka Province of the Republic of Zambia and hereby order that the proceeds of the sale be distributed in accordance with the rights of the persons interested in the estate under ***The Intestate Succession Act***<sup>1</sup>.
- 5.2 I make no order as to costs.

**Delivered at Lusaka the 22<sup>nd</sup> day of May, 2020.**



.....  
**P. K. YANGAILO  
HIGH COURT JUDGE**