



THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA
HCT-05-FD-MA-270-2025

5 [ARISING FROM ADMINISTRATION CAUSE HCT-05-CV-AC-178-2017]

IN THE MATTER OF THE ESTATE OF THE LATE BONIFACE MUYOGOMA BYANYIMA

AND

10 IN THE MATTER OF AN APPLICATION MADE BY CAPT. JOHN KASSAMI AND FRANCIS
WAZARWAHI BWENGYE FOR RENEWAL OF A GRANT OF PROBATE OF
THE LATE BONIFACE MUYOGOMA BYANYIMA

15 **BEFORE:** Hon. Justice Nshimye Allan Paul M.

RULING

20 **REPRESENTATION**

The Applicants were represented by Adv. Andrew Ankunda Bwengye , while the respondents were represented by Adv. Robert Senfuka.

BACKGROUND

25 This is an application brought under Section 337(2) of the Succession Act Cap 268 , section 98 of the Civil Procedure Act Cap 282 and Order 52 Rules 1, 2 & 3 Civil Procedure Rules, seeking orders;

1. The Grant of Probate in the matter of the estate of the late Boniface Muyogoma Byaniyima in HCT-05-CV-AC-0178-2017 granted to the executors / applicants herein
30 be renewed to enable the executors complete the administration of the estate.
2. Leave be granted to validate the inventory filed in court on 7th March 2019 and extend the time within which to file an account of the estate.
3. Costs of the application be borne by the Estate.

35 The application was supported by an affidavit in support deposed by **CAPT. JOHN KASSAMI** and an affidavit in rejoinder by **PROF. FRANCIS WAZARWAH BWENGYE**, while the application was opposed by an affidavit in reply by **OLIVIA KOMBOZI BYANYIMA**.

FOUNDATIONS

40 The salient grounds of the application set out in the notice of motion are;

1. The applicant is one of the executors of the estate of the late Boniface Muyogoma Byanyima having obtained a Grant of Probate on 11th May 2018, which by law expires on 31st May 2025.

2. The applicant has duly filed an inventory of all the property in the estate of the late Boniface Muyogoma Byanyima on 7th March 2019 while a full inventory account is still in the process of completion.
3. The estate of the deceased still has ongoing case matters which are yet to be resolved, and it is also in the middle of an ongoing compensation settlement by government of the republic of Uganda. The deceased estate is also not yet full administered and distributed amongst the beneficiaries of the deceased estate.
4. That it is in the interest of justice that the court be pleased to renew the Grant of Probate of the estate of the late Boniface Muyogoma Byanyima

SUBMISSIONS

The applicants and the respondents each filed submissions on 23/02/2026, respondents also filed supplementary submissions on 23/02/2026 while the applicants also filed submissions in rejoinder on 19/03/2026. I have considered the submissions. In summary, the applicants through their lawyers prayed that the application be granted, while the respondents through their lawyers prayed that the application be dismissed with costs.

DETERMINATION

In principle a Court of law that issued a Grant of Probate may under **SECTION 255 (3) or 337 (4) OF THE SUCCESSION ACT CAP 268** extend the validity of the probate it issued upon expiry of the period stipulated in the law in **SECTION 255 (2) or 337 (2) OF THE SUCCESSION ACT CAP 268**.

The law in **SECTION 337 (4) OF THE SUCCESSION ACT CAP 268**, requires the applicant to show just cause for the court to exercise its discretion to extend the duration of the validity of the Grant of Probate or Letters of Administration issued before the 31st day of May 2022.

The evidence on court record contained in **paragraph 3 of the affidavit in support** shows that the Applicants were granted probate for the estate of the **LATE BONIFACE MUYOGOMA BYANYIMA** on **11th May 2018** which was before the 31st day of May 2022.

The evidence on court record contained in **paragraph 6 of the affidavit in support** is that the applicants need the renewal because the estate of the deceased still has ongoing case matters which are yet to be resolved, and it is also in the middle of an ongoing compensation settlement by Government of the Republic of Uganda. It has also been averred that the deceased estate is also not yet full administered and distributed amongst the beneficiaries. On the other hand, it is the 6th respondent's evidence in **paragraph 5 and 6 of the affidavit in reply** is that the applicants have not complied with the law during the period of the grant and they have grossly mismanaged the estate, which led the beneficiaries to sue the executors.

On the issue of consent of the beneficiaries to the renewal of the Probate, it is the 6th respondent's evidence in **paragraph 4 of the affidavit in reply**, that the applicants have not secured the consent of the beneficiaries in support of the renewal application. It was also stated that all the beneficiaries do not consent to the renewal of the probate. The applicants through the 2nd respondents' evidence in **paragraph 7 of the affidavit in rejoinder** averred

that the law within which grants are renewed does not mandate the consent of all beneficiaries.

5 It is trite that once a Grant of Probate has expired it can only be “resurrected” through an application for renewal made to a Court of law that issued the grant, as was held **IN THE MATTER OF THE ESTATE OF THE LATE JOHN BWESIGYE (HCT-05-FD-MA-781-2025) [2026] UGHC 219**. The evidence on record contained in paragraph 3 of the affidavit in support shows that the Grant of Probate for the estate of the **LATE BONIFACE MUYOGOMA BYANYIMA** issued **11th May 2018** expired by operation of the law on 31st day of May 2022. I
10 find that the Grant of Probate of the estate of the **LATE BONIFACE MUYOGOMA BYANYIMA** expired on 31st day of May 2022.

The applicants have applied for renewal of the Grant of Probate under **SECTION 337 (2) & (4) OF THE SUCCESSION ACT CAP 268**. I note that applications for renewal of probate under
15 **SECTION 337 OF THE SUCCESSION ACT CAP 268** differ from applications for renewal of probate under **SECTION 255 OF THE SUCCESSION ACT CAP 268**, because the former (section 337) relates to grants of probate that were made prior to 31st day of May 2022. The grant of probate of the estate of the LATE BONIFACE MUYOGOMA BYANYIMA having been issued on 11th May 2018, means that the application was correctly filed under **SECTION 337 (2) & (4)**
20 **OF THE SUCCESSION ACT CAP 268**. Under that law, the applicants only have to show just cause for the Court to exercise its discretion to “resurrect” the expired probate to make them valid.

The spirit of the law that governs applications for renewal of expired grants of probate or
25 letters of administration of estates of deceased persons requires court to consider the best interests of the beneficiaries, that is why the input of the beneficiaries of the estate by way of expressing their consent or objection to the application for renewal is necessary. In the case at hand, the beneficiaries (**Anthony Byanyima, Edith Byanyima, Martha Byanyima, Hon. Winnie Byanyima and Olivia Byanyima**) appeared in court physically or via zoom on
30 different dates and expressed opposition to the application for renewal as articulated by their lawyer submissions.

In my analysis, I note that all the beneficiaries of the estate of the LATE BONIFACE MUYOGOMA BYANYIMA are opposed to the applicant’s application for renewal of the
35 expired grant of probate. I am of the considered opinion that whereas court can consider and renew applications where some beneficiaries have refused to consent to the application for renewal, A court can not ignore a situation where all the beneficiaries of a deceased’s estate are opposed to the application for renewal, because the estate belongs to the beneficiaries and not the executors or administrators. Where all the beneficiaries of an
40 estate are opposed to an application for renewal of an expired grant of probate or letters of administration, the court ought to reject the application or if inclined to grant the renewal, make specific orders that lead an expedient end of the administration of the estate.

I have considered the fact that when the applicant’s were required to appear in court, only
45 the 2nd applicant appeared in court on 05th March 2026, where he informed court that the 1st applicant was indisposed in Republic of South Sudan and shall not be able to return for some time. This development where one of the former executors of the estate of the LATE

BONIFACE MUYOGOMA BYANYIMA is indisposed, is detrimental to any possible administration of the estate. This means that even if the grant of probate was renewed the distribution of the estate property by way of a transfer will be at a stalemate due to absence of one executor, which is detrimental to the best interests of the beneficiaries.

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I have also considered that fact that one executor (2nd applicant) has admitted that the other (1st applicant) is unavailable and I have also noted that the beneficiaries of the estate of the LATE BONIFACE MUYOGOMA BYANYIMA are all opposed to the application, on the basis of these reasons I find that the applicants have NOT shown cause as required in **SECTION 337 (4) OF THE SUCCESSION ACT CAP 268** to warrant this court to exercise its discretion to extend the expired Grant of Probate of the estate of the **LATE BONIFACE MUYOGOMA BYANYIMA**


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In conclusion, I order that;

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1. The application is dismissed.
2. Each party shall pay the costs of their respective lawyers

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NSHIMYE ALLAN PAUL M.

JUDGE

27-03-2026

