

IN THE SENIOR COURTS OF BELIZE

IN THE HIGH COURT OF BELIZE

CLAIM NO. 0063 OF 2024

BETWEEN:

IN THE MATTER OF A PETITION FOR A GRANT OF ADMINISTRATION
IN CASE OF INTESTACY IN THE ABSENCE OF RENUNCIATION OF A
PERSON WITH SUPERIOR TITLE

AND

IN THE GOODS OF VENANCIO COY JR

Appearances:

Ms. Agassi Finnegan for the Applicant

Ms. Karen Munnings for the Respondent

.....
2025: July 29

December 19
.....

DECISION

Administration – Minor’s interest – Co-administrator – Administrators appointed on later application – Amended originating summons seeking substitution of administrator – Sections 15 & 16, Administration of Estates Act – Section 169, Senior Courts Act

- [1] **Mansoor, J:** The applicant filed an originating summons on 16 December 2024 and an amended originating summons seeking the grant of letters of administration in the absence of a renunciation to co-administer the estate of her deceased son, Venancio Coy Jr of Big Falls in the Toledo District (“deceased”). After the applicant’s

originating summons was filed, the common law wife of the deceased, Stephanie Cal, and her father, Luis Alvin Cal, applied for and obtained a grant of administration to the estate by grant number 38/ 2025 issued on 27 February 2025. The court granted them administration without inquiring into the applicant's originating summons.

- [2] Thereafter, the applicant filed an amended originating summons to have Mr. Luis Cal, whom she describes as a person with no entitlement to act as an administrator, removed and replaced by her as co-administrator. She makes no claim as a beneficiary and acknowledges that Ms. Cal and the child she had with the deceased, Aaymar Edgar Coy – a minor – are the sole beneficiaries to the deceased's estate.
- [3] Ms. Cal opposes the application to appoint the applicant in place of her father, Mr. Luis Cal.

Background

- [4] The deceased died on 21 July 2024 without leaving a last will. He left behind his common law wife and a minor child. The applicant, Olivia Coy, applied jointly with her daughter, Petrona Coy, on 16 December 2024, seeking to administer the deceased's estate. The application for administration was supported by their joint affidavit. The applicant avers that she did not receive a notification from the court office after filing the originating summons.
- [5] After the applicant filed originating summons, Ms. Cal and her father, Mr. Luis Cal, filed an application for a grant of administration of the deceased's estate. The applicant states that she has been prejudiced by not being notified of a hearing of the originating summons and that the absence of a hearing prevented her appointment as an administrator.
- [6] As the applicant did not receive a notification, her lawyers wrote to the Registrar of the High Court by letter dated 24 March 2025. The Registrar replied by letter dated 4 April 2025 confirming that a grant of administration was issued to the deceased's wife, Stephanie Cal, and his father-in law, Luis Alvin Cal, on 27 February 2025.

Thereafter, the applicant filed an amended originating summons seeking to be appointed a co-administrator.

Applicant's originating summons

- [7] Prior to initiating proceedings, the applicant's lawyer sent Mrs. Cal a letter dated 20 November 2024, giving notice of her intention to petition the court for a grant of administration. As there was no response to the letter the applicant filed an originating summons on 16 December 2024.
- [8] The applicant's originating summons precedes the application made by Ms. Stephahnie Cal and Mr. Luis Cal, who have not disclosed the date on which they filed application for joint administration. The applicant states that Ms. Cal and Mr. Cal did not file their application until 23 January 2025, more than a month after her originating summons was filed. This assertion has not been disputed.
- [9] On 24 August 2025, the applicant filed an amended originating summons seeking to be appointed a co-administrator with Ms. Cal, in place of Mr. Cal. The amended summons did not name her daughter, Petrona Coy, as a co-administrator. The applicant states that the amended originating summons seeks to redress the prejudice caused to her by not being given a hearing into her initial application, and that she wants to seek compensation for the death of her son on behalf of the estate and ensure the interest of her grandson.
- [10] Ms. Cal opposes the application and in her second affidavit filed on 8 July 2025 she declares that her father is not willing to be substituted by the applicant. She contends that his refusal to be substituted renders the matter contentious. However, Mr. Luis Cal has not opposed the application to remove him as an administrator and appoint the applicant in his place.
- [11] The court is of opinion that the grant of administration to Ms. Cal and Mr. Cal, while a previous application by the applicant was pending without inquiry has resulted in

prejudice to the applicant. The court will consider whether it is proper to grant relief to the applicant in those circumstances.

[12] The reliefs sought by the applicant are formulated in this way:

- (1) "An Order that Mrs. Olivia Coy, mother of the deceased, be added as an administrator to act as co-administrator along with Ms. Stephanie Cal for the purposes of looking after the interest of the minor child, Aaymar Edgar Coy.
- (2) An Order that Luis Cal, a person who has no entitlement to act as administrator be removed as administrator on grant 38/ 2025 issued on the 27 February 2025".

[13] The applicant concedes that she is not entitled to a share in her son's estate but wants to be a co-administrator for the benefit of her deceased son's common law wife and minor child. She is aware that the residuary of her son's estate devolves to Ms. Cal and Aaymar Edgar under the Administration of Estates Act ("Act")¹.

[14] The applicant also agrees that Ms. Cal, as the common law wife of the deceased, has a superior claim to the grant of administration. But she argues that Mr. Cal does not have such a claim. The applicant asserts that as the mother of the deceased she has a better title than Mr. Cal to represent her son's estate.

[15] Ms. Cal questions the procedure followed by the applicant in asking the court to replace Mr. Cal. She states that the proper procedure to remove Mr. Cal would have been to commence a probate claim under the Senior Courts (Civil Procedure) Rules 2025 and not by originating summons. She opposes the granting of administration to the applicant without including so to administer her husband's estate. Ms. Cal does not say that any of the material particulars given by the applicant are incorrect, but her affidavit shows that she does not have a close relationship with the applicant.

¹ Cap 179, Substantive Laws of Belize, revised edition, 2020

The grant of administration to the co-administrators

- [16] An application for administration requires several accompanying forms to be completed and steps to be taken. A petition verifying affidavit, an oath of administration, affidavit of justification of sureties and a bond of administration must be filed for a grant of letters of administration. Ms. Cal has gone through this process in obtaining administration. Unfortunately, the application by the applicant was not considered at the time administration was granted to Ms. Cal and Mr. Cal. Once letters of administration are granted there must be a very good reason for revocation of the grant².
- [17] The inventory dated 17 December 2024 signed by Stephanie Cal and Luis Alvin Cal shows a value of \$17,818.25 including a house valued at \$15,000.00. Where the gross value of the interest exceeds \$5,000.00 and if a minority or a life interest arises under the will or intestacy, the grant must be made to not less than two individuals³.

- [18] **Section 16 (1)** of the Act states:

“Probate or Administration shall not be granted to more than four persons in respect of the same property, and, where the gross value of the estate exceeds five thousand dollars, administration shall, if there is a minority or if a life interest arises under the will or intestacy, be granted to not less than two individuals,

Provided that the Court in granting administration may act on such *prima facie* evidence, furnished by the applicant or any other person, as to whether or not there is a minority or life interest, as may be prescribed by rules of court”.

- [19] The grant to Ms. Cal and Mr. Cal has been made in accordance with the legal requirement in section 16 (1) of the Act by appointing two administrators to

² Re Ward (1971) 1 WLR 1376

³ Section 16, Administration of Estates Act

administer the deceased's estate. When two administrators are appointed, where practicable, they must be equally entitled to a grant⁴.

[20] The applicant's contention is that Luis Cal is not a blood relation to the deceased and that he does not fall in order of priority. She asserts that Mr. Cal is not a person entitled to petition for a grant of administration of the deceased's estate. The applicant submits that where second administrators are to be appointed, it should be someone on the same line of priority or if no one exists, the person next in line. In this case, the applicant submits that she is next in line as the deceased's mother.

[21] **Section 15 (a)** of the Act requires the court to grant administration to one or more persons interested in the residuary of the estate if an application is made for the purpose. The Act does not explain the phrase "a person interested in the estate", and by her admission, the applicant is not a beneficiary to her son's estate. In the Belize Supreme Court decision of *Re Blondell*, Awich, J explained the phrase "persons who are interested in the estate"⁵.

"persons who are interested in the residuary estate of the deceased", simply means, next of kin, who are entitled to inherit the net estate after deduction of debts owed by the deceased, other liabilities and taxes, if any. Sometimes creditors are also referred to as persons who are interested"

[22] Based on the above explanation, a mother may have an interest in the residuary estate of her deceased son, although in the present case, the applicant's interest is not as a beneficiary. The court accepts that the applicant, as the mother of the deceased, has a closer interest to her son's estate than Mr. Luis Cal. The court has not heard from Mr. Cal in this proceeding.

⁴ Williams, Mortimer and Sunnucks on Executors, Administrators and Probate, page 214, 16 Ed., Steven & Sons. Tristram & Coote's Probate Practice, [7.12], page 353, 31 Ed., Butterworths

⁵ Claim 575 of 2004

Objection to the application

- [23] Ms. Cal objects to these proceedings and contends that a probate claim under the Senior Courts (Civil Procedure) Rules 2025 must be instituted as a fixed date claim and not by originating summons.
- [24] Part 67 of the CPR applies to probate causes and matters. The rules in this part concern contentious probate proceedings. A probate action is defined to mean an action for the grant of probate of the will, or letters of administration of the estate of a dead person or for the revocation of such a grant or for a decree pronouncing for or against the validity of an alleged will. The phrase does not include an action which is non contentious or common form probate business.
- [25] A probate action must be commenced by issuing a fixed date claim form in form 2 of the CPR⁶. A claimant in probate proceedings must file a statement of claim with the claim form. **Rule 67.3** makes provision for the revocation of the grant of probate of a deceased person's will or letters of administration of the estate. Ms. Cal states that this procedure was not followed, and that the contentious nature of the present matter required a fixed date claim to have been filed.
- [26] In the court's opinion, the amended originating summons does not result in contentious proceedings. It is an application for administration of the estate as a co-administrator. The amendment followed the subsequent application by the present co-administrators. The prejudice suffered by the applicant needs to be rectified.
- [27] Sub part 10 of the Senior Courts Act of 2022 comprising sections **169 to 174** provides for probate causes and matters. **Section 169** states that the chief justice or a judge shall deal with all matters relating to the granting or revocation of probates of wills and letters of administration of the real and personal property of deceased persons and of all non-contentious matters and causes. Under special circumstances where it may appear to the court to be just or expedient, probate or

⁶ Rule 67.2, CPR

administration may be granted to some person other than the person ordinarily or by law entitled to such probate or administration⁷.

[28] The court is inclined to consider the circumstances in which the amended originating summons was filed. The originating summons was not inquired into although it was filed before the present co-administrators filed an application. The court is of opinion that the applicant is not required to come by way of a fixed date claim under part 67 of the CPR considering the circumstances under which relief is being sought and the nature of the relief. Moreover, Mr. Luis Cal, the co-administrator, has not opposed the application to appoint the applicant in his place.

[29] The court also takes into consideration the fact that the applicant is not seeking to benefit from the estate and instead wants to ensure the minor's interest is looked after. Considering the welfare of the minor, the court is of opinion that the applicant should be added as a co-administrator with Ms. Cal to administer the estate. The applicant has a sufficiently close interest in warranting appointment as a co-administrator. Ms. Stephanie Cal will not be prejudiced by the applicant's appointment as a co-administrator. The appointment of Mr. Luis Cal need not be continued. Mr. Cal's disinterest in the matter is evident by him not filing affidavits in response to the originating summons. He will be removed as a co-administrator. The grant of administration will be varied to reflect these changes.

Conclusion

[30] The applicant should have had her originating summons for administration considered before joint administration was granted to Ms. Cal and her father, Mr. Cal. The process by which administration of the estate was granted to Ms. Cal and Mr. Cal without consideration of the applicant's originating summons has resulted in prejudice to the applicant.

⁷ Section 173, Senior Courts Act 2022

- [31] Ms. Cal is entitled to administration of the estate of her deceased common law husband. There is no opposition to Ms. Cal administering the estate and the applicant admits Ms. Cal's superior title to administer the estate.
- [32] The applicant, as the mother of the deceased, has a better claim to the administration of her son's estate than Mr. Luis Cal, who is not a blood relative of the deceased. The applicant is a fit and proper person for appointment as a co-administrator.
- [33] The court will rectify the prejudice caused to the applicant by appointing her as a co-administrator along with Ms. Stephanie Cal. Mr. Luis Cal's appointment will be revoked.
- [34] In view of the circumstances under which this application has been made, parties will bear their respective costs.

ORDER

- A. Mr. Luis Cal is removed as co-administrator of the estate.
- B. The applicant is appointed as a co-administrator of the estate.
- C. Ms. Stephanie Cal will remain as an administrator of the estate
- D. Parties will bear their costs.

M. Javed Mansoor

Judge