

Estate Kamara v Kamara and Others (CIV.APP.NO. 8/92) [1986] SLHC 1 (01 January 1993);

CIV.APP.NO. 8/92

FLORENCE KAMARA

(ADMINISTRATRIX OF THE ESTATE OF MOSES SAIDU

KAMARA (DECEASED) - INTESTATE - APPELLANT

AND

UNU KAMARA

ALUSENI KAMARA- RESPONDENTS

JELLICANTU KAMARA (AN INFANT BY UMU KAMARA

HER GUARDIAN,AD LITEM).

JUDGMENT

This appeal is from a Judgment in a Civil Action by Crizinating Summons dated 28th June, 1986 in the High Court intituled

C.C. 533/86 1986 K. NO 89

IN THE HIGH COURT OF SIERRA LEONE IN THE ESTATE OF MOSES SAIDU  
KAMARA (DECEASED) INTESTATE.

BETWEEN: FLORENCE KAMARA - (ADMINISTRATRIX OF THE, ESTATE OF MOSES  
SAIDU KAMARA, DECEASED, INTESTATE - PLAINTIFF

AND

1. UMU KAMARA

2. ALUSINE KAMARA

3. ISATU KAMARA \_ DEFENDANTS,

4. JELLICATU KAMARA - (AN INFANT UMU KAMARA HE

GUARDIAN AD LITEM) - 3, FINDLAY LANE,FREETOWN.

This Civil Suit has, to say the least, had a chequered history. The plaintiff,Florence Kamara, died on the 5th day of May, 1987, and at her death has not completed the Administration of the Estate

of Mose-Saidu Kamara, deceased, Intestate, her late husband. On the 15th day of August, 1988 Mrs. Esther Sankoh, the lawful sister and surviving

Next-of-kind of Florence Kamara, was granted Letters of Administration of all and singular the real and personal estate which by law devolves on and vests in the personal representative of Florence Kamara, deceased Intestate. By Order of Court dated the 15th day of December, 1988 it was ordered as follows:-

"----- that Esther Sankoh be substituted for Mrs Florence. Kamara, deceased as plaintiff in this action and that the action do continue in the name of Esther Sankoh as plaintiff against all the defendants and that the costs of this application be met from the estate of Moses Kamara, deceased."

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15th December, 1988 and 6th February, 1990 be set aside and that the costs of this application be paid by the plaintiff, to the defendants."

It is against this order of the High Court, dated the 7th day of February, 1992, that the Appellant has come to this Court, for redress. In the Notice of Appeal, the Appellant complained that the Learned Trial Judge was wrong in Law in setting aside the order of the 15<sup>th</sup> December, 1988, and the Judgment dated, 6th February, 1990.

As for the order of the 15th December, 1988 the Appellant says that Esther Sankoh, having, obtained Letters of Administration of the estate of Florence Kamara, her sister, was competent to inherit the mantle of Florence Kamara, as administratrix of the estate of Moses Saidu Karama her late husband. This Court finds no merit in this contention by the appellant. Florence Kamara instituted, the action, supra, in a representative capacity, as administratrix of the estate of her late husband. On her death her office as such is extinguished. This is not a situation in which there is a chain of representation. On the death of a sole, as in this case, or last surviving administrator, the Court must, in order to constitute a representative to the original deceased, make in all cases a grant de bonis non. The chain of representation is not continued as it is where a sole or last surviving executor dies leaving an executor who proves his will. Esther Sanker the administratrix of the estate of Florence Kamara is only commissioned to administer the effects of Florence Kamara, and not that of Moses Saidu Kamara. Fresh Administration should have been commissioned of the goods of Moses Saidu Kamara not-administered by Florence Kamara before her death. The reason for this distinction between the situation where a sole or last surviving executor dies leaving an executor who proves his will and that where a sole or last surviving administrator dies is well explained by Blackstone in the 1st Edition of the 2nd Volume of his Commentaries at Page 506. "The Power of an executor is founded upon the special confidence and actual appointment of the deceased; and such executor is therefore allowed to transmit that power to another, in whom the deceased has reposed no trust at all; and, therefore, on the death of that officer, it results back to the ordinary to appoint another. And, with regard to the Administrator of A's executor he has clearly no privity or relation to A; being only commissioned to administer the effects of the intestate executor, and not of the original testator -----, was not however, within the competence of the Court below to set aside its own order of the 15th December, 1988, substituting Mrs Esther Sankoh, the administratrix of the Estate of Florence Kamara, as

