



ADMINISTRATION OF ESTATES IN RIVERS STATE: A LEGAL ANALYSIS OF THE ROLE OF BENEFICIARIES

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ABSTRACT

The laws on administration of estates in Rivers State are geared towards regulating the management of the estate of deceased persons who die intestate or who leave behind a valid will for which there are no executors. The administrator is required to manage, direct, run, order and control the estate over which he has been appointed. He is to settle any debts and other claims against the estate and thereafter divide and distribute the residuary estate among beneficiaries. However, it is not unheard of to have administrators mismanage property; sometimes converting the estate to their private use. This research argues that beneficiaries play a key role in giving life to the laws on administration of estates. Adopting the doctrinal research method, this study examines case law and legislation on administration of estates in Rivers State, with a view towards highlighting provisions of the law and legal principles that may enable beneficiaries hold administrators of estates accountable. The research revealed that while the laws on administration of estates in Rivers State are commendable, they have not adequately equipped beneficiaries to enable them more effectively hold administrators of estates accountable. The article therefore recommends the amendment of some provisions of the law, as beneficiaries when so empowered will aid in giving life to the law on administration of estates in Rivers State.

1.0 Introduction

Man, by his nature desires to own property for his use, comfort and satisfaction. In recognition of man's innate desire to own and use property, John Locke argued that man entered into a social contract for the preservation of his property¹. This was necessary because in the state of nature man's property was not secure as there was no central authority charged with the responsibility of making and enforcing laws. Thus, to preserve his property, man surrendered the rights to maintain order and enforce the law of nature.² On his demise, man automatically ceases to own any item and all that he acquired is deemed vested and eventually becomes vested in living persons within the framework provided by law.³ Ever so often, those left behind by the deceased to mourn him, engage in subtle or overt tussles to own the property left behind by the deceased.

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¹ By property Locke meant 'life, liberty and estate' Manzoor Elahi Laskar, 'Summary of Social Contract Theory by Hobbes, Locke and Rousseau' 2. Available at <http://ssrn.com/abstract=2410525> accessed 13 September, 2023.

² Man retained other rights such as the right to liberty because these rights are inalienable.

³ See Rivers State AEL 1988 ss.2 and 8.



Laws on administration of the estates of deceased persons are made in furtherance of the function of Law as an instrument for maintenance of order in society. These laws are made to regulate the management of properties left behind by deceased persons towards minimizing chaos that may result from the desire of living persons to exercise ownership over property left behind by a deceased person. The purpose of administration of Estates is to ensure that all the property that make up the estate of a deceased are properly managed, debts and liabilities settled and the residuary estate passed on to the beneficiaries.⁴ Administration is the management and settlement of the estate of an intestate decedent or of a testator who has no executor, by a person legally appointed and supervised by the court.⁵ Administration of an estate involves realising the movable assets and paying out of them any debts and other claims against the estate. It also involves the division and distribution of what remains. It has been said that ‘The Administration of Estates Law and the Rules of Procedure on Probate are made with the intent to forestall the properties left behind by deceased persons from falling into the hands of unscrupulous persons and particularly those the deceased would not ordinarily wish to inherit his or her properties.’⁶ This assertion is particularly true where a deceased died testate. Intestacy, on the other hand, leaves room for the property to fall into the hands of persons whom, although entitled to letters of administration are not persons whom the testator wished to inherit his property.

It is not uncommon for administrators to fail to render accounts to the court that granted the Letters of Administration. Administrators sometimes hold the estate of the deceased for a long period, treating the estate as their private estate, rather than distributing it within a reasonable time. Sometimes, administrators fail to file inventory within the timeframe required by law and mix up the finances accruing from the administration of a deceased’s estate with their personal finances.⁷ The law sets up a framework geared towards preventing dissipation of the deceased’s estate before the distribution of the residuary estate. However, to give life to the letters of the law on this issue, beneficiaries of the estate play a key role. With particular emphasis on the legal provisions on administration of estates in Rivers State, this study examines the appointment, powers and duties of administrators of estates of persons who died intestate, particularly those the administration of whose estates are governed by the Rivers State Administration of Estates Law. The study highlights the roles of

⁴ Rivers State AEL ss12, 33 and 47.

⁵ Bryan A. Garner (ed), *Black’s Law Dictionary* (9th ed, West 2004) 49.

⁶ Taiwo Olatokun, ‘Administration of Estates and Probate: Issues and Challenges’, a paper presented at the National Workshop for Chief Registrars, Deputy Chief Registrars, Directors, and Secretaries of Judicial Service Commissions/Committee at the National Judicial Institute, Abuja on 4th September, 2019, 2, available at <https://nji.gov.ng>, accessed 3rd September, 2023.

⁷ *Anecho Haruna Musa (Legal Representative of Adam Kelili) v. Twalib Noah, Adam Juma and Maliyamungu Majid* Civil Suit No. 009 of 2008. Judgement available at www.celiluganda.org accessed September 03, 2023.



beneficiaries in ensuring that administrators exercise their powers and perform their duties within the ambit of the law. To this end, the study is divided into 4 parts. Part one introduces the study. Part 2 discusses the appointment, powers and duties of administrators. Part 3 identifies some provisions of the law available to beneficiaries and the role of beneficiaries in giving life to these provisions of the law, thereby ensuring that administrators perform their functions in accordance with the law. Part 4 concludes the study with recommendations.

2. Appointment, Powers and Duties of Administrators

Personal representatives of a deceased person may be either administrators or executors.⁸ In *Ademola Kolade v Others v. Alhaji Abiola Ogundokun*⁹ the court held that ‘A personal representative of a deceased person is therefore a person who manages the legal affairs of another because of incapacity or death’. An administrator is a person to whom letters of administration have been granted to manage, direct, run, order and control the estate of a deceased that either died intestate, whether wholly or partially, or died leaving behind a valid will for which there is no executor.¹⁰ He is ‘A person appointed by the Court to manage the assets and liabilities of an intestate decedent.’¹¹ Administrators of estates derive their authority to administer the estate of a deceased person from letters of administration issued by the Court, and are to act on behalf of the beneficiaries of that estate.¹² In other words, administrators, in a sense, act as representatives of the beneficiaries.

The Letters of Administration is a legal instrument which confers legal powers on the Administrator of a deceased’s estate. In *Babatunde O. Olowu v. Olabowale A. Olowu*¹³ the Court of Appeal stated that ‘Letters of Administration confer authority to deal with the estate property on behalf of the beneficiaries. Such property can be administered under English law or customary law.’¹⁴ Letters of administration are not transferable neither can they be passed by inheritance.¹⁵ They do not convey title in the estate on the administrator. A person must apply to the Probate registrar for the grant of Letters of Administration before any valid action can be taken as concerning a deceased’s estate.¹⁶ Thus, between the death of a testator and the grant of letters of administration, the estate of the intestate is deemed vested in the Chief Judge.¹⁷ Pending the grant of Letters of Administration, a person who interferes with

⁸ Rivers State AEL s58. An executor derives his powers from a will.

⁹ [2017]18NWLR 155.

¹⁰ Rivers State High Court (Civil Procedure) Rules O.61 R9; Rivers State AEL s58.

¹¹ Garner (n5) 52.

¹² *Mustapha Arije & Ors v. Alhaji W. Arije & Anor*, [2011] 13 NWLR 267, 289.

¹³ [1994] 4 NWLR 91.

¹⁴ Generally, under customary law, the administration of the estate of a deceased person is done by those entitled to inherit it. The Rivers State Customary Courts Law, No.3 2014, s93 establishes a registry for the administration of customary intestacy. Hence, where a person subject to native law and custom in Rivers State dies intestate application for letters of administration may be made at the Registry of the Customary Court. See R/S CC Law ss 87, 94 and 95.

¹⁵ *Chief (Major) G. O. O. Duke & Anor v. Administrator-General Cross Rivers State & 2 Ors* [2010] 15 NWLR 443.

¹⁶ Rivers State AEL, s17.

¹⁷ Rivers State AEL s8.



the estate of a deceased person is an intermeddler; sometimes referred to as an *Executor de son tort*.¹⁸ This term refers to ‘A person who without legal authority takes on the responsibility to act as an executor or administrator of a decedent’s property, usually to the detriment of the estate’s beneficiaries or creditors; i.e he that takes upon him the office of an executor by intrusion, not being so constituted by the testator.’¹⁹ An Administrator can be a natural person, trust corporation or a law firm. A natural person may include; the husband or wife of the deceased, children of the deceased or the surviving issue of a child who died in the lifetime of the deceased, parent(s) of the deceased, siblings of the deceased of full blood and the children of these siblings where the siblings died in the lifetime of the deceased, siblings of half-blood of the deceased or the children of such half brother or sister who died during the lifetime of the deceased, Grandparent(s) of the deceased, the Uncles and Aunties of full blood or their children, creditors of the Deceased and the Administrator-General or other government official.²⁰

Appointment of Administrators

In Rivers State, on the demise intestate of a non-moslem who contracted a valid monogamous marriage and is survived by a spouse or issue of that marriage,²¹ letters of administration for the estate of the said deceased is to be applied for from the Probate Registrar of the High Court.²² The applicant is expected to file in court, a full declaration of the personal property of the deceased and the value of such property.²³ The person to whom letters of administration is granted is required to ‘give a bond and provide 2 responsible sureties acceptable to the Judge, affirming that the administrators shall duly collect, manage, administer and distribute the personal property of the deceased.’²⁴ For an estate whose gross value does not exceed N5,000,000.00 or where a corporation is to be used as surety, the Judge may accept one surety.²⁵

Except in exceptional cases, letters of administration without the will annexed will not be issued within 21days of the death of the deceased.²⁶ On the other hand, the Rivers State Administration-General Law, s.65 defines an unrepresented estate as, among other things, ‘the estate of a person who dies intestate and whose next of kin (or where the next of kin is a minor, his guardian) ... if in Nigeria and known, has, for a period of one month, after the

¹⁸*Executor de son tort* means an executor in his own wrong.

¹⁹*Yusuff v Dada & Ors* (1990) LPELR (SC).

²⁰Rivers State AEL ss16 and.22(1); Rivers State High Court (Civil Procedure) Rules O.61 R8.

²¹Rivers State AEL, S.1(2).

²²Rivers State High Court (Civil Procedure) Rules, O.59 R1(1).

²³Rivers State High Court (Civil Procedure) Rules O.61 R 2.

²⁴*Ibid.* O.61 R(3)(1).

²⁵*Ibid.* O.61 R(3)(2).

²⁶*Ibid.* O.59(1)(3)(b).



death of the testator, refused or neglected to apply to the court for letters of administration;'. The combined reading of the provisions above may be interpreted to mean that the next of kin of a deceased person should apply for letters of administration within one month of the death of the deceased. However, the letters of administration will not be issued by the court earlier than 21 days after the death of the deceased person. Failure of the next-of kin to apply within one month of the death of the deceased leaves the estate open to being viewed as an unrepresented estate based on which the Administrator-General may petition the court, praying for the grant of letters of administration.²⁷

Where 2 or more persons are entitled to a grant of the letters of administration in the same degree and this gives rise to a dispute which is brought before the court, the court will not allow any grant to be sealed until the application is disposed of.²⁸ The Rivers State Administration of Estates Law, 1988 (AEL), s.22(1) provides that:

- (1) In granting administration, the court shall have regard to the rights of all persons interested in the estate of the deceased person or the proceeds of sale thereof ... Provided that.
- (a) Where the deceased died wholly intestate as to his estate, administration shall be granted to one or more persons interested in the residuary estate of the deceased if they make an application for the purpose;

Unless otherwise directed by the Judge, letters of administration are to be granted to:

- (a) a living person in preference to the personal representative of a deceased person who would, if living, be entitled in the same degree; and
- (b) a person not under disability in preference to an infant entitled in the same degree.²⁹

Thus, a living next of kin of the deceased whose estate is sought to be administered would be preferred over the personal representative of a dead next of kin of the deceased. Where there are competing interests, in granting letters of administration, the court considers matters such as the interests of the beneficiaries and the priority of interests among persons interested in the estate of the deceased.

Arguably, the Rivers State AEL, second Schedule reflects persons who can be considered as beneficiaries of an intestate under varying circumstances. These include the spouse, children,

²⁷*Uyenne v Administrator-General of ECS* (1973) 3 ECSLR 716; Rivers State Administrator-General Law (A-GL), s.11; It is noteworthy that the Administrator-General may also apply to court for grant of letters of administration within one month from the death of the deceased. Rivers State A-GL, s.13.

²⁸ Rivers State High Court (Civil Procedure) Rules O 61 R.13 (1) – (3).

²⁹ Rivers State High Court (Civil Procedure) Rules O.61 R13(4).



parents, brothers and sisters of the whole blood and issues of brothers and sisters of the whole blood. The surviving spouse and the children of the deceased rank foremost as beneficiaries to the estate. Where a deceased died wholly intestate; that is without making a will appointing executors thereto, persons interested in the residuary estate of the deceased can apply and be granted Letters of Administration.³⁰ The beneficiary, when granted Letters of Administration, becomes an administrator and is required to act in accordance with the duties and responsibilities as provided by law.³¹ On distribution of the residuary estate, he takes from the estate as beneficiary not as administrator.³² The grant of letters of administration does not vest in the beneficiary ownership of the deceased's estate as the administrator is expected to render accounts and full inventory of the deceased estate when directed by the court. Clarity must be placed when a beneficiary to a deceased estate assumes the duties and responsibilities of an administrator. Legal action may be instituted against an administrator, although a beneficiary, of a legal or equitable estate of a deceased if the estate is not properly managed by the administrator who is also a beneficiary. The said administrator/beneficiary may be held liable for waste, default or conversion of the deceased estate.³³

In *Kekereogun v Oshodi*³⁴ in deciding who was entitled to a grant of letters of administration between the half-brothers of the deceased, on one hand and a cousin of the deceased, the court relied on pages 166 and 167 of Williams on Executors and Administrators³⁵ as follows:

In the first place, the children and their lineal descendants to the remotest degree, and on failure of children, the parents of the deceased are entitled to the administration; then follow brothers and sisters, then grand-fathers and grand-mothers, then uncles or nephews, great-grand fathers and great-grandmothers, and lastly cousins. When the contest is between one of the half blood, the whole blood is preferable in the grant of administration to the half blood, though the majority of interests concur in the latter, unless material objections can be proved against the claimant of the whole blood.³⁶

³⁰ Rivers State AEL s22.

³¹ Rivers State AEL s12.

³² *Duke v. Admin.-Gen., C.R.S.* (n15) 446.

³³ Rivers State AEL ss15 and 16.

³⁴ (1971) All NLR 95.

³⁵ 13th ed cited in Olayide Adigun, *Cases and Texts on Equity Trusts and Administration of Estates* (1987 Ayo Sodimu) 352.

³⁶ *Ibid.*



The court therefore held that there was no question that as between the half-brothers of the deceased, on one hand, and the cousin of the deceased, on the other hand, the half-brothers as next of kin have the right to administration. In *Administrator-General v Coker*,³⁷ where an infant was the only next of kin of the deceased who had divorced the mother of the infant before his death, the court held that, notwithstanding the divorce, the mother of the infant, was in the circumstance, the right person to represent the infant. However, the court also held that a second administrator was necessary and that letters of administration be issued to them jointly.³⁸ It is noteworthy that the infant had lived with the deceased and on his demise she went into the custody of her mother.

In *Amobi v Nzegwu*,³⁹ one Engineer Theophilus I. O. Nzegwu married Grace O. Nzegwu, the 1st respondent, on 28th June, 1958. On 30th September, 1996 a decree *nisi* was granted with respect to their marriage. On 7th July, 1995, before the grant of the decree nisi, Engineer Nzegwu had gone through a ceremony of marriage under native law and custom with the appellant. On 23rd October 1996, during the subsistence of the decree *nisi*, Engineer Theophilus I.O Nzegwu then purported to marry the appellant under statute. He died intestate on 31st October, 1996. The 2nd and 3rd respondents are the surviving issues of the statutory marriage between Engineer Theophilus I. O. and Nzegwu Grace O. Nzegwu. One of the issues brought before the Court of Appeal for determination was whether the learned trial Judge was right when she held that the 1st respondent, as against the appellant, was entitled to Letters of Administration over the estate of Engr. Theophilus I.O. Nzegwu (deceased) and in exercising her discretion to grant Letters of Administration to the 1st respondent. In deciding this issue, the Court held that ‘with the lawful marriage between 1st respondent and the deceased subsisting right to the time of the latter's death, appellant cannot legally claim entitlement to administration of the estate on the basis of her being deceased's surviving lawful wife. The truth is that appellant never was legally married to the deceased.’⁴⁰ The Court therefore held that ‘the 1st respondent, rather than the appellant, is entitled to a grant of Letters of Administration in respect of the estate of Engr. Theophilus I.O. Nzegwu (deceased)’⁴¹

³⁷(1942) 16 NLR 111.

³⁸Adigun, (n35) 351.

³⁹[2005] 12 NWLR 120.

⁴⁰*AmobivNzegwu*, [2005] 12 NWLR 139.

⁴¹*Ibid.* 146.



Generally, the court exercises its discretion in the appointment of administrators of estates. The court may choose to grant letters of administration to a person who is not a next of kin to the deceased if the situation demands it and the court thinks it fit.⁴² For instance, in *Uyanne v Administrator-General of ECS*,⁴³ the court, in granting letters of administration to the Administrator-General held that

In the present matter, the beneficiaries are torn apart by factious interests. There is none better suited to hold the balance between them in respect of the estate than the Administrator-General- a neutral third party having no beneficial interest in the estate. That the existence of unfriendly relationship among the beneficiaries to an estate is a factor to be taken into consideration by Court in deciding as to the grant of Letters of Administration is clearly brought out in the judgement of Jibowu, J. in *Aileru v Anibi*(1952) 20 NLR 46. At page 47 the learned judge said with regard to the defendant, it is clear from the evidence led that he is not friendly with three of the four widows left by his deceased brother and with the relatives of the deceased on his father's side. It is therefore undesirable that the defendant be entrusted with the administration of the estate of the deceased.

Thus, where it is clear to the court that an applicant for a grant of letters of administration has strained relationships with persons interested in the residuary estate of the deceased, this may influence the court in deciding whether or not to grant the application.

Powers and Duties of Administrators

The administrator acts for the benefit of the deceased's estate in its entirety and not exclusively for the beneficiaries.⁴⁴ They have the duty to first settle the deceased's debts and liabilities including funeral, testamentary and administrative expenses, identify the beneficiaries and distribute the deceased asset; they are to distribute what is left of the estate (the residuary estate) according to the relevant AEL.⁴⁵ For the purpose of distribution the law recognizes the husband and wife as separate persons.⁴⁶ Section 12 of the Rivers State Administration of Estate Law provides that the administrator is under a duty to –

⁴² Rivers State AEL s.22(1)(b).

⁴³ (1973) 3 ECSLR 716.

⁴⁴ Rivers State AEL, s2 (1).

⁴⁵ Rivers State AEL ss 2(1) and 47; second Schedule to the Rivers State AEL.

⁴⁶ Rivers State AEL s47.



- a. collect and get in the estate of the deceased and administer it in accordance with the law;
- b. when required to do so by the court, exhibit on oath in court a full inventory of the estate and when so required render an account of the administration of the estate to the court;
- c. when required to do so by the court, deliver up the grant of probate or administration to that court.

To enable him carry out his duties, the administrator is vested with certain powers. He may sell, mortgage or lease the property. The administrator only has power to administer real and personal property covered by the grant.⁴⁷ An administrator may be granted Letters of Administration for real property or personal property or for the administration of both. He is limited to the confines of what is covered by the Letters of Administration. In *Madam Christiana Ugu v Andrew EbinniTabi*⁴⁸ the court stated that ‘By the combined provisions of sections 2, 3, 4 and 22 of the Administration of Estates Law Cap. 2, Laws of Lagos State, 1973, a grant of letters of administration in respect of personal estate does not cover the administration of real property of the intestate.’ The Rivers State AEL, s2(1) prohibits an administrator from dealing with the real estate of the deceased unless he shows to the satisfaction of the court that other assets of the estate are insufficient to pay the intestate’s debts and expenses of his funeral, and of applying for letters of administration.

The Letters of Administration, when granted, does not devolve ownership of the deceased estate on the Administrator but places a responsibility on him to manage, direct, run, order and control the estate of the deceased for the benefit of beneficiaries, Creditors and any persons that may have legitimate interest in the estate of the deceased.⁴⁹ The court has noted that the ultimate role of an administrator is the distribution of the deceased’s estate which must be done timeously.⁵⁰ The laws do not expressly stipulate the time within which the administrator must be done with his responsibilities regarding the estate. This may be so as not to stifle the administrator in the performance of his duties but this room left by the law is sometimes abused by unscrupulous administrators who make undue gain off the estate of deceased persons.

⁴⁷*Amobi v Nzegwu*[2014] 2NWLR 541; *Ademola v. Probate Registrar* (1971)All NLR 155; *Erewa v. Idehen* (1971) All NLR 192

⁴⁸ [1997] 7 NWLR 369.

⁴⁹ See Rivers State AEL ss.33, 34 and 38.

⁵⁰ *Musa v. Noah, Juma and Majid* (n7).



4. The Law and the Role of the Beneficiaries in Administration of Estates

Order 59, Rule 16 Rivers State High Court (Civil Procedure) Rules, 2023 (the Rules) contains detailed provisions on the responsibility of an administrator to file periodic accounts and the penalties that may be imposed by the court if he defaults. O.59 R16 (1) of the Rules provides that ‘A person who has been granted probate or letters of administration or appointed as administrator by the Judge shall file the account of his administration in court annually from the date of appointment until the completion of the administration.’ O.59 R.16 (2) imposes a minimum penalty of N100,00.00.00 for every year that the administrator is in default. Where this fine is imposed and the administrator fails to pay, he stands the risk of being imprisoned for a maximum term of 6 months. Imprisonment however, will only be resorted to where enforcing payment of the fine by way of distress is insufficient. Where an administrator files an account that is scrutinized and declared by the court to be defective, the administrator shall be given some time deemed reasonable by the court to remedy the defects in the account. Where the administrator fails to remedy the defects within the time given, ‘he is deemed to have failed to file an account within the meaning of this rule and proceedings may be taken against him.’⁵¹ It is the duty of the registrar to notify the Judge that an administrator has failed to file an account in compliance with the Rules.⁵² An interested party may apply to the Court asking that the administrator be summoned to show cause why he should not be sanctioned for failing in his duty to file periodic accounts.⁵³ Where the administrator shows good cause, the Judge may extend the time for filing the account.⁵⁴ When the administrator fails to file his account within the time extended, he is liable to the penalty stated earlier. To bring him before the court, it is again the responsibility of the Registrar to notify the court that the administrator has failed to file his account within the extension granted.⁵⁵ The account filed by the administrator may be inspected by anyone who satisfies the Registrar that he is an interested party in the administration of the estate.⁵⁶

⁵¹Rivers State High Court (Civil Procedure) Rules, 2023 O.59 R.16(3) and (4).

⁵²*Ibid.* O.59 R.16(5).

⁵³*Ibid.* O.59 R16(6).

⁵⁴ Rivers State High Court (Civil Procedure) Rules O 59 R16(7).

⁵⁵*Ibid.* O 59 R 16(8).

⁵⁶*Ibid.* O 59 R16(9).



Where an administrator mismanages the estate the law makes him liable to the extent of such default, waste or conversion. If he dies without meeting his liability to the estate he is managing, the liability passes on to his estate.⁵⁷ The Rivers State AEL, s.16 provides that:

Where a person as personal representative of a deceased person (including an executor in his own wrong) wastes or converts to his own use any part of the estate of the deceased, and dies, his personal representative shall, to the extent of the available assets of the defaulter be liable and chargeable in respect of such waste or conversion in the same manner as the defaulter would have been if living.

Thus, if persons interested in an estate realise that the administrator is mismanaging the estate or has converted it to his own use, they may bring an action against the administrator or against his estate if he dies before meeting his liability to the estate. They may also bring an action for revocation of the grant.⁵⁸ Some of the grounds on which letters of administration may be revoked include:

- (a) where the administrator obtained the grant following false or fraudulent suggestions. For instance, where he claims that the person entitled to the grant is dead;
- (b) where a will or codicil of the deceased has been discovered;
- (c) where there is need to revoke the grant so that the estate can be better administered;
- (d) where the court orders that the grant be revoked.⁵⁹

The court has a discretion whether or not to revoke letters of administration.⁶⁰ The court must first be satisfied that the revocation is in the best interest of the beneficiaries.⁶¹ The beneficiaries must, nonetheless, bring their application for revocation timeously. In *Ephraim v Asuquo*⁶² the court held that the delay of the plaintiff in applying for revocation was fatal to his claim.⁶³

4. Conclusion

The law contains detailed provisions geared towards protecting the interest of beneficiaries in the estate of a deceased intestate. The administrator has a duty to exhibit on oath a full

⁵⁷ Rivers State AEL, ss15 and 16.

⁵⁸ Rivers State High Court (Civil Procedure) Rules O.59 R19(2) and O.62.

⁵⁹ Rivers State High Court (Civil Procedure) Rules O. 59(19)(1); *Idowu v Administrator-General Oyo State* (unreported) Suit No. M/18/82; Adigun, (n35) 354-355.

⁶⁰ *Idowu v Administrator-General Oyo State* (unreported) Suit No. M/18/82; Adigun, *Ibid.* 355-356.

⁶¹ *Bell-Gam v Federal Administrator-General* (1963) 7ENLR 56.; Adigun *Ibid.* 357-358.

⁶² (1923) 4 NLR 98

⁶³ See also *Akioye v. Administrator-General* (Unreported) Suit No. 1/100/78; Adigun, (n36) 359-361; Rivers State A-GL s18.



inventory of the estate and render account of the administration of the estate to the court, when required.⁶⁴ Flowing from this duty, O.59 Rule 16 of the Rivers State High court (Civil Procedure) Rules requires an administrator to file periodic accounts in court. The administrators have a responsibility to take advantage of the provisions of O 59 R16(9) which allow him to inspect the account submitted at the Probate Registry by the administrator. Where the required accounts have not been filed, it is a responsibility of the beneficiary to apply to the Court asking that the administrator be summoned to show cause why he should not be sanctioned for failing in his duty to file periodic accounts. Where it is discovered that he has managed the estate in a way that has resulted in waste, or where he has converted the estate to his own use, the Rivers State AEL, s.16 renders him or his personal representative, as the case may be, liable to the extent of his available assets. Beneficiaries of the estate also have the option of applying for revocation of the grant but the action must be brought without delay.⁶⁵ When ordered by the court to do so, it is the duty of the erstwhile administrator to deliver up the grant.⁶⁶

The above provisions of the law may seem dead where beneficiaries do not hold administrators accountable. Beneficiaries have a key role to play in giving life to the letters of the laws discussed above. Although the provisions of the law on the administration of estates are laudable, to better equip beneficiaries to carry out their responsibilities, it is recommended that s.12 of the Rivers State AEL be amended to include a provision that gives administrators a duty to render annual accounts directly to beneficiaries without the beneficiaries first demanding for it, in addition to the current situation where administrators are required to file accounts in court. Furthermore, letters of administration should be issued, accompanied with a document summarizing the duties and liabilities of the administrator(s) and reflecting some of the circumstances under which a grant can be revoked. Currently, the law places on the Probate Registrar the duty of notifying the Judge that an administrator has failed to file an account in compliance with the Rules.⁶⁷ It is recommended that this duty be shared with beneficiaries who should be allowed to notify the court through the Probate Registry, of the default of an administrator in filing the required accounts. When these recommendations are effected, beneficiaries will be better positioned to hold administrators of estates accountable.

⁶⁴Rivers State AEL s12.

⁶⁵Rivers State A-GL s18; Rivers State High Court (Civil Procedure) Rules O.59 R19(2) and O.62.

⁶⁶ Rivers State AEL s.12.

⁶⁷ Rivers State High Court (Civil Procedure) Rules O.59 R.16(5).