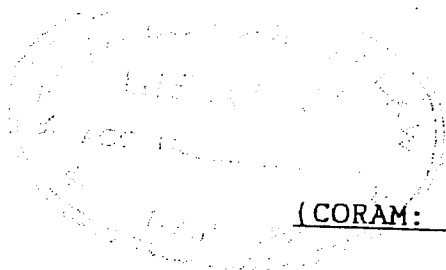


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IN THE COURT OF APPEAL  
AT NAIROBI

(CORAM: AKIWUMI, BOSIRE & OWUOR JJ.A)

CIVIL APPEAL NO.162 OF 1999

BETWEEN

THE ADMINISTRATORS OF THE ESTATE OF MAXWELL  
MAURICE OMBOGO (DECEASED) ..... APPELLANT

AND

STANDARD CHARTERED BANK KENYA LTD ..... 1ST RESPONDENT  
THE LAW SOCIETY OF KENYA ..... 2ND RESPONDENT

(Appeal from the Ruling and Order of the High Court of  
Kenya at Nairobi - Mr Justice A.I. Hayanga given on 26th  
February, 1998

in

H.C.C.C. No.520 of 1997)  
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JUDGMENT OF THE COURT

This is an appeal from the order of the superior court (Hayanga J.) given on 26th February, 1998, in which, pursuant to interpleader proceedings under Order 33 rule 1 of the Civil Procedure Rules by Standard Chartered Bank Kenya Ltd (the Bank), he ordered that two nominees of the Law Society of Kenya (the LSK) be the signatories of two bank accounts in the name of one Maxwell Maurice Ombogo (deceased) instead of the administrators of the deceased's intestate estate.

The deceased, who at the time of his death, on 5th July 1995, was an advocate of the High Court of Kenya, was a member of LSK, and on account of such membership and pursuant to the Advocates (Accounts) Rules, made under the Advocates Act, Cap 16 Laws of Kenya, he maintained two bank accounts with the Bank respectively

designated "clients" and "office" accounts. Acting pursuant to The Law Society of Kenya (General) (Amendment) Regulations, 1995, which were published in the Kenya Gazette as Legal Notice No. 279 of 1995, the LSK advised the Bank in writing to stop all transactions in the two bank accounts until advised otherwise by it. Soon thereafter the Bank also received letters from the advocates of the administrators of the deceased's estate to the effect that the said administrators and not LSK had the legitimate right to operate the two accounts. The suit which gave rise to this appeal was thus provoked.

The aforesaid suit was commenced by originating summons in accordance with Order 33 rule 1 of the Civil Procedure Rules. No oral evidence was considered necessary as the facts were not in dispute. The deceased died intestate leaving behind a widow and children. We were told from the bar that the widow was initially the legal representative of the deceased's estate, but no evidence of that fact was presented to us nor can we find any on record. We, however, have on record a copy of a limited grant of letters of administration which was issued to Laura Ombogo and Miriam Ombogo, on 1st November, 1996, more than one year after the death of the deceased. It is shown at the bottom as having been amended on 1st November 1996, but the nature of the amendments have not been shown. Be that as it may, the suit was filed in court sometime in March, 1997. From the affidavits filed and the arguments which were made before the trial Judge, the main, if not the only issue, was, who between LSK and the administrators of the deceased's