

**IN THE HIGH COURT FOR ZAMBIA
FAMILY & CHILDREN'S COURT DIVISION
HOLDEN AT LUSAKA**
(Civil Jurisdiction)



2025/HPF/508

IN THE MATTER OF:

**SECTIONS 5, 7, 9, 14, 19 AND 29 OF THE
INTESTATE SUCCESSION ACT, CAP 59 OF
THE LAWS OF ZAMBIA**

IN THE MATTER OF:

**AN APPLICATION FOR AN ORDER TO
RENDER ACCOUNT AND PRODUCE AN
INVENTORY IN RESPECT OF THE
ESTATE OF THE LATE FRANCIS
CHIKONDE**

B E T W E E N:

REMMY CHIKONDE

APPLICANT

(Suing in his capacity as a beneficiary in the estate of the late Francis Chikonde)

AND

FRANCIS CHIKONDE

1ST RESPONDENT

(Sued in his capacity as Administrator of the estate of the late Francis Chikonde)

CATHERINE KAPALU

2ND RESPONDENT

(Sued in her capacity as Co-Administrator of the estate of the late Francis Chikonde)

MAGGIE KALELA

3RD RESPONDENT

(Sued in her capacity as Co-Administrator of the estate of the late Francis Chikonde)

***Before the: Hon. Mrs. Justice M.M. Bah-Matandala
On the 25TH day of November, 2025.***

*For the Applicant: Ms. C. Chengo – Legal Aid Board
For the Respondents: 1st Respondent – In Person
2nd & 3rd Respondents: N/A*

J U D G M E N T

Legislation Referred to:

1. The Intestate Succession Act, Chapter 59 of the Laws of Zambia.
2. The High Court Act, Chapter 27 of the Laws of Zambia.
3. The High Court (Amendment) Rules, S.I. No. 58 of 2020.

Case Referred to:

1. *Jackson Mooya and Nachimunya Mweemba – Appeal No. 116 of 2018.*

1.0 BACKGROUND

1.1 This is a Judgment for the Applicant's application for an order that the Respondents, as administrators of the estate of the late **Francis Chikonde**, do:

- i. *Produce and file a full inventory of the estate;*
- ii. *Render a full and detailed account of the administration of the estate from 27th January 2022 to date;*
- iii. *Be subjected to further orders of this Court, including potential revocation of the Letters of Administration in default of compliance;*
- iv. *(iv) Pay costs.*

1.2 The deceased died intestate on 27th January 2022, leaving several beneficiaries, including the Applicant and the Respondents.

1.3 On 21st March 2022, this Court granted Letters of Administration to: the 1st Respondent (Francis

Chikonde), the 3rd Respondent (Maggie Kalela), and one Felistus Kapalu (who is not party to these proceedings).

1.4 The estate comprises: House No. D220 Avondale with two cottages; Flat B5 Longacres; A plot in Garden Park; A green Toyota Corolla; Pension and terminal benefits from Public Service Pensions Fund herein referred to as PSPF.

1.5 The Applicant complains that the Respondents have:

- i. failed to render account,*
- ii. failed to disclose all assets,*
- iii. failed to pay land rates despite deductions,*
- iv. withheld or redirected rental income,*
- v. given inconsistent information on pension funds.*

2.0 INTRODUCTION

2.1 The matter was commenced by Originating Summons supported by an affidavit dated 3rd July, 2025. The Court is moved under Order 6 rule 1(3) of S.I. No. 58 of 2020. And the application is anchored on Sections 5, 7, 9, 14, 15, 19 and 29 of the Intestate Succession Act.

2.2 The reliefs sought relate primarily to the duty of administrators to account.

3.0 AFFIDAVIT IN SUPPORT

3.1 The main evidence from the Applicant includes that:

- i) he is a biological child and beneficiary;*
- ii) estate comprises income-generating property;*
- iii) Respondents collect rent but have never rendered formal accounts.*

3.2 It has been averred that the deductions were said to cover land rates, yet Lusaka City Council (LCC records (RC3)) show no rates paid from the year(s) 2019–2025.

3.3 And the tenants have confirmed paying rent to the 1st Respondent which was not fully shared.

3.4 In relation to the green Toyota Corolla; it has been averred that its existence was denied, although WhatsApp messages (**RC1, RC2**) show Applicant requested it and Respondent did not dispute this at the time.

3.5 Furthermore, the Applicant sought receipts, tenancy agreements, and explanation on deductions; however, none were provided.

3.6 Also, there are said to be large PSPF sums which were received but not accounted for.

4.0 AFFIDAVIT IN OPPOSITION

4.1 There was an affidavit in opposition that was filed on 16th July 2025 by the 1st Respondent.

4.2 The 1st Respondent denies mismanagement, denies existence of Corolla, however he claims transparency, and produces Airtel Money screenshots (isolated transfers, not account). There is no inventory or full account filed.

4.3 And as for the 2nd and 3rd Respondents, they filed nothing despite having been served with the process. And this position has been confirmed by the affidavit of service filed by the Applicant

5.0 AFFIDAVIT IN REPLY

5.1 The Applicant filed an affidavit in reply on 21st November 2025 after leave was granted. The said reply has referenced as **RC1 & RC2:** Which are the WhatsApp messages confirming the Corolla exists; **RC3:** which are the LCC Rates record proving no land rates paid since 2019; the rebuttal to Respondent's denials; explanation

that pension figures were verbally communicated and remain unexplained.

5.2 The affidavit in reply is properly on record and has been duly considered.

6.0 SKELETON ARGUMENTS IN SUPPORT

6.1 Counsel relies on Section 19(1)(c) which provides for the duty to render inventory and account. And Section 5 which provides for the rights of beneficiaries. Whilst Section 14 provides for unlawful deprivation, Section 29(1)(c) provides for revocation for failure to account.

6.2 And in further support of the application reference has been made to the case of Mooya & Mweemba which has been duly considered herein.

7.0 SKELETON ARGUMENTS IN OPPOSITION

7.1 The 1st Respondent has argued that he acted transparently, has not mismanaged, and as such he should not be revoked. He cited Section 15 of the Intestate Succession Act; to suggest he has greater interest.

7.2 However, he still does not provide an inventory or proper account.

8.0 HEARING

8.1 The Applicant relied on all affidavits and exhibits filed herein.

8.2 The 1st Respondent appeared; whilst the 2nd and 3rd Respondents, though served, did not. The 1st Respondent also relied on the filed document in opposition to the application.

8.3 The Court has considered all evidence.

9.0 CONSIDERATIONS AND DECISION

9.1 The common facts are that the Administrators herein were appointed by the Court. The estate comprises income-generating properties and Pension funds have since been received.

9.2 The Applicant herein is a beneficiary of the estate in issue.

9.3 The facts which are in issue are the failure to render inventory and account; non-payment of rates despite deductions; unremitted rent; inconsistent explanations of pension and the denial of estate property such as the Corolla.

9.4 The questions for Determination are therefore as follows;

- i) When must an administrator produce an inventory and account?*
- ii) Is this a proper case to compel such production?*
- iii) Do the facts justify invoking Section 29?*
- iv) What orders should issue?*

9.5 In order for this Court to determine the issues herein, the following is the law relied upon. The Law under Section 19(1)(c) which sets the mandatory duty to produce full inventory and account when required by Court. Section 5 sets entitlement framework for distribution among spouse, children, parents, dependants. Section 14 prohibits unlawful deprivation and interference with beneficiary rights. Section 29(1)(c) allows for the revocation where an administrator fails to account when lawfully called upon.

9.6 And also the case of *Mooya & Mweemba* which clarifies Court's discretion to order an account and revoke letters if ignored.

9.7 Furthermore, I note that the Applicant cited Sections 6, 15 and 38 of the Intestate Succession Act. However, having reviewed them: Section 6 deals with general devolution rules. The present dispute concerns administration, not distribution. Thus, Section 6 does not materially affect the determination of the issues herein. Section 15 concerns priority in applying for Letters of Administration. Here, appointment is not in issue; but performance is. Thus, Section 15 is not determinative of this application. Further, whilst Section 38 concerns miscellaneous and or penal provisions. This is a civil supervisory application, as such Section 38 is not engaged.

9.8 Accordingly, the operative provisions for determination are **Sections 5, 14, 19 and 29** of the Intestate Succession Act.

9.9 In the circumstances, the Respondents have never produced inventory or account since 2022. There are no rates paid since 2019 despite deductions which is a breach of duty.

9.10 The Respondent's sworn denial is contradicted by messages and this goes to credibility. And in relation to the Large PSPF payments, there is no accounting, as such it is a breach of statutory duty.

9.11 There is also the issue of the unremitted rent and inconsistent explanations, as such there is a lack of transparency.

10.0 CONCLUSION

10.1 This is clearly a case warranting the Court's intervention under Section 19(1)(c). Although evidence supports grounds for revocation under Section 29(1)(c), the Court adopts a measured approach as per the *Mooya & Mweemba* case, giving Respondents one final opportunity to comply.

11.0 ORDERS

11.1 Accordingly, the Respondents **shall**, within **30 days**, produce on oath before the Deputy Director of the Family and Children's Court:

- i) A full inventory of the estate including Avondale house, Longacres flat,*

Garden Park plot, Toyota Corolla, movables, and all assets.

- ii) A full account from 27th January 2022 to date including rental income, pension income, deductions (with receipts), payments, liabilities, tenancy agreements, and bank/Airtel statements.*
- iii) If the Deputy Director determines that: no account has been rendered, or the account is materially deficient, or evidence of intermeddling exists, the matter shall return to this Court for determination whether to revoke the Letters of Administration under Section 29.*
- iv) Respondents are restrained from unlawfully depriving or interfering with any beneficiary's entitlement contrary to Section 14 of the Intestate Succession Act.*

v) *Costs are in the cause.*

12.0 Leave to Appeal

Dated at Lusaka this 25th day of November, 2025.



M. M. Bah-Matandala
HIGH COURT JUDGE

