REAL ESTATE & SUCCESSION

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THE ROLES AND RESPONSIBILITIES OF PERSONAL REPRESENTATIVES IN ESTATE ADMINISTRATION[1]

1. Introduction

1.1 Upon the death of a person, the management and administration of all their assets do not just hang in abeyance. Instead, this responsibility for handling the affairs falls on the personal representatives of the deceased.[2] Black's Law Dictionary[3] defines a personal representative as a person who manages the affairs of another as a result of incapacity or death. The *Oyo State Administration of Estates Law*[4] also defines a personal representative to include "…the executor, original or by representation, or administrator for the time being of a deceased person."[5] Basically, personal representatives refer to Executors, where there is a valid will, and Administrators, where there is no valid will.

1.2 In the administration of an estate, personal representatives play a vital role in ensuring that the intentions of the deceased are carried out efficiently and lawfully. This makes their position essential, as without one, there would be constant chaos, disputes, and misappropriation of property amongst those who survive the deceased. Understanding these duties is important so that personal representatives know what is expected of

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2 Section 4 Administration of Estates Law, CAP 1, Laws of Oyo State of Nigeria 2020; *Omonuwa v. Edegbe & Ors* [2022] LPELR-57135(CA).
3 Black's Law Dictionary, Centennial Ed. (1891-1991) at p.1302.
4 Cap. 1, Laws of Oyo State of Nigeria 2000.
5 Section 2, *Administration of Estates Law* of Oyo State.

them and for beneficiaries to be able to keep them accountable while also protecting their rights.

1.3 This article explores the concept of personal representatives as well as their roles and responsibilities.

2. Executor

2.1.1 As defined in the case of **Mudasiru v. Abdullahi,**[6] an executor is a person appointed by the testator in a Will to administer the property of the testator and to carry into effect the provisions of the Will.[7] An appointed executor is vested with the legal authority to manage and deal with the affairs of the testator upon his death, however, this is subject to the grant of Probate by the court. Without such grant, the executor lacks the legal authority to deal with the affairs of the deceased, and any action taken may make such person an "executor de son tort".[8]

2.1.2 Appointment: The appointment of an executor is not limited to individuals. An artificial person, usually a trust corporation, may also be appointed as an executor. When appointing an executor, the Testator must be well advised and should take certain factors such as age, mental and physical health, capacity, etc., into consideration. While there is no statutory limit as to the number of executors that may be appointed,[9] it is noteworthy that the grant of Probate can only be issued to a maximum of 4 executors at a time.

2.1.3 There are various ways an executor may be appointed, including through the Will itself, by the tenor of the Will,[10] by operation of law,[11] or by a person nominated in the Will to do so.

3. Administrators

3.1 An administrator is defined as the person to whom a grant is given by the court to administer the estate of the deceased.[12] This occurs where the deceased person died intestate, no executor was appointed in a Will, or the named executor or executors are

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6 [2011] 7 NWLR (Pt. 1247) 591.

7 *Supra* at page 619, para. B.

8 This translates literally to 'executor of his own wrong'. Even if the act is done in good faith, mere intermeddling with the estate places him in the wrong and may incur personal liability. See, *Edozien v. Amadi* [1962] LPELR-25414(SC).

9 It is however, advised that where the Executors are also appointed as Trustees, a minimum of 2 people must be appointed.

10 See, *Mudasiru v. Abdullahi* (supra).

11 Section 8 *Administration of Estates Law*, CAP 1, Laws of Oyo State of Nigeria 2020.

12 In *Re Odutola* [2002] 16 NWLR (Pt. 794) 470.

unwilling to act. For administrators, the legal authority to act is conferred by the Letter of Administration granted to them, which is also the legal instrument that serves as evidence of their legal standing to act. Without this Letter of Administration, any action taken would be unlawful and render the actor an *executor de son tort*.

3.2 Appointment: Only the court is vested with the power to appoint an administrator, which is done upon an application made by eligible persons, and the court does so within its discretion. In exercising its discretion, the court must have regard to the rights of all persons interested in the estate. In a case of intestacy, administration may be granted to persons interested in the deceased's residuary estate, and where there is a will but no acting executor, the court may appoint a legatee.[13]

3.3 It is important to note that the court grants a Letter of Administration to a maximum of four administrators at a time.

4. Roles and Responsibilities of Personal Representatives

4.1. Despite their different modes of appointment, executors and administrators perform similar duties, roles, and responsibilities in the administration of estate. These duties have been outlined in both statutory law and case law and must be performed diligently and transparently in a fiduciary capacity. Some of their primary duties include:

4.1.1. Application for Grant of Probate/Letters of Administration:

The first duty of personal representatives is to obtain the legal authority to act on behalf of the estate. After the Will is read, the Executors are to initiate the probate process by filing an application and providing the requisite information and documents to the Probate Registry. In the case of intestacy, the proposed administrators, who must be eligible persons, shall make an application at the Probate Registry. This application may be done by the personal representatives themselves or by a legal practitioner briefed to do so on their behalf.

4.1.2. Collection of Estate Assets[14]

The personal representatives must realize the assets of the Estate, that is, identify, locate, and secure all assets of the deceased, including bank accounts, real property, shares and investments, as well as personal property and valuables.

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[13] A legatee is a person to whom a legacy is bequeathed, or a devise is given in a Will, i.e., a beneficiary.

[14] Section 14(a) of the *Administration of Estates Law*, CAP 1, Laws of Oyo State.

4.1.3. Preparation of an Inventory[15]

Personal representatives have a duty to ascertain the nature and value of the deceased's estate. This includes the obligation to prepare an accurate inventory of all known assets, which may be required by the Probate Registry for the purposes of assessment and valuation of the Estate. It is essential to disclose and include in the inventory all identifiable assets of the deceased, as personal representatives have no legal authority to manage, administer or deal with any property that is not expressly covered by the Probate/Letters of Administration.

4.1.4. Payment of Debts and Liabilities[16]

Personal representatives are responsible for notifying creditors (if any), identifying and settling all legitimate debts, handling taxes (including estate duty), and resolving any outstanding liabilities of the deceased. It is important that all debts and liabilities are discharged before any distribution of the estate to beneficiaries. Executors and Administrators must exercise due diligence in the payment of debts owed to all creditors and entitlements of all beneficiaries, as they would be personally liable for any loss suffered by a creditor or beneficiary as a result of their negligence.

4.1.5. Distribution of the Estate

After all debts and liabilities have been settled, the remaining assets must be distributed to the beneficiaries. Executors must do so according to the instructions of the Testator contained in the Will and not deviate or rely on their own personal discretion. Any failure to comply with the testator's instructions constitutes a breach of duty, and the beneficiaries may bring an action against the executors. For Administrators, the distribution of the remaining assets to the beneficiaries must be done in a fair and transparent manner and in accordance with the applicable law(s).

4.1.6. Maintenance and Rendering of Accurate Records[17]

All transactions, receipts, disbursements, and other financial dealings concerning the estate must be properly documented. The personal representatives are expected to render accounts of administration of the estate

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15 Section 14(b).

16 See, *Daura & Anor v. Union Bank* [2024] LPELR-62008(SC).

17 Section 14(b) of the *Administration of Estates Law*, CAP 1, Laws of Oyo State. See, *Olubi v. Olubi* [2025] LPELR-80946(CA)

whenever called upon to do so, and in jurisdictions such as Oyo State, accounts are to be submitted every 12 months from the date of grant of Probate/Letters of Administration.[18] Additionally, a final account is required to be submitted to the Probate Registry before closure of the estate. The accounts may typically include:

i. An inventory of all assets in the estate;
ii. An account of all monies received on behalf of the Estate;
iii. Purchases made;
iv. Out-of-pocket expenses;
v. Vouchers in the possession of the Executors/Administrators relating to the administration of the estate; and
vi. Other necessary account of the administration, and so on.

5. Conclusion

In managing a deceased person's estate, there are many legal as well as moral responsibilities involved. Whether appointed as an executor or an administrator, personal representatives are the legal stewards of the estate, with the responsibility of managing, preserving, and allocating assets in compliance with the law and, if known, the wishes of the deceased. They play a crucial role in maintaining the integrity of the succession and inheritance system by making sure that beneficiaries receive their rightful entitlements, creditors' rights are upheld, and the estate is managed effectively and openly. Personal representatives must act with utmost accountability and diligence throughout the administration process due to the scope of their responsibilities and the possible legal consequences of poor management.

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[18] Order 67 Rule 46 of the *High Court of Oyo State (Civil Procedure) Rules*, 2022.