



## An examination of the administration of estate under the Nigerian property law

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### Abstract

The administration of estates is a critical aspect of private law, as it determines how the property, rights, and liabilities of a deceased person are preserved, managed, and ultimately transferred to beneficiaries or heirs. In Nigeria, this process is shaped by a plural legal system comprising statutory law, customary law, and Islamic law, each of which applies depending on the personal circumstances of the deceased. This article examined the concept of estate administration and identifies the roles of personal representatives, namely executors and administrators. It also explored the legal basis of their appointment through grants of probate and letters of administration, as well as the scope of their powers and duties under Nigerian law. Emphasis was placed on the fiduciary nature of estate management, which requires personal representatives to act in good faith, with diligence and accountability, in collecting assets, settling debts, and distributing the estate in accordance with the law. It was found that administration of estates in Nigeria continues to face significant challenges, including delays, family disputes, lack of awareness of legal procedures, and conflicts arising from the interaction of different systems of law. Consequently, it was recommended that there is a need for continuous legal reform, public enlightenment, and stricter enforcement of probate rules.

**Keywords:** Administration, estates, management, probate, will, intestacy, inheritance

### Introduction

When a person dies, the rights to his or her property and the property itself become subject to inheritance under the law. The process through which the estate of a deceased person is managed and distributed is known as the administration of estates. In Nigeria, this process is not automatic. It is regulated by established legal procedures designed to ensure order, fairness, and the protection of the interests of beneficiaries, creditors, and other stakeholders. The administration of an estate becomes necessary because the death of a person often leaves behind assets, liabilities, and sometimes disputes that must be lawfully resolved.

The procedure for administering a deceased person's estate in Nigeria depends largely on whether the deceased left a valid will or died intestate. Where a valid will exists, the executors named in the will are required to apply for and obtain a grant of probate, which confers legal authority to administer the estate. Conversely, where the deceased died without a will, letters of administration must be applied for and obtained by the appropriate persons to enable them to manage and distribute the estate. These legal processes are essential in preventing confusion, family disputes, and unlawful interference with the property of the deceased, which are common challenges in inheritance matters. The aim of this article is to examine the provisions of law on the administration of estate in Nigeria. This is with the objective of identifying some challenges and problems connected to the law and making appropriate recommendations on the matter.

### Conceptual Clarification

Death is inevitable. Every living human being is unavoidably going to die. Life in this world is not permanent. He who was born must one day pass away. Administration of estates is therefore essential for the determination of how the properties of a deceased person can be managed or distributed among the heirs or beneficiaries. For a perfect understanding of administration

of estate within the context of Nigerian law, there is a need of analysing some terms and concepts related to it.

### Estate

This refers to all of the property (both real and personal) that an individual owns, or has a controlling interest in, at any given point of time in their life and at the time of their death. It also includes any legal rights or debts attached to such property <sup>[1]</sup>. It refers to the total property, rights, interests, and liabilities left behind by a deceased person. Under Nigerian law, it includes both movable and immovable property as well as choses in action.

### Deceased person.

Synonymously the phrase means dead, deceased, decedent, departed. It is used to refer to a dead person. It means someone who is no longer alive <sup>[2]</sup>. It is an individual who has died and whose death has brought his legal personality to an end. Upon death, the person ceases to have legal capacity, meaning he can no longer own property, enter into contracts, or enforce rights in his own name. However, the rights and obligations that accrued to him during his lifetime do not automatically extinguish with death. Instead, they attach to his estate and become subject to administration under the law.

### Will

This is a legal instrument by which a person, called the testator, expresses his intentions as to how his property and affairs should be dealt with after his death. It is a unilateral and voluntary declaration that takes effect only upon death and remains revocable by the testator during his lifetime, provided he retains the required legal capacity. In *Asika v. Atuanya* <sup>[3]</sup>, the Supreme Court provided a dual definition of a will. The first is philosophical, representing the entirety of the testator's wishes after death. The second is physical, denoting the actual paper or document where these intentions are expressed. The case reinforces that the

document must reflect the clear, deliberate, and final wishes of the maker. According to the Wills Act <sup>[4]</sup>, it is a testamentary document voluntarily made and executed according to law by a testator with a sound mind, where he disposes of his properties (real or personal) to beneficiaries to take effect after his death <sup>[5]</sup>. Simply put, it is a document written by a person wherein he/she gives detailed instructions on how all properties acquired during his lifetime should be distributed to persons of his choosing and who should administer such distribution.

### **Testator/ Testatrix**

A testator is a person who makes a valid will during his lifetime and dies leaving that will in force. It refers specifically to a male person who expresses his intentions on how his property should be distributed after death through a will <sup>[6]</sup>.

A testatrix is the female equivalent of a testator. It refers to a woman who makes a valid will during her lifetime and dies leaving that will in force. The term is used to distinguish gender in traditional legal usage, although modern law often uses the word testator for both males and females <sup>[7]</sup>.

### **Testate and Intestate Estate.**

Simply put, testate means passing with a will. Testate estate refers to the estate of a deceased person who died leaving behind a valid will. It describes a situation where the deceased clearly expressed his or her intentions during lifetime on how property and other assets should be distributed after death through a will. Where an estate is testate, the administration and distribution of the deceased's property are governed primarily by the terms of the will, subject to the provisions of relevant laws such as the Wills Act, applicable Wills Laws of the various States, and other statutory requirements <sup>[8]</sup>. In such cases, executors named in the will are entitled to apply for a grant of probate in order to lawfully manage and distribute the estate in accordance with the wishes of the testator or testatrix.

In the same line, the term 'intestate' is passing away without a will. Intestate estate therefore means the estate of a deceased person who died without making a valid will, or whose will is ineffective in disposing of all his or her property. A person is said to have died intestate where no testamentary instructions exist to guide the distribution of the estate after death <sup>[9]</sup>. In such cases, the administration and distribution of the estate are regulated by law rather than by the personal wishes of the deceased. The applicable law may be statutory law, customary law, or Islamic law, depending on the personal law that governed the deceased during his or her lifetime. The estate is administered by personal representatives appointed by the court through a grant of letters of administration, and the assets are distributed in accordance with the rules prescribed by the relevant legal framework.

### **Executor**

An executor is a person duly appointed by a testator to carry out, manage, and give legal effect to the wishes and intentions expressed in a will after the death of the testator. The executor occupies a position of trust and is responsible for ensuring that the estate of the deceased is properly administered and distributed in accordance with the provisions of the will and the law. In Nigeria, the appointment, duties, and conduct of executors are regulated

by the Wills Act, the Administration of Estates Laws, and the various State Wills Laws applicable within the Federation <sup>[10]</sup>. These laws impose legal obligations on executors and provide clear guidelines for the administration of estates. Where an executor acts in breach of these provisions, neglects his or her duties, or mismanages the estate, such an executor may incur personal liability and may be subject to legal action by beneficiaries or other interested parties. This underscores the importance of diligence, honesty, and strict compliance with statutory requirements in the performance of executorial duties <sup>[11]</sup>. Unless there is a valid objection, the Court will grant representation to the person named in the will by the testator to be executor <sup>[12]</sup>.

### **Probate**

Probate is the authority that validates the powers and functions of an executor <sup>[13]</sup>. It is the legal authority issued by a court to confirm the validity of a deceased person's will and to empower the executors named in the will to administer the estate of the deceased. It is a formal judicial recognition that the will presented is the true and last testament of the deceased and that the persons appointed as executors are legally competent to carry out the instructions contained in the will.

Under Nigerian law, executors derive their powers from the will, but they cannot effectively exercise those powers against third parties without a grant of probate. Banks, land registries, and other institutions will not recognise the authority of executors unless probate has been granted. The grant therefore serves as conclusive proof of the executor's title and capacity to act <sup>[14]</sup>.

### **Letters of administration.**

This is the legal authority granted by a court to a person or persons to administer the estate of a deceased individual who did not leave a valid will, or where no executor is able or willing to act. It is the instrument through which the law appoints administrators to manage and distribute the estate of the deceased in the absence of executors. It fills the vacuum created by the death of a person without a will or without an effective executor. Since there is no will to guide the administration of the estate, the administrators derive their authority solely from the court and must act strictly in accordance with the rules of intestacy and relevant statutory provisions. Unlike executors, administrators have no authority to deal with the estate until the letter of administration has been formally granted <sup>[15]</sup>.

### **Trust and Trustee**

The term 'trust' a relationship which arises whenever a person called the trustee is compelled in equity to hold property, whether real or personal, and whether by legal or equitable title, for the benefit of some persons (of whom he may be one and who are termed as *cestui que trust*) or for some object permitted by law, in such a way that the real benefit of the property accrues, not to the trustee, but to the beneficiaries or other objects of the trust <sup>[16]</sup>. It is a legal arrangement whereby a person, known as the settlor, transfers property or rights to another person, called the trustee, to hold and manage for the benefit of a third party, known as the beneficiary, or for a specified purpose <sup>[17]</sup>. The essence of a trust lies in the separation of legal ownership from beneficial ownership. While the trustee holds the legal

title to the trust property, the beneficiary enjoys the beneficial interest.

However, trusts are often created by will or by *inter vivo* arrangements to ensure proper control, protection, and distribution of property. Trusts may be used to provide for minors, dependants, or persons who are incapable of managing property on their own. Nigerian law recognises trusts under equity and relevant statutes, and courts actively supervise trustees to prevent abuse.

A trustee occupies a fiduciary position founded on confidence, loyalty, and good faith. The trustee is under a legal duty to act honestly, prudently, and in the best interests of the beneficiaries at all times. This duty requires the trustee to avoid conflicts of interest, refrain from making personal profit from the trust, and manage the trust property with reasonable care and skill. Trustees may be appointed by a will, a trust deed, or by the court. Their responsibilities include safeguarding trust assets, investing or applying them appropriately, keeping proper accounts, and ensuring that the benefits of the trust are distributed in line with the settlor's intentions. Trustees are accountable to the beneficiaries and are subject to the supervisory jurisdiction of the court<sup>[18]</sup>.

### Probate Registry

The Probate Registry is a specialised division of the High Court in most States of the Federation and operates under the direct supervision and authority of the High Court of each State. It is an institutional mechanism created to ensure that the administration of the estate of a deceased person is carried out lawfully, orderly, and in accordance with established legal principles. As part of the judicial structure, the Probate Registry does not function independently but acts as an extension of the probate jurisdiction of the High Court.

One of the most important features of the Probate Registry is its exclusive jurisdiction in matters relating to the grant and revocation of probate and letters of administration. This jurisdiction covers both real and personal property belonging to a deceased person. The effect of this exclusivity is that no person, regardless of relationship with the deceased, is legally empowered to manage, distribute, or deal with the estate unless authority has been formally granted by the Probate Registry. Any act carried out without such authority amounts to intermeddling and may attract legal consequences under Nigerian law. In cases where a deceased person left a valid Will, the Probate Registry is responsible for issuing a Grant of Probate to the executors named in the Will. Before such a grant is made, the registry carefully examines the Will to ensure compliance with the relevant legal requirements. This includes confirmation that the Will was properly executed, duly signed, and correctly attested in accordance with the applicable Wills Law. The registry also confirms the death of the testator and verifies the identity and eligibility of the executors. Once satisfied, the registry issues the grant, thereby empowering the executors to administer the estate in line with the instructions contained in the Will. Where a person dies without leaving a valid Will, the Probate Registry issues Letters of Administration. In such circumstances, the registry determines the persons entitled to apply for the grant, usually close family members such as spouses, children, or parents of the deceased. The registry ensures that the appointment of administrators follows the order of

priority prescribed by law. Applicants are required to submit relevant documents, including a death certificate, details of beneficiaries, and a full inventory of the assets and liabilities of the estate. In many cases, the registry also requires the provision of sureties to guarantee proper administration of the estate.

Beyond the issuance of grants, the Probate Registry has the power to revoke grants that were improperly obtained. A grant may be revoked where it was secured through fraud, concealment of material facts, misrepresentation, or procedural irregularities. This revocation power is a critical safeguard that protects beneficiaries and creditors of the estate from abuse and ensures that the probate process remains credible and just. The registry, acting under the authority of the court, may revoke a grant either upon application by an interested party or on its own discovery of wrongdoing.

The Probate Registry plays an important role in the resealing of probate and letters of administration. Resealing becomes necessary where a grant has already been issued in another State or jurisdiction, but the deceased owned property within the State where resealing is sought. Through this process, the registry extends the legal effect of the original grant to cover assets located within its territorial jurisdiction. This ensures seamless administration of estates with properties spread across multiple locations.

They are responsible for handling double probate in situations where more than one executor is appointed under a Will but not all executors apply for probate at the same time. In such cases, the registry may issue probate to some executors initially and later grant double probate to others when they are ready to act. The registry also undertakes confirmation and verification of grants when required for legal, administrative, or transactional purposes.

It should be noted that under Nigerian law, the right to apply for probate is strictly limited to the executors expressly appointed in a valid Will. No other person, regardless of relationship with the deceased, is entitled to seek a grant of probate unless named as an executor in the Will. The authority of an executor flows directly from the Will and is only confirmed by the grant of probate issued by the court.

Where an executor declines to act, formally renounces the appointment, or dies before applying for probate, the court does not allow the estate to remain without proper administration. In such circumstances, the court may issue letters of administration with the Will annexed to another suitable person. This person is often a beneficiary under the Will, although the court retains discretion to appoint any person it considers fit and proper to administer the estate<sup>[19]</sup>.

Executors, whether original or substituted, occupy a position of trust. They are required to administer the estate honestly, impartially, and diligently. Their actions must strictly reflect the intentions of the deceased as expressed in the Will, and they must always act in the best interest of the estate and its beneficiaries. Failure to discharge these duties faithfully may expose an executor to legal liability.

It should however be noted that apart from the above mentioned there are other categories of individual persons that are also eligible to grant probate. These *inter alia* include - any residuary legatee or devisee holding in trust for other persons; any specific legatee or devisee entitled on the happening of any contingency, or any person having no interest under the Will who would have been entitled to a grant if the deceased had died wholly intestate<sup>[20]</sup>. The

ultimate residuary legatee or devisee, including one entitled on the happening of any contingency or where the residue is not wholly disposed of by the Will, any person entitled to share in the residue not so disposed of or the personal representative of any such person. However, unless a judge directs otherwise, a residuary legatee or devisee whose legacy or devise is vested in interest shall be preferred to one entitled on the happening of a contingency and where the residue is not in terms wholly disposed of, the judge may, if he is satisfied that testator have nevertheless disposed of the whole or substantially the whole of the estate as ascertained at the time of the application for the grant <sup>[21]</sup>.

It is noteworthy to state that to obtain probate there is a need to first lodge the original will at the Probate Registry in the court, this is followed by filing an application together with supporting documents which may inter alia include executor's oath, death certificate, inventory of assets. Publication of notices in newspapers to invite objections if any should then be made. Duties and taxes of the estate would then be verified and assessed. Payment of the assessment fees will then be made. The probate will then be issued to the executor.

It is pertinent to state that there are many challenges and problems in the grant of probate in Nigerian court. These are as the result of the complexities in the system.

For instance, the next of kin is usually the closest living relative of a person. "The Black's Law Dictionary defines the words 'next of kin' as the person or persons most closely related to a descendant by blood or affinity" <sup>[22]</sup>. The next of kin is usually the first point of contact in cases of emergencies or eventualities. A person designated as next of kin holds the authority to make decisions when the person who appointed them is unavailable or incapacitated. In the case of *Joseph v Fajemilehim O. I & anor* <sup>[23]</sup> "it was stated that a next of kin is the person declared to be the nearest kindred to the declarant".

The major challenge however lies in determining the beneficiaries of an estate where a person dies intestate. Now it is important to note that there is a serious misconception about the position of a next of kin where the person who names him or her as such passes away. A lot of persons are of the view that such next of kin automatically inherits all the assets of the deceased, but this is a false view under the Nigerian legal system. The next of kin is only considered when a person dies intestate and leaves behind no surviving spouse or children. In *Mohammed v Tijani* <sup>[24]</sup> the court stated that a person's next of kin often takes precedence over others in inheritance matters, especially where a person dies intestate. Inheritance rights use the next of kin relationship for anyone who dies without a Will, leaving no spouse or children. Surviving individuals may also have responsibilities, during and after their relative's life. For example, the next of kin may need to make medical decisions if the person becomes incapacitated or takes responsibility for his/her funeral arrangements and financial affairs after their relative dies. In *Williams v. Ogunbiyi* <sup>[25]</sup>, the court PER OGUNBIYI JCA that: "The concept of succession in this respect is not mythical but legal and provided by law". Section 49 (5) of the Administration of Estates Law of Lagos State states that "Where any person who is subject to customary law contracts a marriage by the provisions of the marriage act and such person dies intestate after the commencement of this law leaving a widow or

husband or an issue of such marriage, any property of which the said intestate might have disposed of by will be distributed by the provisions of this law, any customary law to the contrary notwithstanding." In *Onukogu v. Nwokolo & Anor* <sup>[26]</sup>, the Court affirmed that a beneficiary of the deceased estate need not be a next of kin, but a legitimate inheritor of the deceased estate. By virtue of Section 49(5) of the Administration of Estates Law of Lagos State, where any person who is subject to customary law contracts a marriage in accordance with the provisions of the Marriage Act and such person dies intestate leaving a widow or husband or any issue of the marriage, any property which the intestate might have disposed of by will shall be distributed in accordance with the provisions of the Law, notwithstanding any Customary law to the contrary. The clear intention of the law maker is that customary law should be excluded in relation to the estates of the person to whom the provisions of this law apply.

Another problem that may affect the process of probate is forgery and fraud. Thus, it is provided in Criminal Code <sup>[27]</sup> that -

A person who makes a false document or writing knowing it to be false, and with intent that it may in any way be used or acted upon as genuine, whether in the State or elsewhere, to the prejudice of any person, or with intent that any person may, in the belief that it is genuine, be induced to do or refrain from doing any act, whether in the State or elsewhere, is said to forge the document or writing.

The act also provides that "any person who forges any document, writing, or seal, is guilty of an offense which, unless otherwise stated, is a felony, and he is liable if no other punishment is provided, to imprisonment for three years" <sup>[28]</sup>.

Fraud in probate matters usually arises where an applicant deliberately conceals material facts from the Probate Registry or makes false representations in order to obtain a grant. This may include presenting false information about the beneficiaries, suppressing the existence of other entitled persons, or misrepresenting the value or composition of the estate. Such dishonest conduct misleads the court and undermines the integrity of the probate process. Forgery, on the other hand, commonly involves the fabrication or alteration of a Will or other probate documents. This may include forging the signature of the testator, altering the contents of a Will, or presenting a completely false document as the genuine Will of the deceased. Since probate is granted on the assumption that the Will reflects the true intentions of the deceased, any form of forgery strikes at the very heart of testamentary freedom and justice <sup>[29]</sup>. Where fraud or forgery is discovered before probate is granted, the Probate Registry may refuse to issue the grant and refer the matter to the court for proper investigation. If the grant has already been issued, Nigerian law empowers the court to revoke such grant once it is established that it was obtained by fraud, concealment of material facts, or forgery. The affected parties may also face civil liability and, in appropriate cases, criminal prosecution.

One of the most common challenges to the grant of probate in Nigeria is a dispute over the validity of the Will. Probate can only be granted where the Will presented is valid under the law. A Will may be challenged on several legal grounds, including improper execution, lack of testamentary capacity, undue influence, or suspicion of forgery. For instance, if the Will was not signed by the testator or not properly attested

by witnesses as required by the Wills Law, the Probate Registry cannot lawfully issue probate. Where an interested person alleges that the deceased lacked mental capacity at the time the Will was made, the court must determine whether the testator understood the nature and effect of the document. Allegations of undue influence may also arise where it is claimed that the testator was pressured or manipulated into making the Will. Once any of these issues is raised, the probate process becomes contentious. The Probate Registry must suspend action and refer the matter to the court for judicial determination. Until the dispute is resolved, probate cannot be granted, leading to delays in estate administration.

Procedural and administrative challenges also affect the grant of probate in Nigeria. Many applicants fail to comply fully with probate requirements, such as submission of complete documents, payment of assessed probate fees, or proper valuation of the estate. Errors or omissions in applications often lead to repeated queries from the Probate Registry, thereby prolonging the process. These procedural and administrative challenges do not usually invalidate probate applications, but they slow down the process considerably. As a result, estates remain unadministered for extended periods, defeating the purpose of probate as a mechanism for timely and orderly estate management.

### Letter of Administration

This is a legal document issued by the Probate Registry to empower an individual, usually a family member to manage, dispose, or administer the estate of a deceased person who died without a valid will. Until the Letter of Administration is obtained, the estate of the deceased is deemed to be vested in the Chief Judge of the State where the deceased resided. In the case of *Ugu v Tobi* [30], it was held that “a letter of administration is not transferable and cannot be inherited, it also does not convey title in the estate to the named administrator, although he may deal with the estate of the deceased legally”. In Nigerian law, grant of letter of administration is of different modes. It includes grant of letter of administration with will annexed and grant of letter of administration without will annexed.

### Grant of Letter of Administration with Will Annexed

This grant becomes necessary when a deceased person dies partially intestate, meaning that the deceased left a valid Will but did not appoint any executors, or the executors named in the Will are unable or unwilling to act. In such situations, the estate cannot be administered through the standard probate process, as there is no executor with legal authority to manage the estate.

The purpose of this grant is to empower a suitable person—often a beneficiary under the Will or another person the court considers appropriate—to administer the estate according to the directions contained in the Will. Unlike a normal Grant of Probate, which confers authority on executors named in a Will, the Letters of Administration with Will Annexed transfers that authority to someone else, thereby ensuring the estate is properly managed and distributed.

Legally, the court exercises discretion in appointing the administrator. Priority is usually given to beneficiaries under the Will, but the court may consider other factors such as the person’s ability to faithfully administer the estate, absence of conflicts of interest, and willingness to act. The

appointed administrator is required to act in accordance with the Will and in the best interest of all beneficiaries, just like an executor.

This grant ensures that the wishes of the deceased are still respected even in the absence or incapacity of executors. It also prevents disputes or mismanagement by providing a legally empowered administrator to handle debts, taxes, and distribution of the estate. Failure to obtain this grant before acting on the estate can amount to intermeddling, which may expose the administrator to legal liability.

In practice, applying for Letters of Administration with Will Annexed involves submitting the original Will, a death certificate, an inventory of estate assets, and evidence of the executors’ inability or refusal to act. Once granted, the administrator has full legal authority to collect assets, settle liabilities, and distribute the estate according to the Will, ensuring orderly administration under Nigerian law.

### Grant of Letter of Administration Without Will Annexed

This is issued where a deceased person dies intestate, meaning he died without making any valid will. It also applies where the deceased made a will, but the will failed to dispose of the whole estate and there is no residuary clause to cover the undisposed property, or where the will has been declared invalid by a competent court. In such circumstances, there is no executor legally empowered to administer the estate, and the law must intervene to ensure proper management and distribution of the deceased’s property [31]. Under Nigerian law, particularly the Administration of Estates Laws of various states, the court has the power to appoint administrators to manage the estate of an intestate deceased. Priority is usually given to close relatives of the deceased, such as the surviving spouse, children, or other next of kin, depending on the applicable law and customary considerations. The appointed administrators derive their authority strictly from the grant and must act within its limits.

The administrators are required to gather and preserve the assets of the estate, settle the debts and liabilities of the deceased, and distribute the remaining property in accordance with the rules of intestacy. Unlike executors, administrators cannot act until the grant is issued. Any act done before the grant is illegal and void. This type of grant ensures order, legality, and fairness in the administration of estates where the deceased failed to leave a valid will.

It should be noted that there are other special categories of grant of Letters of Administration include

- a. **Grant Durante Dementia:** This is a grant made to another person where the person entitled suffers incapacity as a result of mental or physical infirmities.
- b. **Grant durante minore actate:** This is a temporary grant limited in time in order to manage the estate on behalf of a minor till he/she attains the legal age to manage his/her affairs.
- c. **Grant ad litem:** This is where the Court appoints a person to represent the unrepresented estate in litigation in order to continue proceedings in Court.
- d. **Grant Pendente Lite:** This is a grant whereby a personal representative is appointed to administer the estate of the deceased pending the determination of a suit over the estate.

- e. **Grant pending the grant of Letters of Administration:** Between the death of the deceased and the grant of Letters of Administration, the Chief Judge is statutorily empowered to administer the estate.
- f. **Administration by an Attorney:** A person entitled to grant of Letters of Administration can appoint an attorney to apply for grant of Letters of Administration on his behalf where such person resides outside Nigeria.
- g. **Administration by the Administrator-General:** The Administrator-General of the State will administer the estate in instances where: (a) the estate is unrepresented (b) the estate is exposed to the danger of misappropriation, waste or deterioration (c) the agents in charge of assets of a person not residing in Nigeria dies or a company not incorporated in Nigeria winds up without leaving a responsible person in charge of the assets (d) the testator appoints the Administrator-General as sole executor.

In law, the persons that are entitled to apply and be granted the letter of administration are generally called next of kin. Accordingly, there are many persons entitled to apply and obtain the letter of administration. In order of priority, the following persons are entitled to apply for the grant of the letter<sup>[32]</sup>.

- a. Surviving spouse of the deceased.
- b. Children/ grandchildren of the deceased.
- c. Parents of the deceased.
- d. Brothers or sisters of the deceased of full blood, or the children of such brother or sister who died in the lifetime of the deceased.
- e. Brothers or sisters of the deceased of full blood, or the children of such brother or sister who died in the lifetime of the deceased.
- f. Grandparents of the deceased.
- g. Aunts/Uncles of the deceased.
- h. Creditors of the deceased.
- i. Administrator-General

Any of the above persons qualify to apply and desire to obtain the letter of administration must follow a certain procedure. He should step by step ensure his compliance with the following

1. Application by the next-of-kin, supported with death certificate and affidavit.
2. Requirement for sureties who guarantee that the administrators will properly manage the estate.
3. Publication of notices in newspapers inviting objections.
4. Valuation of the estate and assessment of fees.
5. Payment of fees and estate duties.
6. Issuance of Letters of Administration to the approved applicants.
7. This process is often slower than probate, sometimes stretching up to two years if disputes arise among beneficiaries.

In Lagos State, the issuance of a Grant of Letters of Administration is subject to specific statutory waiting periods. A Grant of Letter of Administration with a Will annexed may only be issued after the expiration of fourteen

days from the death of the deceased, while a Grant of Letter of Administration without a Will annexed may only be issued after twenty-one days from the date of death<sup>[33]</sup>. Similarly, in the Federal Capital Territory, Abuja, the rules prescribe different waiting periods. No Grant of Letter of Administration with a Will annexed shall be issued within seven days of the death of the deceased, and no Grant of Letter of Administration without a Will annexed shall be issued within fourteen days of the death<sup>[34]</sup>. It is important to note that notwithstanding these statutory waiting periods, the overall process of applying for and obtaining a Grant of Letter of Administration typically takes between three to five months to be completed, depending on compliance with procedural requirements and administrative efficiency.

It must be mentioned that there are situations where the beneficiaries or personal representatives of a deceased person are unable to identify or locate all the assets forming part of the deceased's estate at the time the initial grant of Letters of Administration is made. Where this occurs, the law allows the administrators, whenever additional assets are later discovered, to apply to the Probate Registry for a Certificate of Further Security, also known as additional security. This application may be made as many times as new assets are discovered. Upon the completion of the prescribed forms and the payment of the required estate fees, the Probate Registry issues the certificate, thereby extending the scope of the original grant to cover the newly discovered estate.

The Probate Registry has the responsibility of resealing a grant of probate or Letters of Administration in order to give it effect in respect of immovable property located outside the State where the original grant was issued. This becomes necessary where the deceased owned real property in another State. In such circumstances, the executors or administrators are required to obtain a Certified True Copy of the probate or Letters of Administration from the issuing State and present it to the Probate Registry of the State in which the property is situated. Upon verification and payment of the applicable estate fees, the grant is resealed, thereby authorising the personal representatives to lawfully deal with the property in that State. Resealing is limited in application to real or immovable property and serves as a practical mechanism for ensuring the effective administration of estates that span more than one State, without the need to apply for a fresh grant in each jurisdiction<sup>[35]</sup>.

In law, the personal representatives of the deceased to whom an initial grant of probate or letters of administration have been made or any person authorised by them in writing can submit an application to the probate registry of the high court of the state where the asset is located for resealing. Where the initial grant is made to more than one person (multiple grantees), all grantees must apply jointly for the resealing<sup>[36]</sup>. If they fail to do so because of a disagreement among them, the resealing will not be granted unless the court issues an order to exclude any of the grantees.

It is noteworthy to state the for resealing under the Nigerian law, the following procedure must be one after the other followed

- a. An application for resealing is required to be made to the Probate Registry of the High Court of the State in which the deceased's assets are situated. The application must be accompanied by a sworn oath, a valid tax clearance certificate<sup>[37]</sup>, and a copy of the

original grant of probate or letters of administration. In addition to these, the Lagos State Probate Registry may require the submission of other supporting documents as prescribed by its practice and procedural guidelines which includes

1. Photocopy of means of identification of each applicant
  2. Photocopy of the deceased's death certificate or affidavit of loss of death certificate.
  3. A passport of the deceased
  4. Two passports of the personal representative.
- b. Upon receipt of the application, the Probate Registrar will issue the relevant forms to be completed and returned by the applicants. These include
1. Application form for re-sealing
  2. Oath for re-sealing
  3. Bank certificate
  4. Inventory
  5. Particulars of landed properties
  6. Bond for re-sealing
  7. Justification for sureties, where necessary
- c. The application for resealing is then advertised in a widely circulated national newspaper to allow any interested parties or creditors to enter a caveat challenging the resealing.
- d. In the absence of a caveat (objection to the grant) and upon the payment of probate duty and provision of security, the grant will be resealed. Section 3 of the Act prescribes that the payment of probate duty and provision of security are prerequisites for resealing. Probate duty is a tax levied on the deceased's estate before it can be administered by the personal representatives, while security refers to a deposit or bond that must be sufficient to cover the value of the estate. The provision of security is required when letters of administration are issued.
- e. A notice of resealing will also be sent by the registry to the court where the original grant was issued, which, in turn, will notify the registry of any amendment or revocation of the original grant.

### Conclusion

The Nigerian legal system provides a structured framework for estate management through statutory law, customary law, and Islamic law, each of which applies depending on the personal law of the deceased. This plural system reflects Nigeria's socio-legal diversity but also introduces complexity into estate administration. The study has shown that the administration of estates revolves around key legal concepts such as wills, probate, letters of administration, executors, administrators, trusts, and trustees. These concepts are not merely theoretical. They form the foundation upon which estates are lawfully managed and distributed. The Probate Registry of the High Court plays a central role in this process by granting and supervising probate and letters of administration, resealing grants, revoking defective grants, and preventing unlawful intermeddling with estates. Without the intervention of the Probate Registry, estate administration would be prone to disorder, fraud, and abuse.

Despite the existence of clear legal frameworks, it has been discovered that the administration of estates in Nigeria still faces some significant challenges which inter alia include

delays, family disputes, lack of awareness of legal procedures, and conflicts arising from the interaction of different systems of law. It is therefore recommended that there is a need for continuous legal reform, public enlightenment, and stricter enforcement of probate rules.

### References

1. Rhodium Law LLC, 'What is an Estate?' <https://rhodium.law/blog/what-is-an-estate/> > accessed 2 January 2026.
2. Sarfaraj Hamid. Legal Status of a Dead Person: A Critical Analysis in the Light of Jurisprudence. In *Scholars International Journal of Law, Crime and Justice*, 2024;7(10):474.
3. (2013) 14 NWLR (Pt. 1375) p. 510 SC
4. 1837
5. Enakireru Eric O, Oviolu EO. "Management and Control of the Deceased Estate Prior to Sharing in Nigeria: Critique of the Legal Dialectics of Succession." *Novena University Law Journal*. <<https://www.nigerianjournalonline.com/index.php/NULJ/article/view/5108>> accessed 28 December, 2025
6. YY Dadem. *Property Law Practice in Nigeria* (4<sup>th</sup> edn, Jos University Press Limited, 2018) 264.
7. Ibid.
8. Understanding Probate: The Difference between Testate and Intestate Estates. < <https://www.atcauselaw.com/post/understanding-probate-the-difference-between-testate-and-intestate-estates> > accessed 3 January 2026.
9. Mabogaje AA, Ogun OO. The Role of Estate Management in Heritage Property Conservation in Lagos State, Nigeria. *International Journal of Built Environment and Earth Science*, 2024, 5(4). <https://taapublications.com/tijbees/article/view/230> accessed 27th December, 2025
10. Olamide Oyetayo. Legal Duties of Executors in Estate Management. < <https://olamideoyetayolegal.com/legal-duties-of-executors-in-estate-management-and-probate-in-nigeria/> > accessed 29 December 2025.
11. Nnabuiife, Chukwuemeka A. The Lawyer-Executor in Estate Administration in Nigeria: An Examination of the Administration of Estate Laws and the Rules of Professional Conduct, 2025. <<https://chukwuemekannabuiife.net/the-lawyer-executor-in-estate-administration-in-nigeria-an-examination-of-the-administration-of-estate-laws-and-the-rules-of-professional-conduct/> > accessed 26 December, 2025
12. Grace Eniyandunmo. Executors' Duties and Responsibilities in Estate Management: Legal Compliance in Nigeria, 2025. <<https://www.mondaq.com/nigeria/wills-intestacy-estate-planning/1670276/executors-duties-and-responsibilities-in-estate-management-legal-compliance-in-nigeria> > accessed 26 December 2025.
13. YY Dadem. *Property Law Practice in Nigeria*. p.336.
14. Ibid.
15. Dadem 338.
16. Keeton, George W. *The Law of Trusts*. (8<sup>th</sup> edn. Digital Library, India, 1947 ) 3; Jegede, M.I. *Law of Trusts, Bankruptcy and Administration of Estate*. ( MIJ Professional Publishers Limited, Lagos 1999) 11.

17. Abdulkarim, Ibrahim. Trust Law and the Administration of Real Property in Nigeria. *International Journal of Advanced Legal Studies and Governance*, 2011, 2(1,2&3). <https://icidr.org.ng/index.php/Ijalsg/article/view/342> accessed 29 December, 2025.
18. Ibid.
19. Tunde, Adisa Legal Practitioners, 'Understanding Probate in Nigeria. What Happens When There Is No Will' (Media Insights, 2 September 2024) [https://tundeadisa.com/media\\_insights/understanding-probate-in-nigeria-what-happens-when-there-is-no-will/](https://tundeadisa.com/media_insights/understanding-probate-in-nigeria-what-happens-when-there-is-no-will/) accessed 24 December 2025.
20. Order 57 Rule 25 Lagos HCCPR
21. E.O Margaret 'Probate Registry and Administration of Estates in Nigeria' Bimak Associates, (August 29 2022)
22. Black's Law Dictionary (9<sup>th</sup> edn 2009)
23. [2012] LPELR 9847 (CA)
24. [2021] LPELR 54215 (CA)
25. (2006)11 NWLR (PT. 990)157
26. (2021) LPELR-55185 (CA)
27. Criminal Code Act, s.465.
28. Ibid. s.467.
29. Ize-Iyamu. v. Alonge (2007) All FWLR (Pt. 371) 1570
30. (1997) LPELR-S241/1992
31. Section 47 Administration of Estate Law of Lagos State
32. Section 49(1) Administration of Estate Law
33. Order 16 Rule 1(2) of the Lagos State High Court (Civil Procedure) Rules, 2019.
34. Order 62 Rule 1(3) of the High Court of the Federal Capital Territory, Abuja (Civil Procedure) Rules, 2018.
35. Property Law Practice In Nigeria, By Y.Y. DADEM, Page 336-341
36. Lagos State High Court (Civil Procedure) Rule, 2019, Order 63 Rule 25 (1)
37. Ibid, Order 63 Rule 25(2)