



UNITED NATIONS APPEALS TRIBUNAL
TRIBUNAL D'APPEL DES NATIONS UNIES

Judgment No. 2023-UNAT-1321

**Diana Kenoly, Carolyne Alany Rumah, Felix Kwame and
Nicholas Kariuki Kinyanjui in respect of
Roselyne Kayeke Oming (deceased)**
(Appellants/Respondents on Cross-Appeal)

v.

Secretary-General of the United Nations
(Respondent/Appellant on Cross-Appeal)

JUDGMENT

Before:	Judge Graeme Colgan, Presiding Judge Martha Halfeld Judge Gao Xiaoli
Case No.:	2022-1667
Date of Decision:	24 March 2023
Date of Publication:	13 April 2023
Registrar:	Juliet Johnson

Counsel for Appellants/Respondents on Cross-Appeal:	Self-represented
Counsel for Respondent/Appellant on Cross-Appeal:	Sylvia Schaefer

JUDGE GRAEME COLGAN, PRESIDING.

1. The Appellants, to whom we will refer collectively as such, are the adult children of a former United Nations staff member, Roselyne Kayeke Oming (Ms. Oming), who died on 29 June 2021 while in service with the United Nations. The Appellants objected to the Respondent identifying, for death benefit purposes, Abura Ruma Oming (Mr. Oming) as Ms. Oming's surviving spouse and beneficiary. The UNDT dismissed the Appellants' challenge to that decision by Summary Judgment No. UNDT/2021/162 delivered on 23 December 2021.¹ The Appellants have appealed that UNDT Judgment to the United Nations Appeals Tribunal (UNAT or Appeals Tribunal). The Secretary-General has cross-appealed contending that the UNDT both erred in law and exceeded its legal competence in finding that the decision contested by the Appellants was an appealable administrative decision. For the reasons that follow, we dismiss the Appellants' appeal, dismiss the Secretary-General's cross-appeal and affirm the UNDT Judgment.

Facts and Procedure

2. According to documents before the UNDT and now before us and despite the UNDT not having set out these facts in its Summary Judgment, the following appear to be the relevant events affecting this case in the sequence and on the dates they occurred.

3. Ms. Oming's first three children to Mr. Oming were born in 1978, 1980 and 1982. They are three of the Appellants.

4. On 5 August 1982, Mr. and Ms. Oming underwent a form of Ugandan customary marriage in Kole in the Apac District of Uganda. Luyhyan tribal customary law governed the marriage. It was not a formal legislation-based marriage of which the Ugandan government held written records but was able to be subsequently registered under the Ugandan legal system. As will be seen, this registration occurred in the Omings' case in 2014.

5. On or about 10 October 1989, Ms. Oming ceased living with Mr. Oming, travelling first to live in Kenya and subsequently obtaining employment with the United Nations, being posted to Kabul in Afghanistan with the United Nations Assistance Mission in Afghanistan (UNAMA).

¹ *Oming v. Secretary-General of the United Nations*, Judgment No. UNDT/2021/162.

6. From a date unknown, but before 1996, Ms. Oming began to live with another man. There is, however, no suggestion that they married. Their child, her fourth, was born in 1996. That child, now aged at least 26 years, is the fourth and youngest Appellant. That other man with whom Ms. Oming lived subsequently died.

7. On 13 December 2012, Ms. Oming lodged with the United Nations in Kuwait a form designating as her dependent beneficiaries her four children. There was no reference in this document to Mr. Oming.

8. On 10 September 2014, a Ugandan Certificate of Customary Marriage was issued recording the fact of the 5 August 1982 customary marriage of Mr. and Ms. Oming. It purports to contain Ms. Oming's signature (and Mr. Oming's) but Ms. Oming's first given name ("Roselyne") appears to have been misspelt on the certificate as "Rosalyne". It is unknown who may have hand-written Ms. Oming's name and other details on the certificate. The case records indicate that an earlier certificate to this effect was lost or destroyed in civil unrest in Uganda so that the 2014 certificate was a replacement.

9. In 2015, Ms. Oming submitted to the Administration a form on "Request for Change in Dependency Status". This recorded her as having taken a number of steps to have Mr. Oming included as the recipient of United Nations benefits payable to dependents upon the death of a staff member. Mr. Oming was then aged 68 years and if Ms. Oming's information was correct, he then had no income and was without prospect of it in the immediate future. The change Ms. Oming sought was to record Mr. Oming's status in her United Nations records from "legally separated" to "dependent" spouse. The United Nations required Ms. Oming first to confirm some details of her request and then to supply documentary proof of certain facts, both of which she did to the Organization's satisfaction by mid-2015. In this engagement with the Organization, Ms. Oming sent and received a number of e-mails from and to her work (United Nations) e-mail address which make it clear that it was her wish to make these changes. It seems clear, also, that some of the documentation that the Organization sought from her, had to be obtained from Mr. Oming himself, for example relevant pages of his current passport. Given the length of time that they had been separated and her posting to Kabul, it is reasonable to infer that Ms. Oming communicated with Mr. Oming to obtain this information and these documents relating to him. That too is indicative of a wish by Ms. Oming to provide for Mr. Oming rather than, as the Appellants would have it, to exclude him from any provision in the event of her death.

10. Without persuasive evidence to support it, the Appellants' claim that Ms. Oming did not then seek to include Mr. Oming as a beneficiary and that the documentation supporting this must therefore be false and fraudulent, draws altogether too long a bow to be credible and acceptable. While it may be unpalatable to the Appellants that one they describe as a violently abusive Mr. Oming could ever have been entitled to be Ms. Oming's beneficiary, it is now impossible to know why Ms. Oming may have done as she did in 2015 to try to provide for Mr. Oming in his old age. It would be speculative to say more than that it is not inconceivable that Ms. Oming may have wished to do just that.

11. On 20 January 2015, the United Nations received and thereafter held on Ms. Oming's file, a copy of the 10 September 2014 Certificate of Customary Marriage which had been certified on 30 September 2014 as a "true copy" of the original certificate. Although not corroborated by any documentary evidence of the Administration's records (or at least what constitutes part of the case file before us), the UNDT found, also in 2015, that Ms. Oming advised the Administration that her marital status was "married" and nominated Mr. Oming as the recipient of any allowance which might be payable on her death. The provision to the United Nations of a certified copy of the Certificate of Customary Marriage would appear to be consistent with that finding and with the UNDT's conclusion that Ms. Oming in 2015 expressed her wish that, whatever their past differences, Mr. Oming was to be her nominated beneficiary of any benefits that might be payable, including on her death.

12. Ms. Oming's Kenyan passport bears stamps that may indicate that she entered the USA on 7 March 2014 and left the USA on 6 September 2014, although the second-named Appellant contends in the submissions that Ms. Oming was with her (the second-named Appellant) in the USA on 10 September 2014 and not in Kenya where it appears that the Certificate was completed in handwriting purportedly by Ms. Oming. It can be seen from her passport that Ms. Oming had a B1/B2 US Visa covering that period.

13. Because the UNDT made no factual findings about whether Ms. Oming personally signed the Certificate of Customary Marriage issued on 10 September 2014 (which issue is at the forefront of the Appellants' contentions, in particular, that her signature in that document is a forgery), we do not make a finding either way on this issue. Indeed, it is unnecessary to do so in view of our conclusion, which is decisive of the appeal, that the Appellants are not in any event within the class of death beneficiaries.

14. On 31 May 2021, Ms. Oming executed her last will in Kenya. In effect, all her estate was left to her children and there is no mention therein of Mr. Oming.

15. Ms. Oming died on 29 June 2021 while in service with the United Nations. In August 2021, the Appellants were advised that they were the beneficiaries of the accrued monetary entitlements of their late mother, while Mr. Oming would be entitled to receive the death benefit payable under the Rules to a surviving spouse and/or dependent children. The Respondent also indicated that their mother's marital status at the time of her death was "legally separated" and not "divorced" and that under such circumstances, "the spouse would be entitled to the death benefit as they would still be considered legally married".

16. That decision was subsequently upheld on management evaluation of it.

The UNDT's Judgment

17. On 23 December 2021, the UNDT issued Summary Judgment No. UNDT/2021/162. Contrary to the Organization's submissions, the UNDT found the application receivable on grounds that the decision to consider Mr. Oming as the recipient of a death benefit pursuant to Staff Rule 9.11(a)(vii) produced direct legal consequences on the deceased staff member's contractual rights acquired during her previous employment. The UNDT held that Staff Rule 9.11(a)(vii) fell within the scope of "terms of appointment" under Article 2(1)(a) of the UNDT Statute. Therefore, the UNDT reasoned, the contested decision constituted an administrative decision within the meaning of Article 2(1)(a). The UNDT further found the application receivable, given that the Appellants were the children and potential recipients of a benefit triggered by the staff member's demise and were making claims in her name under Article 3(1)(c) of the UNDT Statute.

18. Turning to the merits of the application, the UNDT found that the decision to consider Mr. Oming as the recipient of a death benefit was not unlawful. The UNDT noted that the Administration based its decision on a review of the deceased staff member's official records, which listed her marital status as "legally separated", not divorced, and that in the absence of a divorce decree, Mr. Oming was the deceased staff member's legal spouse at the time of her death. The UNDT further found that the national authorities of Uganda confirmed that the deceased staff member and Mr. Oming were still legally married at the time of her death. Further, in 2015, the deceased staff member had claimed Mr. Oming as a dependent spouse

based on her status as “married” to Mr. Oming and sought to reinstate him officially as her recognized spouse.

19. The UNDT rejected the Appellants’ arguments that the Omings’ marriage certificate was forged, given that the deceased staff member had confirmed the authenticity of the marriage certificate and submitted it to the Organization herself. Further, the Uganda Registration Services Bureau had provided the Administration with a letter verifying the authenticity of the marriage certificate. The UNDT thus dismissed the application on its merits.

Submissions

The Appellants’ Appeal

20. The Appellants allege that the UNDT erred in law which led to a manifestly unreasonable outcome. In support of their appeal, they reiterate their claims that there had been inconsistencies in UNAMA’s communication, that the marriage certificate had been forged, and that Ms. Oming undertook legal actions to obtain an “official separation/divorce” in 1989.

21. The Appellants further reiterate their claims with regard to Ms. Oming’s will and that Ugandan law determines the personal status of Ms. Oming. Accordingly, the Appellants argue, Ugandan succession law applies, which provides that surviving spouses do not have a right to an interest of the deceased’s estate if they have been separated at the time of death.

22. The Appellants ask that the Appeals Tribunal reverse the impugned Judgment and rescind the contested decision.

The Secretary-General’s Answer to the Appellants’ Appeal

23. The Secretary-General submits that the UNDT correctly found lawful the contested decision to consider Mr. Oming as the surviving spouse of the deceased and, thus, recipient of a death benefit pursuant to Staff Rule 9.11(a)(vii). The UNDT rightfully highlighted that in coming to this conclusion, the Administration relied on several pieces of evidence obtained through a proper due diligence exercise and which was compliant with the Organization’s established standard practices and procedures.

24. The Secretary-General submits that the Appellants failed to establish any basis for appeal and attempt to relitigate their claims before the UNAT. The Appellants mainly re-submit the same arguments previously made before the UNDT, in particular their claims that there had been inconsistencies in UNAMA's communication, that the marriage certificate had been forged, and that Ms. Oming undertook legal actions to obtain an "official separation/divorce" in 1989. The Appellants further repeated their claims with regard to Ms. Oming's will and that Ugandan law determines the personal status of Ms. Oming, based on which the Appellants wrongfully concluded that Ugandan succession law applies, which provides that surviving spouses do not have a right to an interest of the deceased's estate if they have been separated at the time of death. Expressing general disagreement with the UNDT's judgment and repeating previous arguments does not constitute one of the five grounds for an appeal prescribed by Article 2(1) of the UNAT Statute. The Appellants have failed to identify one of the five grounds for appeal, thus have failed to establish any reversible error by the UNDT and, therefore, have failed to satisfy the requirements of Article 2(1) of the UNAT Statute.

25. Finally, the Secretary-General contends that the Appellants have failed to satisfy the requirements of the UNAT Statute and Rules of Procedure (Rules) for the receipt of additional evidence.

The Secretary-General's Cross-Appeal

26. The Secretary-General alleges that the UNDT erred in law and exceeded its competence in finding that the contested decision constituted an appealable administrative decision and finding the application thus receivable. Pursuant to Article 2(1)(a) and Article 8(1)(a) of the UNDT Statute, the UNDT is competent to hear and pass judgment on an application against an administrative decision that is alleged to be in non-compliance with the terms of appointment or the contract of employment. Such a decision must produce direct legal consequences adversely affecting a staff member's terms and conditions of appointment.

27. The Secretary-General avers that the identification of Mr. Oming as Ms. Oming's surviving spouse and beneficiary of a death benefit pursuant to Staff Rule 9.11(a)(vii) does not have any adverse or negative impact on the deceased Ms. Oming's terms of appointment or contract of employment. Neither does it have any negative impact on her surviving adult children, who under Staff Rule 9.11(a)(vii) do not have a right to a death benefit under

Staff Rule 9.11(a)(vii), which is only payable to a deceased staff member's spouse or "dependent children". The Appellants are not "dependent children" for the purpose of Staff Rule 3.6(a)(iii)(a) to (c), thus, as a matter of law, they are not entitled to a death benefit under Staff Rule 9.11(a)(vii), irrespective of whether such benefit will be paid to Mr. Oming. Moreover, pursuant to Staff Rule 9.11(a)(vii), "[s]uch payment shall be made only to the surviving spouse and dependent children". Therefore, the death benefit under Staff Rule 9.11(a)(vii) cannot be paid to Ms. Oming's estate or the Appellants as heirs of such estate.

28. Consequently, the Secretary-General contends, the contested decision is not an administrative decision, and the application should have been dismissed by the UNDT as not receivable *ratione materiae* (because it was not within the Tribunal's jurisdiction to do so). UNAT should therefore find that the application was not receivable and the UNDT erred in considering the matter.

The Appellants' Answer to the Secretary-General's Cross-Appeal

29. The Appellants reiterate their submission that the UNDT erred in fact resulting in a manifestly unreasonable decision. The Appellants contest the Secretary-General's unsupported contention that their deceased mother had received a dependency benefit. They request clarification and that UNAMA show how and when their late mother was receiving a dependency allowance.

Considerations

30. There are two preliminary matters to be dealt with before we can address the merits of the appeals. First, the Appellants sought from the UNAT, but were disallowed, an in-person hearing of the appeal, the UNAT saying we would give our reasons in the Judgment as we now do.

31. The default position on this issue is established by Article 8(3) of the UNAT Statute and Article 18 of the UNAT Rules. That default position is that there will be no hearings of appeals face-to-face. The Appeals Tribunal may depart from that default position of deciding the appeal on papers filed, if this would "assist in the expeditious and fair disposal" of the case.

32. The only and very general grounds in support of this application were said to be that "the case requires a rehearing and determination of [its] merits". As we will note in a different context later in this Judgment, that submission misunderstands the nature of an appeal to this Tribunal.

It is not a rehearing but rather a review of the correctness of the UNDT's Judgment as to reasoning and result. The nature of the case is such that it can best be addressed on the written materials filed and we do not consider that it would benefit, expeditiously or fairly, from the personal appearances of the Appellants. For these reasons, we declined the request for an oral hearing.

33. The second preliminary matter arises not from submissions made by the parties but as a jurisdictional question. It is whether, if the Appellants' appeal is dismissed, the Secretary-General, as the overall successful party before the UNDT, is entitled in law nevertheless appeal against the UNDT's Judgment in which he was, and continues to be, successful.

34. The question arises because of the suggestion from some previously decided cases, that there is, or at least there should be, no such right of appeal as the Secretary-General wishes to exercise in this case. Two recent Judgments of the Appeals Tribunal illustrate the state of the law in this regard, *Bagot* and *Avramoski*.²

35. The starting point for consideration of such questions is the Rules of the UNAT which allow expressly for what it calls, in Article 9(4), "cross-appeals". This allows a respondent party to an appeal (and so, therefore the successful party at first instance) to file an appeal against the same judgment which might otherwise be out of time. The only restriction in the Rules on such a cross-appeal is that it may not "add new claims", presumably claims in addition to those that the successful party brought to the first instance tribunal. In this case the Secretary-General asserted before the UNDT that the (now) Appellants' application was not receivable, which assertion the Secretary-General wishes to reiterate and which, if successful, would preclude necessarily the merits-based appeal of the Appellants before us.

36. Because this point has not been argued in the context of this appeal, we will not analyze it in detail. However, the Secretary-General's cross-appeal being essentially jurisdictional rather than merits-based, we consider it receivable before us. It was the subject of the UNDT's Judgment in response to a preliminary challenge to receivability in that forum by the Secretary-General. Indeed, it was the first issue addressed and decided by the UNDT, against the Secretary-General. So it follows that his cross-appeal is receivable before us.

² They are *Bagot v. Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East*, Judgment No. 2017-UNAT-718, paras. 26-38; and *Avramoski v. Secretary-General of the United Nations*, Judgment No. 2020-UNAT-987, para. 37.

37. It is logical to deal with the Secretary-General's cross-appeal first because if it succeeds, the proceeding will not have been receivable by the UNDT and the Appellants' appeal on the merits of their claims will be moot at best. However, we dismiss the Secretary-General's cross-appeal for the following reasons.

38. As the Secretary-General accepts, the UNDT's competence to consider the Appellants' appeal at first instance depended upon them and their case falling within Articles 2(1)(a), 3(1)(c) and 8(1)(a) of the UNDT's Statute. In essence, these require that such an appellant or applicant be a "person making claims in the name of ... [a] deceased staff member" and that the subject matter of the application to the UNDT be an "administrative decision" that is alleged to be in non-compliance with the staff member's terms of appointment or the staff member's contract of employment.

39. The relevant Staff Rules and the Administration's adherence to them were terms of Ms. Oming's appointment. She was entitled to, and did, make decisions in reliance on those Rules, including nominating beneficiaries in the event of her death. She was entitled to expect adherence to those relevant Rules and to her beneficiary nominations by the Secretary-General in the event of her death. Non-adherence after Ms. Oming's death allegedly produced direct legal consequences (payments made to the wrong persons). Such alleged non-adherence affected adversely the staff member's terms of appointment which terms necessarily survived her death.

40. Such an interpretation of the Rules' articles is necessary if there is to be any ability to review a decision of the Administration about liability, calculation or amounts of such benefits or about who are, or are not to be, the recipients thereof. Absent such a right of appeal by persons alleging both non-compliance by the Secretary-General with the relevant criteria for death benefits, and alleging loss thereby, it would be open to the Administration to distribute or to refuse to distribute such benefits arbitrarily and without even a single level of independent review.

41. It is too narrow an interpretation of the statutory threshold to bring such an appeal to the UNDT, to say that the Appellants cannot do so because the administrative decision sought to be appealed had no adverse or negative effect on the deceased staff member's terms of appointment or contract of employment. The staff member (Ms. Oming) had a legitimate expectation that, if she died, death benefits would be paid to either or both of her surviving spouse and her dependent children. Had the Secretary-General breached that duty to Ms. Oming, as the Appellants alleged, that would have impacted negatively upon her terms of appointment or her

contract of employment which included that obligation upon the Secretary-General towards her dependents.

42. In that sense, the UNDT was correct not to dismiss the claims as unreceivable, but to investigate their merits. The UNDT was right to receive the Appellants' claims. In these circumstances, the Secretary-General's cross-appeal against the UNDT's decision of receivability must and does fail.

43. Turning to the merits of the Appellants' appeal next, we likewise find these unpersuasive for the following reasons.

44. First, as with so many appeals brought by self-represented litigants, the Appellants have in many respects sought simply to re-argue their case presented to the UNDT and have, without the leave of the UNAT required to do so, sought to introduce new evidence or arguments in an effort to overcome deficiencies in their case at first instance. An appeal to the UNAT is not a right of general appeal or an appeal by way of rehearing. An appellant must identify error in the judgment appealed and do so in at least one of the statutory ways specified in Article 2(1) of the UNAT's Statute. As to new evidence or arguments, litigants must put their best case forward at first instance. Without leave sought and granted on restricted grounds, appellants before the UNAT cannot expect to advance a better, stronger or essentially different case on appeal if the first instance judgment is to be overturned. Unfortunately for the Appellants, their appeal suffers from these constraints. We will, nevertheless, attempt to explain why we consider that the UNDT reached the correct result, allowing the self-represented Appellants some latitude around these restrictions.

45. We start with the relevant Staff Rules which govern questions of entitlement to benefits upon the death of a staff member. Accumulated remuneration to the date of the staff member's death is payable to a beneficiary or beneficiaries nominated by the deceased staff member pursuant to Staff Rule 1.6 or the staff member. Death benefits under the Rules are, however, in a different category and are not payable to beneficiaries nominated by a staff member, but to designated beneficiaries as defined by the Staff Rules. The relevant Staff Rules are as follows. Addressing the last date of payment of salary, allowances and benefits, Staff Rule 9.11(a)(vii) provides:

In the case of death, the date on which entitlement to salary, allowances and benefits shall cease shall be the date of death, unless there is a surviving spouse or dependent child. In that event, the date shall be determined in accordance with the following schedule:

...

Such payment [calculated by reference to a table based on length of service but which is irrelevant to this case] shall be made only to the surviving spouse and dependent children.

46. The definition of a surviving spouse is self-explanatory. Such a person is one who, at the date of death, both survived and was married to the deceased staff member.

47. The definition of “dependent children” for the foregoing purposes is contained in Staff Rule 3.6(a)(iii)a–c as follows:

A “dependent child” is a child for whom the staff member provides main and continuing support and who meets one of the following criteria:

- a. The child is under the age of 18 years;
- b. The child is between the ages of 18 and 21 years and attends university or its equivalent full-time; the requirement of residing with the staff member does not apply in this case;
- c. The child is of any age and has a disability that is permanent or for a period that is expected to be long-term that prevents substantial gainful employment[.]

48. It is significant that while the child of a deceased staff member must be under the age of 21 years (and in many cases under the age of 18 years) or, if not, have a permanent disability (or prospectively so as defined), a surviving spouse does not need to be, for example, a dependent. All such a person must be is a spouse (in this case still married to the staff member) and to have survived the demise of the staff member.

49. Mr. Oming survived Ms. Oming and the substantial preponderance of the evidence established that their marriage still subsisted at the date of her death, albeit that they had lived separately and apart for a long time.

50. Even if, as the Appellants assert, Ms. Oming had taken steps in 1989 to separate or even divorce “officially”, there is no evidence that their marriage ended in that way and there is evidence that Ms. Oming both regarded it as on-going and that she wished to provide for Mr. Oming in these circumstances.

51. For completeness, we would add that while the Appellants are the (now adult) children of the late Ms. Oming, they are not dependent children as that phrase is defined in Staff Rule 3.6(a)(iii)a–c. The evidence establishes that they are, or were at the date of death of the deceased, not children whose “main and continuing support” was provided by Ms. Oming. Nor are they (and were not at the date of the deceased’s death) under the age of 21 years thereby excluding both of the first age-related dependencies. Finally, none asserts that he or she “has a permanent or long-term disability preventing substantial gainful employment”. The Appellants do not meet the required attributes of dependent children under the Staff Rules.

52. Irrespective of the strength of the Appellants’ moral claims to share in the estate of their late mother, they are not entitled in law to the United Nations death benefit claimed by them. Other than to note that their grounds of appeal otherwise reflect more their belief and suspicion than constitute evidence, it is unnecessary to address the complex, although questionably supported, arguments advanced by the Appellants against Mr. Oming’s entitlement to the death benefit including of forgery of the Omings’ marriage certificate, and the alleged errors in the Organization’s records.

53. As indicated earlier, we will address the Appellants’ arguments of forgery and fraud by either or both of Ugandan/Kenyan national officials and United Nations’ staff.

54. The UNDT decided against the Appellants’ application by rejecting their claims that Ms. Oming’s marriage certificate was a forgery for several reasons. First, it concluded that the Administration’s record of Ms. Oming’s marital status as “legally separated” was not only *prima facie* evidence that she had not been divorced from Mr. Oming, but also that she had been, and in law remained, married. Separation, whether by legal decree or otherwise, does not end a marriage. It may provide grounds or jurisdiction for the granting of a divorce which will end a marriage of living persons, but separation does not end in law that marital relationship. There was no suggestion of Ms. Oming having any other husband: although she had been in a long-term intimate relationship with another man (the father of one of the Appellants), there is no suggestion that she was married to him. Ms. Oming’s advice to the United Nations of her marital status as “legally separated” tends to confirm that, in her mind, she had been and remained validly married to Mr. Oming. That is antithetical to the allegation of a forged, and thereby false, certificate of marriage.

55. Next, the UNDT found that in 2015, Ms. Oming confirmed to the Administration that Mr. Oming was not only her spouse but a “dependent” spouse and sought to have him rehabilitated to that status from his previous categorization as “legally separated”. This evidence, which the Appellants do not challenge, also tends to confirm that Ms. Oming regarded her marriage to Mr. Oming as lawful, the antithesis of a false or sham marriage evidenced by a forged certificate of marriage.

56. Third, it was significant that the certificate of her marriage to Mr. Oming had been submitted to the Organization by Ms. Oming herself, hardly the action of someone being aware of forged documentation purporting to evidence a legal relationship in which she did not wish to be a participant.

57. Finally, the UNDT relied on the Administration’s written inquiries of the Ugandan Registration Services Bureau, the communication verifying the authenticity of the marriage certificate that the Appellants alleged to have been a forgery, and the absence of any record of divorce.

58. We conclude that, in reliance on the foregoing evidence, the UNDT did not err in fact or law in concluding that, at the date of her death, Ms. Oming was lawfully married to Mr. Oming. More pertinently in relation to the Appellants’ claims to death benefits, we uphold the UNDT’s Judgment of their non-entitlement to such benefits and dismiss their appeal against its Judgment.

59. While we understand the natural human concerns of Ms. Oming’s children in bringing these proceedings, we must apply the established facts and the law to our decision as we have done.

Judgment

60. The Appellants' appeal and the Secretary-General's cross-appeal are both dismissed. Summary Judgment No. UNDT/2021/162 is hereby affirmed.

Original and Authoritative Version: English

Decision dated this 24th day of March 2023 in New York, United States.

(Signed)

Judge Colgan, Presiding

(Signed)

Judge Halfeld

(Signed)

Judge Gao

Judgment published and entered in the Register on this 13th day of April 2023 in New York, United States.

(Signed)

Juliet Johnson, Registrar