

Before the Arbiter for Financial Services

Case ASF 013/2025

SK

(‘Complainant’)

vs

Bank of Valletta p.l.c.

(C-2833)

(‘BOV’, ‘Bank’, or ‘Service Provider’)

Sitting of 18 July 2025

Complainant holds Bank of Valletta p.l.c. responsible for the delay in release of his share of the estate that he inherited from his mother who died intestate.

The Notary administering the division of the estate submitted to BOV the necessary request for the release of the assets on 03.08.2023¹ and the Declaration of Intestacy document dated 11.10.2023². The Bank issued their legal ruling³ on 27.10.2023.

As there were 4 co-heirs, including the Complainant who lives abroad, the Bank sent respective forms LEG 20 to the heirs for their signature as it maintained that it needed the signature of the heirs on the same or similar document before proceeding to the division of the assets.

The Complainant submitted his signed LEG 20 on 27.02.2024.

¹ Page (p.) 329 – 332.

² P. 333

³ P. 326 legal ruling is defined as the Bank’s final decision on the outcome of the vetting procedure by the Bank’s succession division within their Legal Office.

However, some of the co-heirs delayed their submission of the release form and the division of the estate actually happened on 13.02.2025 when Complainant received his share of the estate amounting to €17,687.41

The Complaint

Complainant filed his complaint⁴ with the OAFS on 14.01.2025 (some 6 weeks before the actual distribution of his estate share).

The claim for compensation was refined to take account of the date of actual distribution and amounted to €10,164 being funds he claimed to have lost because he could not properly invest his share from February 2024, when he signed his release to February 2025 when he actually received his share. This is based on potential gains he could have made if he had the opportunity to invest in BOV shares as explained in page 233.

He also claimed refund of his share of €38.25 of the fee charged by the Bank for issuing their legal ruling.

Complainant made reference to articles 788 – 816 of Chapter 16 Civil Code related to intestate succession. He also made reference to article 496(1) of the same Chapter 16 related to right of co-owners to demand partition of the estate where there is unwillingness by some of the co-heirs to proceed with such partition.

He argued that once he signed the Bank's form for release of his share, the Bank failed him in not proceeding to immediate distribution of his share and considers irrelevant and mere excuses the argument that the Bank needed the signature of all heirs before proceeding to distribution.

He argued that the onus was on the Bank to obtain the signatures of all heirs, and he should not be penalised for such delay and consequently expects the Bank to make good for investment opportunities lost due to such delays.

⁴ P. 1 – 7 with attachments 8 – 185 mostly being exchanges with the Bank complaining about delay for release of his share of the estate.

The Reply

In their reply⁵ of 25 February 2025, the Bank stated:

A. Bank of Valletta's procedure to release assets of deceased customers

1. *Whereas in order to initiate the process to release the assets of a deceased Customer to the rightful heirs, the Notary appointed by the heirs must present the necessary legal documents to the Bank. These documents are vetted by the Bank confirm that they are in line with the dispositions regulating succession as outlined in the Civil Code, Chapter 16 of the Laws of Malta. Once the documents are vetted and the rightful heirs are established, the Bank contacts the relevant Notary and informs them that the heirs may either go to a branch to provide their instructions regarding the disposal of the assets otherwise, the Bank provides the option for the heirs to provide written instructions.*

B. Timeline of Events

2. *Whereas on the **8th of August 2023** (the Complainant's) Notary submitted the necessary documents regarding the estate of (the Complainant's) mother to the Bank's Legal Office for vetting.*
3. *Whereas on the **19th of September 2023**, the Bank sent an email to (the Complainant's) Notary asking for additional documentation. Subsequently, on the **11th of October 2023**, the Bank received the additinal documentation from (the Complainant's) Notary.*
4. *Whereas on the **30th of October 2023**, the Bank issued the Legal Ruling of (the Complainant's) mother, outlining who the rightful heirs are. An email was sent to the Notary informing him that the heirs may set up an appointment or send their disposal instructions in writing.⁶*
5. *Whereas on the **21st of February 2024** (the Complainant) contacted the Bank stating the only feasible option for him to acquire his share would be for him to fill in the Bank's form, since he resides in Canada. He questioned whether he could provide the Bank with his instructions separately from*

⁵ P. 193 – 198 and attachments p. 199 - 221

⁶ DOC.A.: Email dated 30th of October 2023

the other heirs. On the same day, the Bank representative informed him that it would be possible to have 2 identical forms including the share pertaining to all the heirs with the respective IBAN. She informed him that one of the forms must be signed by him and the other one by the heirs in Malta.⁷

- 6. Whereas on the **4th of March 2024** (the Complainant) sent a copy of the disposal instructions form (LEG20) by post.⁸ Subsequently, in the beginning of **April 2024**, one of the other heirs collected the disposal instructions form to be signed by her and the other heirs.*
- 7. Whereas from the **28th to the 31st of October 2024**, (the Complainant) contacted the Bank regarding the release of his share of his late mother's account. The Bank informed him that it could only release the assets of his late mother upon instructions from **all** the heirs. The Bank kept reiterating its position and explaining to (the Complainant) that it could only release the funds upon instructions of all the heirs, as is required by law.⁹*
- 8. Whereas in **November 2024**, the heir who had collected the disposal of assets form which was already signed by (the Complainant), returned it signed to the Bank signed by herself; however, the Bank still could not implement the instructions since two of the heirs still needed to sign and consent to the disposal of the assets.*
- 9. Whereas on the **22nd of January 2025**, one of the heirs whose signature was still required, contacted the Bank asking what was required for him to receive his share from his grandmother's inheritance. On the **28th of January 2025**, he collected the form which was already signed by the two other heirs.*
- 10. Whereas on the **7th of February 2025**, the two remaining heirs signed the disposal of assets form at the Bank's Legal Office with a Bank employee acting as a witness to the signatures. Thus, the Bank finally had the complete instructions.*

⁷ DOC.B.: Emails of the 21st of February 2024

⁸ DOC.C.: Email dated 4th of March 2024

⁹ DOC.D.: Emails dated between the 28th and 31st of October 2024

11. Whereas on the **11th of February 2025**, the Bank started to implement the instructions on the form, however, an issue was encountered with respect to (the Complainant's) transfer since the IBAN number provided by him was incorrect. (The Complainant) was informed accordingly and asked to provide a correct IBAN number which he provided on the same day.¹⁰
12. Whereas on the **13th of February 2025**, the transfer of (the Complainant's) share from his mother's inheritance was affected to the account provided by him and the Bank informed him accordingly. As a gesture of goodwill, the Bank also waived its payment processing fee.¹¹ Proof of payment is attached and marked as '**DOC.G**'.

C. The Complaint

13. Whereas (the Complainant) claims that the Bank's request to have the signature of all the heirs to release the assets of a deceased customer is "a ludicrous delaying tactic" and that it is a "totally unfair and absurd situation which the bank concocted to keep this substantial amount ... for the last 8 years or more and depriving me of these funds."¹² The Bank respectfully submits that as can be clearly seen from the above timeline of events, the necessary documentation for the release of (the Complainant's mother's) assets was submitted to the Bank in August 2023. Therefore, the Bank questions the reason why (the Complainant) is referring to 8 years. Moreover, the Bank has no intention or interest to delay the release of a deceased customer's assets. However, the Bank must ensure that the necessary procedures and regulations are followed throughout the process.
14. Whereas as explained to (the Complainant) by the Head of the Bank's Legal Office, the Bank must release the assets with the consent of all the heirs. As stated by Dr Grima:
- "Any share to which an heir may be entitled is a share of the whole estate, of which the assets held by the Bank form a part, and, hence, the estate may have been divided in such a way that some heirs receive their share

¹⁰ DOC.E.: Emails dated 11th of February 2025

¹¹ DOC.F.: Email dated 12th of February 2025

¹² p. 3

from the assets held at the Bank, whilst others receive theirs from another part of the estate. This is the reason why the Bank requires instructions from all the heirs before releasing the assets.”¹³

15. Whereas BOV would only have visibility to the assets the deceased held with BOV and would have no cognisance of the rest of the assets forming part of the whole estate. Thus, the Bank cannot arbitrarily decide that each heir is entitled to an equal share from the assets held with BOV, since it would have no cognisance of the rest of the assets forming part of the estate or to any agreement the parties may have between them regarding the division of the whole estate. Therefore, the Bank must insist on having the consent and agreement of all the parties before releasing the assets.

16. Whereas the Bank’s procedure is based on the law as interpreted by the Courts of Malta. In fact, in case ref. 1431/2001/2 in the names of “Michelle Shires et vs. Giovanna Bonello et”, decided by the Court of Appeal on the 30th of July 2010, the Honourable Court of Appeal held:

“Diviżjoni parzjali tal-assi ereditarju tad-de cujus tista’ sseħħ validament kemm-il darba hemm il-kunsens tal-kondividenti kollha.”¹⁴

The Court further emphasised:

“L-applikazzjoni korretta tal-liġi applikabbli in materia u senjatament tal-prinċipju li d-diviżjoni parzjali tal-assi ereditarju tad-de cujus tista’ sseħħ kemm-il darba hemm il-kunsens tal-kondividenti kollha.”¹⁵

17. By virtue of the above, the Court made it clear that as a general principle, a partial division of the estate of a deceased person can only be carried out with the consent of all the heirs. Thus, the Bank’s procedure reflects this position.

18. Therefore, the Bank respectfully submits that (the Complainant’s) claim for compensation from BOV has no legal basis or justification since it was obliged to release the funds upon the consent of all the heirs. The Bank

¹³ Email dated 31st October 2024 (Attached as ‘DOC.D’)

¹⁴ P. 6 of the decision

¹⁵ *Ibid.*

did not cause any delay in the release of funds, the delay was caused by two of the heirs who did not give their consent for the funds to be released. Respectfully, the Bank submits that if there was disagreement between the heirs, the Civil Code (Chapter 16 of the Laws of Malta) provides the appropriate remedy which one of the heirs may resort to. This law from article 906 et sequitur deals with the possibility of having the Court oversee a procedure of 'Partition' of the estate. The fact that the two other heirs were not willing to sign the instructions immediately, implies that there was a lack of agreement between the co-heirs and the Bank was not in a position to arbitrarily decide the share each heir should receive. The Bank is obliged to release the assets of a deceased customer according to the instructions of all the heirs.

19. *Whereas if (the Complainant) is alleging that he suffered a financial loss due to the delay in the release of the assets, he should direct this claim towards the other heirs who did not provide their disposal of assets instructions, thereby hindering the process.*¹⁶

Analysis and observations

The main point of difference between the parties, which represents the crux of this complaint, is:

Whether,

as the Complainant pretends, that he is not responsible for ensuring that others (co-heirs) comply with the Bank's requirements before the Bank releases his share of the funds and argues that the onus is on the Bank to obtain such signed release from all the heirs¹⁷;

or

Whether,

as the Bank explains, that:

¹⁶ P. 193 - 197

¹⁷ P. 235

‘Any share to which an heir may be entitled is a share of the whole estate, of which the assets held by the Bank form a part, and, hence, the estate may have been divided in such a way that some heirs receive theirs from another part of the estate. This is the reason why the Bank requires instructions from all the heirs before releasing the assets.’¹⁸

Accordingly, because the Bank would only have visibility of the estate assets held by the Bank and cannot be aware of any other asset of the estate which has to be included in the division, therefore, the Bank would require to have the signature of all the heirs before releasing any heir’s share of the assets held by the Bank. The Bank also holds that the responsibility to procure with despatch all the necessary signatures rests on the heirs and their appointed Notary.

The Complainant’s reference to Articles 788 - 816 of Chapter 16 (Civil Code) seem irrelevant to the Complainant’s argument that, in case of intestate succession, the Bank had any obligation to release his share of the estate without having full consensus from all the heirs. Same applies to article 496(1) of the same Chapter 16 which again does not confer any obligation on the Bank to proceed as the Complainant expects.

Furthermore, it is gratuitous to infer that the Bank purposely delayed chasing the other co-heirs for their signature in order to continue benefitting from interest-free deposits.

The obligation to procure all signatures of the heirs in case of an intestate estate, lies squarely on the co-heirs and their appointed notary. They have to come to an agreement to sign the release form demanded by the Bank. In case of failure, individual heirs seeking division have to pursue their legal rights as provided for in Chapter 16.

The Bank would be exposing itself to clear risks if it were to release any share of an intestate estate without the consensus of all the identified heirs, as the Bank cannot not have a full view of any estate asset(s) not held by the Bank which needs to be included in the division. Consequently, the expectation of the Complainant in this regard is untenable.

¹⁸ P. 196

It is equally unreasonable for the Complainant to expect that the Bank does not charge a reasonable fee for their work to organise the release of estate assets held by the Bank to the rightful heirs. This is even moreso when the Notary appearing on behalf of the heirs had signed the Bank's form explaining these charges.

If the Complainant considers that his interest has been prejudiced by the failure of his co-heirs to sign the Bank's release form with the promptness he expects, such claims would be more appropriately addressed to his co-heirs rather than to the Bank.

Decision

For reasons above explained, the Arbiter dismisses this Complaint and orders that the parties carry their own costs of this procedure.

Alfred Mifsud

Arbiter for Financial Services

Right of Appeal

The Arbiter's Decision is legally binding on the parties, subject only to the right of an appeal regulated by article 27 of the Arbiter for Financial Services Act (Cap. 555) ('the Act') to the Court of Appeal (Inferior Jurisdiction), not later than twenty (20) days from the date of notification of the Decision or, in the event of a request for clarification or correction of the Decision requested in terms of article 26(4) of the Act, from the date of notification of such interpretation or clarification or correction as provided for under article 27(3) of the Act.

Any requests for clarification of the award or requests to correct any errors in computation or clerical or typographical or similar errors requested in terms of article 26(4) of the Act, are to be filed with the Arbiter, with a copy to the other party, within fifteen (15) days from notification of the Decision in terms of the said article.

In accordance with established practice, the Arbiter's Decision will be uploaded on the OAFS website on expiration of the period for appeal. Personal details of the Complainant(s) will be anonymised in terms of article 11(1)(f) of the Act.