

EVALUATING THE LEGAL STATUS OF NEXT-OF-KIN UNDER NIGERIAN LAW OF SUCCESSION*

Abstract

This paper appraises the controversy surrounding the status of next of kin as a beneficiary under the Nigerian law of succession. The paper finds that contrary to the legal position of next-of-kin, the view that the common man widely holds is that an appointment of one as a next-of-kin automatically qualifies the person as a beneficiary of the estate of his appointer. The paper argues that unless entitled as an heir under customary law or appointed as a beneficiary under a will, a next-of-kin does not have an automatic right of inheritance. The paper employs a doctrinal methodology. The necessity of establishing the accuracy of the findings is the justification for maintaining that unless otherwise appointed a beneficiary under a will or on intestacy, a next-of-kin does not simpliciter have an automatic right of inheritance.

Keywords: Next-of-kin, Succession, Nigeria, Beneficiary, Status

1. Introduction

The question of the status of next-of-kin regarding inheritance has been one of the burning issues bedeviling families on the death of their loved ones. This comes to the limelight in Nigeria and other jurisdictions when the inheritance of property or money is at stake. A notion that many Nigerians widely hold is that a person's next-of-kin automatically qualifies as a beneficiary on the death of that person whether testate or intestate.¹ Also, the belief and understanding of the term have made many people shy away from the need to make a will, on the assumption that mere mention of their next-of-kin suffices when they die. This is because they think that appointing a next-of-kin is a way of endorsing a beneficiary.² This view has gained so much traction in recent times that an average Nigerian is very mindful of whom he appoints as his next of kin. Usually but not always, persons appointed to this post are close family members or friends who the appointer holds dearly to his heart. In the mind of the appointer, his next-of-kin is someone who steps into his shoes when he passes on. Unfortunately, the position of the law regarding next-of-kin is different from the meaning ascribed to the term by a common man. This has caused so much tension in families between beneficiaries and persons named as next-of-kin upon the death of the appointer especially where the next-of-kin is a close relative of the deceased. It is this controversy that has warranted an examination of the status of a next-of-kin under the Nigerian law of succession. The paper is divided into five parts. Part one is the introduction and it gives a general background to the paper. Part two examines the nature of succession in Nigeria and the law governing succession in Nigeria. Part three discusses those entitled to inherit properties in Nigeria. Part four appraises the status of next of kin under the Nigerian law of succession. Part five concludes the work by advocating that individuals who desire their next-of-kin to inherit their properties should clearly state so in their wills

2. Nature of Succession and Inheritance under Nigerian Law

Succession to and inheritance of parents' property is as natural as man and the universe.³ The rights and obligations of the children to their parents' property are put in abeyance while they are alive, but such rights and obligations take effect after the demise of the parents.⁴ According to Animashun & Oyenehin,⁵ succession is the passing of possessions to persons upon the demise of the proprietor of the possessions. The Black's Law Dictionary⁶ defines Succession as the transmission of the rights and obligations of the deceased to the heirs. It also signifies the estates, rights, and charges that a person leaves after his death, whether the property exceeds the charges or the charges exceed the property, or whether he has only left charges without any property.⁷ According to Justice Bello⁸ Succession can be loosely defined to mean inheritance, the right to inherit, the order in which inheritance is bequeathed, and the condition precedent under which one can succeed another. The law of succession therefore is all about the transfer or devolution of property on the death of an owner to another, his heir.⁹

One thing that stood out in the definitions above is that it is not only property that is being transferred by the deceased, he also transfers rights and charges or obligations to his heirs. Inheritance on the other hand is an estate or property which a man has by descent as heir to another, or which he may transmit to another, as his heir.¹⁰ Succession and Inheritance therefore have one common denominator which is the transfer or handing down of property from a deceased to his heirs or beneficiaries. In this work succession and inheritance will be used interchangeably.

Nigeria is a multi-ethnic country with over 250 ethnic groups. The patterns of inheritance and succession under customary law in Nigeria have almost as many variations as there are ethnic groups in the country.¹¹ The law of succession and inheritance in Nigeria reflects Nigeria's plural legal system. Indigenous customary law developed rules of inheritance for intestacy which is predominantly that inheritance is by blood.¹² Thus an illegitimate child or a stranger cannot inherit under customary law.¹³ This is not to say that the concept

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¹ Silver Nwokoro, Next-of- kin: Implication on beneficiaries of estates in relation to laws of succession, *Vanguard Newspaper* 28 December 2021, available at www.thisday.com accessed 12 September 2023.

² *Ibid.*

³ MT Otu and M Nabiebu, Succession to, and Inheritance of Property under Nigerian Laws: A Comparative Analysis, *European Journal of Social Sciences*, Vol. 62 No 2 June, 2021, pp. 50-63.

⁴ *Ibid.*

⁵ TOG Animashun and AB Oyenehin, *Laws of Succession, Wills and Probate in Nigeria*, (Lagos: Professional Publishers Limited 2002)67.

⁶ B.A Garner (ed), *Black's Law Dictionary*, 9th edn. (St Paul, MN: Thomson Reuters, 2014) 1445.

⁷ *Ibid.*

⁸ MA Bello, Principles and Practice of Succession under Customary Law, Being a paper presented at the National Judicial Institute Abuja on March 22nd 2017.

⁹ Kerridge R. Parry & Kerry, *The Law of Succession*, 12edn. (London: Sweet & Maxwell 2009) Pg.1

¹⁰ *Ibid.*

¹¹ RA Onuoha, Discriminatory Property Inheritance under Customary Law in Nigeria: NGOs to the Rescue, *International Journal of Not-for-Profit Law*, Vol. 10(2) 2008.

¹² *Ibid.*

¹³ *Ibid.*

of testate succession was completely unknown to customary law. Indeed customary law recognized death bed declarations or nuncupative Wills made in anticipation of death so long as the declarant knows what he is doing, is aware of his properties and his beneficiaries and the declaration is made in the presence of witnesses. The law of succession, therefore, transmits the rights and obligations of a deceased person over his property or estate to his successors or heirs, through the distribution of his property, and regulates the administration of the estate by his representatives and the state's participation.¹⁴

Succession in Nigeria may be testate or intestate. Testate succession refers to where the deceased left a valid will directing how his properties will devolve upon his demise. Therefore testate succession is synonymous with Wills. A will has been defined as a disposition or declaration by which the person making it, among other things, provides for the distribution and administration of his estate after his death.¹⁵ The hallmark of a will is that it enables a testator subject to certain exceptions to give out his properties to objects of his choice. These objects of his choice known as beneficiaries may or may not be family members. A testator can and oftentimes gives out his properties to total strangers even to the detriment of family members.

Testate succession in Nigeria is governed by statutory law, customary law, and Islamic law. There is no uniformity in the laws applicable to Wills in Nigeria. Originally, the Wills Act,¹⁶ a statute of general application applied throughout the country until 1959 when the Western Region of Nigeria enacted the Wills law of the Western Region of Nigeria.¹⁷ This law is a substantial re-enactment of the Wills Act of 1837 and 1852 with some elements of the 1925 English Act. With the breakdown of the region into states, all the states carved out of the former Western Region adopted the Wills Law with the result that each state now has its own Wills law modeled after the Wills Law of Western Region 1959. Other states¹⁸ have enacted new Wills laws based on the report of the Nigerian Law Reform Commission 1987.¹⁹

Customary law equally recognizes the making of Wills which in most circumstances take the form of oral declaration made voluntarily by the testator during his lifetime.²⁰ This is otherwise known as a nuncupative Will. A nuncupative Will may be made while the testator is in good health or in anticipation of death.²¹ It often goes beyond the disposition of property to other areas like directions as to the mode of burial and funeral ceremonies to be performed for the testator.²² For a nuncupative Will to be valid, it must have been made voluntarily by a person with a sound mind and memory, the subject matter must be disposable and identifiable, the beneficiaries must be identifiable, and the disposition must have been done in the presence of witnesses.²³ Islamic law like its counterpart recognizes the making of Wills (Wasshiyah) by Muslims in conformity with Islamic law. The basic principle of Islamic law of testate succession is that a testator can only validly dispose of one-third of his property by Will and the remaining two-thirds is to be distributed as if he died intestate. Equally, the testator cannot give preferential treatment to any of the children. Succession is intestate when the deceased did not make a Will in his lifetime, or where the Will turned out to be invalid due to certain circumstances. Such as where the Will was not properly executed, or the testator was not of sound disposing mind at the relevant time the Will was made, or the Will was made under undue influence.²⁴ There are three systems of law governing intestate succession in Nigeria. These are the English Common Law, Statutory Law, Customary law, and Islamic law.²⁵ The system of law applicable in any given case depends on the type of marriage contracted by the deceased person.

The various Administration of Estate laws of the different States regulate intestate succession of individuals who are married under the Act and died resident in those states. In Lagos State for instance the relevant provision is section 49(5) of the Administration of Estate law.²⁶ It provides as follows:

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 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 by Will shall be distributed in accordance with the provisions of this law, any customary law to the contrary notwithstanding

The implication of the foregoing is that the relevant statutory law of one's place of domicile determines the distribution of his estate where a citizen of Nigeria is married under the Marriage Act, on his death intestate. The court in *Obusez v Obusez*²⁷ reiterated the principle of law laid down in section 49(5) above and held that in the event of a spouse married under the Act dying intestate and being survived by his spouse and children, the surviving spouse shall succeed to two thirds (2/3) thereof and this makes the spouse a beneficiary of the estate and a qualified person to apply for Letters of Administration of the estate of the deceased spouse. Customary law governs the distribution of estate of persons subject to customary law or married under customary law. Due to the multiplicity of ethnic groups in Nigeria, the customary law applicable in any given case will be dependent on the intestate personal law or acquired personal law.²⁸ Customary law laid down rules of succession and inheritance which in most cases follows the blood. Under this system, inheritance must

¹⁴ MT Otu and M Nabiebu (n 3 above).

¹⁵ K. Abayomi, *Wills: Law and Practice*, (Lagos: Mbeyi and Associates (Nig. Ltd, 2004) p. 5.

¹⁶ 1837 as amended by Wills Amendment Act 1852.

¹⁷ Cap 133 Laws of Western Region of Nigeria.

¹⁸ States like Lagos, Oyo, Cross- Rivers and Rivers. See Wills law Cap W2 Laws of Lagos State 2004, Wills law Cap 170 Laws of Oyo State 1998, Wills law Cap 141 Laws of Rivers State 1999 and Wills Law Cap W2 Laws of Cross-Rivers State 2004. Other states like Abia, Kaduna, Plateau, Bauchi, Kwara and Jigawa have also enacted their own Wills law; See for instance Wills law Cap 37 Laws of Abia State 1991-2000, Wills Law Cap 163 Laws of Kaduna State 1991, Wills Edict No 2 1988 of Plateau State, Wills Law Cap 168 Laws of Bauchi State 1989, Wills Law Cap 168, Laws of Kwara

¹⁹ Report on the Review of pre-1900 English Statutes in force in Nigeria 1991, Vol. II paras 28-42, Pgs 233-235.

²⁰ EI Nwogugu, *Family Law in Nigeria*, (Ibadan: HEBN Publishers PLC, 2014) p. 404.

²¹ *Ibid.*

²² *Ibid.*

²³ See *Bankole v Tapo* (1961) 1 All N.L.R 140, *Ayinke v Ibiunmi* (1959) 4 FSC 280.

²⁴ See s. 9 Wills Act 1837 as amended. See also s 6 Wills Law Lagos State 2014.

²⁵ IE Sagay, *Nigerian Law of Succession, Principles, Cases Statutes and commentaries* (Lagos: Malthouse, Press Ltd 2008) p. 73. 2014.

²⁶ (2007) 47 LRLR Vol. 187, 112

²⁷ See *Tapu v Kuka* (1945) 18 NLR. and *Olowu v Olowu* (1994) 4 NWLR (Pt. 336).

follow a particular line of descent independent of the whims and caprices of the deceased. The deceased has no choice of his inheritors; the law imposes heirs on the deceased. For Muslims, Islamic law which is their religion governs the devolution of their property on their death intestate. Under this law, 2/3 of the estate of a Muslim must devolve according to Islamic law. It is worth noting that Islamic law is the only law that provides for all the dependents of the deceased out of all the systems of law.²⁹

3 Beneficiaries under Testate and Intestate Succession

The persons entitled to succession of a deceased estate are known as beneficiaries. The Black's Law Dictionary³⁰ describes a beneficiary as one designated to receive something as a result of a legal arrangement or instrument. The court in *Edem v. Etubom*³¹ described a beneficiary in the following manner: 'The essence of spending precious time to write a Will is to indicate in very clear terms those who should benefit from the Will. For a person to qualify as a beneficiary in a Will or codicil, his name must be clearly spelt out.' In essence, a beneficiary is specifically expressed to be entitled to the benefits of an act, document, or legal instrument under the authority of the original owner.³² He is set to inherit something from an estate when someone else dies, such as money, possessions, real property, stocks, and shares.³³ These beneficiaries could be family members, friends, relatives, charities, institutions, organizations, pets, and even inanimate objects. There is no law prescribing a limit to persons who can benefit from a testator unlike under intestacy where beneficiaries or heirs are imposed upon the deceased by the law. An examination of the Administration of Estates Laws of the various States will reveal that those who can inherit from the deceased are in this order; the surviving spouse together with the children of the deceased inherits the estate to the exclusion of all others. If there is no surviving spouse and children, the parents of the deceased are next in line, followed by the brothers and sisters of full blood, then uncles and aunts of the full blood, nieces and nephews, etc.³⁴

The above represents the position of the law where the deceased died intestate and is married under the Act. Where however the deceased is subject to customary law or is married under customary law and died intestate his personal law determines his heirs.³⁵ Due to the multiplicity of ethnic groups in Nigeria, the customary laws applicable are as numerous as the various ethnic groups. In most of these ethnic groups, inheritance is by blood. Under Yoruba customary law, for instance, the children of the deceased both males and females are the beneficiaries of their intestate parents. They are entitled to inherit the estate of their deceased parents equally. No distinction is made between males and females.³⁶ This position contrasts with the position under ibo customary law where only the males were entitled to inherit the estates of their deceased parents to the exclusion of their female counterparts.³⁷ Daughters can only inherit cooking utensils and other personal effects of their mothers. The position has changed to the extent that daughters can now inherit in Ibo land. The position of wives under these two systems of customary law is the same. Wives are not entitled to inherit the estate of their deceased husbands.³⁸ Instead, they are considered among the inheritable assets. It is worth noting that the position of women regarding intestate succession under ibo customary has since changed following the recent Supreme Court decisions in *Ukeje v Ukeje*³⁹ and *Nweke v Anaekwe*.⁴⁰ Women can now inherit the estate of their deceased parents and husbands. Under the indigenous native law and custom of the Hausas where such is still applicable,⁴¹ only the menfolk are entitled to inherit assets of their deceased parents. Daughters can only inherit cooking utensils and other personal effects of their mothers. Islamic law is the only law that allows all the dependents of a deceased to inherit a fixed proportion of the estate.⁴² Islamic law realizes the necessity to provide for all the dependents of the deceased who might likely have suffered as a result of the demise of their loved one.

It follows from the above that, unlike the situation under Wills where a man can bequeath all his assets to total strangers, children are the exclusive beneficiaries of the estate of a deceased person under the Customary Law.⁴³ While some tribes do not discriminate between the sexes of the children, some other tribes do.

4 Legal Status of Next-of kin under Nigerian Law

A next of kin has been wrongly misconceived as one who upon the demise of the deceased, inherits his estate both in real and personal.⁴⁴ This explains why an average man on the street places so much reliance on who he bestows with such status.⁴⁵ Also, the belief and understanding of the term have made many people shy away from the need to make a will, on the assumption that mere mention of their next-of-kin suffices when they die. This is because they think that appointing a next-of-kin is a way of endorsing a beneficiary.⁴⁶ As we shall see in this work a next-of-kin is simply the person to be contacted in cases of emergency or where the appointer cannot speak for himself. Broadly speaking, a next-of-kin connotes a person's closest relative(s), especially in official or legal documents.⁴⁷ It could be his spouse, child, friend, or relations who could serve as the first contact if anything happens to a person electing him as his next of kin. It could also be a person empowered to make decisions on behalf of another under an emergency or to provide necessary information.⁴⁸

²⁹ See Chapter 4 of the Quran

³⁰ B A Garner (n 6 above).

³¹ (2016) LPEL-41252 (CA).

³² AO Kadir, Nigeria: Can a Next-of-Kin automatically benefit from an Estate under the Law of Succession, available at www.linkedin.com. Accessed September 20 2023.

³³ Ibid.

³⁴ See s 49 Administration of Estate law of Lagos State 2015.

³⁵ See *Tapa v Kuka* (n 28 above).

³⁶ See *Dawodu v Damole* (1958) 3 FSC 46.

³⁷ See *Ejiamike v Ejiamike* (1972) 2 ENLR 11.

³⁸ *Uboma v Ibeneme* (1967) ENLR 251.

³⁹ (2014) 11 NWLR (Pt. 1418) 384.

⁴⁰ (2014) 11 NWLR (Pt. 1412) 393.

⁴¹ Areas like Chubok, Birom, Lugada.

⁴² See *Holy Quran*, Chapter 4,

⁴³ MA Bello (n 8 above).

⁴⁴ B Edokwe, The Status of Next-of-Kin in Succession of Deceased Estate in Nigeria, available at www.barrister.ng. Accessed 13 September 2023.

⁴⁵ Ibid.

⁴⁶ Silver Nwokoro (n 1 above).

⁴⁷ B Edokwe (n 44 above).

⁴⁸ Ibid.

Black Law's Dictionary defines next of kin to be a person or persons closely related to the decedent (recently dead person) by blood or affinity.⁴⁹ Next-of-kin was defined in *Joseph v Fajemilehin o.o & Anor*⁵⁰ as follows:

Let it be placed on record that the term "next-of-kin" can be used in three senses. Firstly, it can be used to simply refer to the nearest blood relative or secondly, the person who to be notified in case of any eventualities of life such as an accident, emergency or death. Secondly, he may be required to make medical decisions such as providing information or consent for a person who is incapacitated or thirdly, the term can be used to refer to an heir

The Australian Court in *Emsley v Young*,⁵¹ held that it cannot be disputed that the primary meaning of the expression 'next of kin' used simpliciter in a will is the nearest blood relation of the testator at the date of his demise. It follows from the above that a next-of-kin is simply someone appointed to speak on one's behalf when he cannot practicably speak for himself.

The Position of Next of Kin under Testacy

Testacy connotes that the deceased left a valid Will in his lifetime. As already noted, one of the advantages of making a Will is that it enables a testator to choose his beneficiaries and the quantum of their inheritance. A Will also enables a testator to show gratitude to objects of his choice. This means that a testator has wide latitude in determining the objects of his choice in the making of his Will. Thus, only persons named as beneficiaries under a Will can inherit from the estate of the testator. These persons are not limited to family members, as the testator has some measure of freedom to determine who his inheritors will be. A testator can give all his bounties to charities, educational institutions, scientific and research organizations, churches, corporations, friends, etc. Equally one of the characteristics of a Will is that it is ambulatory, meaning that it becomes effective and operational the moment the testator dies, and the property of the testator can only be given out in accordance with the provisions of the Will, and not based on whether or not a person is named as a next of kin by the testator.⁵² The ambulatory nature of a Will implies that the Will has effect only upon the death of the testator, and only those named in the Will as beneficiaries can inherit the estate of the deceased. Furthermore, the gift to any beneficiary who predeceased the testator will fail unless the testator carefully made provision for the fate of those failed gifts in the residuary clause of the Will. The implication of the foregoing is that unless the next-of-kin is specifically appointed a beneficiary under a Will, he does not have an automatic right of inheritance. He is at best the first person to be contacted in the event of any eventuality or emergency concerning the appointer.

The Position of a Next of Kin under Intestacy

Intestacy is a condition of dying without a Will or where the Will failed due to certain reasons. Unlike the position under testacy where the testator chooses his beneficiaries, the law imposes beneficiaries on the deceased who died intestate. In determining how the estate of the deceased who died intestate would be distributed, section 49 (5) of the Administration of Estates Law of Lagos State⁵³ provides that:

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 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 by Will shall be distributed in accordance with the provisions of this law, any customary law to the contrary notwithstanding.

The import of the above provision is that where a person who is subject to customary law contracts a marriage under the Marriage Act, there is a presumption that the Marriage Act shall regulate succession to his intestate estate.⁵⁴ Essentially, it is the court's duty to consider the personal law of the deceased and the nature of marriage contracted by the deceased person before his death as the mode of sharing the deceased estate will be determined by the incidence of marriage of the deceased or his adopted personal law.⁵⁵ Thus, if the deceased person contracted marriage under the Marriage Act, customary law will not be applicable, and his estate will be distributed according to the provisions of either the English law or the applicable Administration of Estates Law in that jurisdiction. However, where the marriage was contracted under customary law, the customary law of the deceased person's place will govern how the property will be shared and who is entitled or not entitled to the property. This principle received judicial blessing in *Obusez v Obusez*⁵⁶ wherein the Supreme Court held as follows:

that by virtue of section 49(5) of the Administration of Estates Law, Lagos, 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 such marriage, any property which the intestate might have disposed by Will shall be distributed in accordance with the provisions of the Law, notwithstanding any customary law to the contrary. That in respect of the succession to the real and personal estate of a person married under the Marriage Act and who dies intestate in Lagos, section 49(5) of the Administration of Estates Law of Lagos State is the applicable law and it does not matter whether section 36(1) of the Marriage Act which was applicable to the former Colony of Lagos had been repealed or not. However, both the Law and Act stated above enact that in the event of a spouse married under the Act dying intestate and being survived by his spouse and children, the surviving spouse shall succeed to two thirds (2/3) thereof and this makes the spouse a beneficiary of the estate and a qualified person to apply for Letters of Administration of the estate of the deceased spouse.

Where customary law is applicable, the heirs of an intestate deceased are those who are under native law and custom entitled to inherit his estate.⁵⁷ Since customary law in Nigeria is not uniform, a deceased person cannot, while alive confer inheritance rights on persons

⁴⁹ BA Gamer (n 6 above).

⁵⁰ (2012) LPELR-9849(CA).

⁵¹ (1835) 2 My& k 780 p.299 at 300.

⁵² AO Kadiri (n 32 above).

⁵³ 2015.

⁵⁴ AO Kadri (n 32 above).

⁵⁵ Ibid. See *Olowu v Olowu* (n24)

⁵⁶ 2007) 47 LRLR VOL 187 at 112

⁵⁷ AO Kadri (n 32 above).

not so entitled under customary law by choosing and naming them his next-of-kin owing to the customary law that one cannot choose his heirs under the pretext of next-of-kin.⁵⁸ The law imposes heirs on him. Thus, since the Administration of Estate Law provides for the order of inheritance which ought to be strictly adhered to, a next of kin, not being among the categories of those entitled to inheritance cannot automatically become a beneficiary of a deceased's estate in the event of intestacy.⁵⁹

Furthermore, if the marriage was contracted under Islamic law, the Islamic laws and practices applicable to the distribution of property will apply to the deceased's estate. The court while explaining succession under Islamic law held in *Ajibaiye v Ajibaiye*⁶⁰ that the properties of a Nigerian Muslim in Kwara State after his death are: 'Subject to the dictates of Islamic law of inheritance which does not allow a Muslim to dispose of his properties anyhow... The properties must be distributed strictly in accordance with Islamic law after the lawful heirs have been identified.' It follows from the above that the personal law of the deceased or the type of marriage contracted by the deceased in his lifetime determines the law applicable to the distribution of his estate on his death intestate. Under the various administration of estate laws of various states, the surviving spouse together with the children of the deceased stands at the apex of the hierarchy of the beneficiaries of the wealth of a person who dies intestate (without a Will).⁶¹ They inherit his estate to the exclusion of every other person.⁶² It is only when these people are not readily available that other family members can inherit in this order. The parents of the deceased come next in the judicial hierarchy after the surviving spouse and children, followed by brothers and sisters of full blood, brothers and sisters of half-blood, grandparents, uncles and aunts of full blood, and uncles and aunts of half-blood. This hierarchical structure has equally received judicial pronouncements in *Salubi v Nwariaku*.⁶³ In rare cases, creditors of the deceased may be allowed into the estate for the full realization of their money. It is clear from the analysis above that the status of next-of-kin does not automatically confer on one the right to inherit the deceased estate, whether in a testate or intestate scenario. A next of kin is at most a person's closest relative who can serve as a person's first point of contact in the case of any eventuality to provide information or make a decision. It is submitted that whoever desires his next-of-kin to benefit from his estate should bring in that person as a beneficiary in the Will, or provide for that person *inter vivos*.

5 Conclusion

The foregoing discourse has demonstrated that a deceased's next-of-kin is one who can be called upon in any case of eventuality or emergency where the appointer is incapacitated and not 'next' to a deceased's properties. The legal status of a next-of-kin is for the provision of some vital information and for making certain decisions on behalf of the one who named him whenever the need arises, and not to inherit his estate on his death. Unless named as a beneficiary in the Will, the position of next-of-kin *simpliciter* is irrelevant. Under intestacy, the relevance of a next of kin for the administration of an intestate estate may be to bring together the relatives of the deceased and ensure that the deceased is given a befitting burial and that the necessary steps of obtaining letters of administration are properly complied with. Consequently, it is humbly submitted that those who desire their next-of-kin to be a beneficiary of their estate upon their demise must ensure that they make a valid Will during their lifetime in which they must expressly name their next-of-kin as a beneficiary of their estate.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

⁶⁰ (2007) All FWLR (Pt. 359) 1321; see also *Tapa v Kuka* (n 28).

⁶¹ AO Kadri (n 32 above).

⁶² See *Salubi v Nwariaku* (2003) 7 NWLR, (Pt. 819) at p. 452, Paras. D-E and *Williams v Ogundipe* (2006) 11 NWLR, (Pt. 990) 157.

⁶³ (1997) 5 NWLR (PT.505) 442.