

UGANDA / JUDGMENT

Arop v Otto (Civil Appeal 47 of 2022)

[2024] UGHC 121 (28 March 2024)

[2024] UGHC 121

COURT

High Court of Uganda

BEFORE

Phillip Odoki, J

CASE / FILE NUMBER

Civil Appeal 47 of 2022

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT GULU CIVIL APPEAL NO. 047 OF 2022

(Arising from Civil Suit No. 026 of 2019)

AROP CHRIS KIBWOTA===== APPELLANT

VERSUS

OTTO SAMUEL BAKER===== RESPONDENT

BEFORE HON. MR. JUSTICE PHILLIP ODOKI

JUDGMENT

Introduction:

- [1] This appeal arises from the judgment of the Magistrate Grade 1 of Anaka (Her Worship Susan Anyeko) dated 30th May 2022 in Civil Suit No. 026 of 2019, wherein she dismissed the Appellants' suit with costs to the Respondent. The reason for the dismissal being that the Appellant failed to prove his case on the balance of probabilities. The Appellant, being dissatisfied with the judgement, appealed to this Court. He sought that the appeal be allowed; the decision of the trial Magistrate be quashed and set aside; he should be declared the rightful owner of the suit land; an order the Respondent should give vacant possession of the suit land; an order of a permanent injunction to restrain the Respondent, his agents and any person claiming under him from interfering with the suit land; and order that the Respondent should bear the costs of this appeal and the costs in the lower court.

Background:

- [2] The Appellant instituted Civil Suit No. 026 of 2019 in the Chief Magistrates Court of Anaka against the Respondent. He pleaded that he is the owner of land measuring approximately 20 acres situate at Labeyi Village, Todora Parish, Anaka Subcounty, Nwoya District (hereinafter referred to as 'the suit land'). According to the plaint, the suit land was given to his grandfather (Obunya) by his in-laws (Ojunga Dario and Ejeno Lugeng) for cultivation in the year 1937. After the death of Obunya in 1969, the suit land was inherited by his father (Od Wong Thomas). His father had quite possession and use of the suit land through cultivation. After the death his father in 2003, he inherited the suit land together with his siblings. He further pleaded that during the LRA insurgency, the Respondent, whose home is about 2kms from the suit land, took refuge in the suit land. However, when the insurgency intensified the Respondent settled in Kirombe, in Gulu Town. To his dismay, in 2013 the Respondent trespassed onto the suit land; destroyed the banana plantation which was planted on the suit land by his father; cut down trees; made timbers and logs from the trees which were cut; cultivated and constructed a house on the suit land. He reported the matter to the police. The Respondent was convicted of the offence malicious damage to property and sentenced to a caution. Thereafter, the Respondent continued with his acts of trespass. The Appellant sought for, a declaration that he is the owner of the suit land; a declaration that the Respondent is a trespasser on the suit land; a permanent injunction to restrain the Respondent and his agents from any further trespass on the suit land; an eviction order against the Respondent; general damages; and costs of the suit.
- [3] The Respondent filed his Written Statement of Defense in which he denied the allegations of the Appellant. He contended that his grandfathers (Lawera Ongwech, Dario Ojunga, Ejeno Lugeng and Angelo Akila) first settled on the suit land in 1930 while the land was still vacant. He further contended that his father (Ojera Ronaldo) grey up on the suit land and he (the Respondent) was born from the suit land and has since lived and utilized the suit land from his childhood to the time of filing his Written Statement of Defense, save for the period of insurgency when he temporarily left for Anaka Camp and subsequently to Kirombe in Gulu Town. He denied that his land is 2kms away from the suit land. He pleaded that his family has buried 3 of their relatives on the suit land, have a homestead with many plantations including avocado trees, oranges, mangoes, jackfruits and bananas on the suit land. According to him, the land which was being used by the father of the Appellant (Od Wong Thomas) is separate from the suit land, it has a banana plantation on it and he (the Respondent) has no claim over it. He pleaded that it is the Appellant and his brother Oluba Joachim who want to extend the boundary of their land to include the suit land.
- [4] The suit was heard inter parties. The Appellant testified as P. W.1. He called his elder brother Joachim Thomas Oloya who testified as P. W.2. The Respondent testified as D. W.1. He called Oryem Matada who testified as D. W.2 and Odinga Aliryano Lewera who testified as D. W.3. On the 30th May 2022 the learned trial Magistrate gave her judgement dismissing the suit. The relevant part of her judgement reads as follows:

" I have evaluated the evidence of the plaintiff and his witnesses, the defence and his witnesses and the finding of the court during locus visit, it's the evidence of PW1 that *the suit land is their customary land which he inherited from their late father and that they only used the suit land for cultivation and that he inherited from his late father in 2003 he told the court the features include muvule tree Okutu and mahogany tree, also PW2 told court the suit land is their customary land and that he was born on the suit land in 1970 and that his father planted banana plantation and that the defendant only took refuge on the suit land, however from the evidence of the plaintiff and PW2, they seem to have their own version of their stories, PW1 told the court that they never lived on the suit land while PW2 on the other who told the court he is a biological brother of PW1 told court he was born on the suit land in 1970, thus with this inconsistency court is left wondering as to who is telling court the truth, secondly, PW1 and PW2 told court the suit land is their customary land and they used the land for cultivation and settlement, however from the evidence of defence and findings of the court during locus visit shows evidence of earlier usage and possession of the suit land which include the remains of old homestead for defendant, ashes at the old cooking point, old avocado tree planted by the defendant, the two graves of the defendant's deceased relatives buried in 1996 and with all these the plaintiff cannot give a substantial and evidential explanation, as to how they got the land which he claims belongs to him.*

All in all, with the above analysis, I find that there is no single piece of evidence led by the plaintiff substantive and carrying evidential burden to make court believe and agree with the plaintiff that he owns the suit land with the above. I find that the plaintiff has failed to prove on the balance of probabilities that he owns the suit land and I hereby dismiss the suit with costs to the defendant."

Grounds of appeal:

[5] The Appellant formulated 4 grounds of appeal.

- 1. The Learned trial Magistrate erred in law and fact when she failed or neglected to properly evaluate the evidence before her that the Appellant has been in possession of the suit land since 1970 hence came to a wrong conclusion.
- 2. The Learned trial Magistrate erred in law and fact when she failed to consider hearsay evidence of the Respondent and the fact that the Respondent departed from his pleadings hence came to the wrong decision.
- 3. The Learned trial Magistrate erred in law and fact when she failed to consider the graves inconsistencies and contradictions in the Respondent's witnesses when he acquired the land and the size of the suit land hence came to a wrong conclusion.
- 4. The Learned trial Magistrate erred in law and fact when she failed to properly conduct locus in quo on the entire land hence came to a wrong conclusion.

Legal representation and submissions:

- [6] The Appellant were represented by Mr. Patrick Abore of M/s Abore Advocates & Legal Consultants. The Respondent was represented by Ms. Dina Nadutu of M/s Conrad Oroya Advocates. The Court directed counsel to file written submissions, which directives were duly complied with. I shall refer to the submissions of counsel while determining each ground of the appeal. I note that in his written submissions, counsel for the Appellant abandoned ground 4 of the appeal.

Consideration and determination of the court:

- [7] Before determining the merit of this appeal, I wish to point out that the duty of this Court, as a first appellate Court, is to reconsider all material evidence that was before the trial court and to come to its own conclusion on the evidence*. This settled position of the law was stated by the Supreme Court in **Rwabugande Moses versus Uganda, Supreme Court Criminal Appeal No. 25 of 2014*)* that;

"It is trite law that the duty of a first appellate court is to reconsider all material evidence that was before the trial court, and while making allowance for the fact that it has neither seen nor heard the witnesses, to come to its own conclusion on the evidence. In so doing, the first appellate court must consider the evidence on any issue in its totality and not any piece thereof in isolation. It is only through such re – evaluation that it can reach its own conclusion, as distinct from merely endorsing the conclusion of the trial court."

Ground 1: The Learned trial Magistrate erred in law and fact when she failed or neglected to properly evaluate the evidence before her that the Appellant has been in possession of the suit land since 1970 hence came to a wrong conclusion.

- [8] Counsel for the Appellant submitted that the evidence of P. W.1 and P. W.2 demonstrates long possession and usage of the suit land which evidence was not challenged during cross-examination. He pointed out that P. W.1 testified that he started knowing that the suit land belongs to his father in 1992 when he was 18 years old since they would cultivate the suit land and take care of the banana planted by their father on the suit land in 1970. He further pointed out that P. W.1 testified that the suit land was reserved for cultivation and that the Defendant only came to the suit land to take refuge during the LRA insurgency. In addition, counsel pointed out that P. W.2 testified that he was born in 1970. When he was 7 years old, he found when his father had planted bananas on the suit land in a L shape and other parts of the land was left for cultivating food crops. He together with his mother and brother would weed crops on the suit land.
- [9] In reply, counsel for the Respondent submitted that the Appellant failed to prove early possession of the suit land. Counsel submitted that the evidence of P. W.1 on possession of the suit land was contradictory to that of P. W.2. She explained that while P. W.1 testified that they never lived on the suit land but only used it for cultivation, P. W.2 testified that he was born on the suit land. Counsel further submitted that while P. W.1 and P. W.2 described the

features on the suit land such as mivule trees, mahogany trees and Okutu trees and also described the neighbours of the suit land which included the portion of their land not in dispute, when the court visited the locus in quo it did not find any feature of the Appellant on the suit land to prove earlier possession and usage.

- [10] I have carefully examined the evidence of the Appellant and his witness and the evidence of the Respondent and his witnesses. It is quite clear from their evidence that both the Appellant and the Respondent claimed ownership of the suit land. They both relied on evidence of early occupation and/ or use of the suit land to prove ownership.
- [11] P. W.1 testified that the suit land belongs to him, having inherited it upon the death of his father (Thomas Odwong) in 2003. He testified that he was informed by his father that in 1937 Obunya (grandfather of the Appellant) acquired land, by way of a gift from his brother in law Ojunga Dario. According to P. W.1, he started knowing that the suit land belonged to his father in 1992 when he was 18 years old. He could cultivate the suit land and also take care of the bananas which were planted by his father in 1970.
- [12] P. W.2, who is the elder brother of the Appellant, testified that the suit land belonged to their father (Thomas Odwong) and they have since inherited it from him. He testified that while their father was still alive, he told them that he also inherited the suit land from his late father (Obunya Lutomoi) who was given the suit land by Dario Ojunga. He stated that he was born on the suit land in 1970. In 1977 when he was 7 years old, he found when his father had already planted banana on the suit land. He further stated that his mother would take him and his brother to weed the crops on the suit land and his father kept on expanding the size of the banana plantation.
- [13] When the Court visited the locus in quo, P. W.1 showed to the court the remains of a muvule tree which he said his father told him he planted. He also showed to the court a banana plantation which he told the court belonged to his late father.
- [14] On the other hand, D. W.1 testified that the brothers of his grandfather (Gino Lukeng, Olum Patiriria, Forinato Achoka) and his biological grandfather Lawera Ongwech lived on the suit land. He stated that he was told that the brother of his grandfather called Angelo Kila acquired the suit land in 1937 when it was vacant. As for him (the Respondent) he was born at a place called Dog -Obot which was owned by his father. In 1977 he was given the suit land by Angelo Kila. He planted a mivule, avocado and orange trees on the suit land; buried children on the suit land; and constructed houses on the suit land.
- [15] D. W.2 testified that it is his grandfather Angello Akila who gave the suit land to the Respondent in 1977. The Respondent started using the suit land for cultivation before people went to the camps. He stated that the features on the suit land include, houses; bananas and avocado.
- [16] D. W.3 testified that the Respondent was given the suit land by Angello Akila in the 1970s. The Respondent used the suit land for cultivation, settlement and also planted bananas.

[17] When the court visited the locus in quo, the D. W.1 showed the court remains of a house which he said belonged to his 2nd wife. He stated that the avocado tree on the suit land he planted it in 1987. He showed to the court a jack tree, orange trees, pawpaw trees and lemon trees which he said he is the one who planted. He also showed to the court the grave of Adokorach Ocaya and Opira who died in 1996. In addition, D. W.1 showed the court old banana plantation and ½ acre land which is on the east of the suit land which he told the court was given to the Appellant to plant banana and there were still banana plants on that land.

[18] I note that although the Respondent and his witnesses testified that the suit land was given to the Respondent by Angello Akila in the 1970s, they all testified that the Plaintiff's father was given a small piece of land by Angello Akila and that land neighbor the suit land. According to D. W.1, that small piece of land which was given to the father of the Appellant was measuring 80 x 80 meters and he planted bananas thereon. He described the boundaries

of that small piece of land as being, Beatrice Oyella on the east, Oryema Matada on the north, the suit land on the west and Beatrice Oyella on the south. D. W.2 also testified that in 1978 Angello Akila also gave to the Appellant land of about ½ an acre which neighbors the suit land from the east where he planted bananas. According to him, Beatrice Oyella neighbor that small piece of land from the east, that small land does not touch Nyalo stream since he is the one who neighbor the Respondent from the north. The land does not also touch Abuno stream from the west since it is the Respondent who neighbor Abuno stream. He stated that Beatrice Oyella neighbors that small land from the south.

[19] I have examined the map which was drawn by the trial Magistrate while at the locus in quo. Nowhere does the trial magistrate show where the alleged small piece of land referred to by the Respondent and his witnesses. To the contrary, banana plantation and the remain of the muvule tree which P. W.1 stated to be on the suit land is clearly indicated in the map to be within the suit land. The only logical conclusion is that the alleged small piece of land is actually the suit land.

[20] On the evidence of early usage of the suit land, D. W.1 testified that when he went to the suit land, he found the Appellant's father had already planted bananas on the small land neighboring the suit land and there was no boundary mark to separate that small piece of land of the father of the Appellant from the suit land. According to him the banana plantation constituted the boundary between the suit land and the land of the Appellant's father. As I have already stated above, the banana plantation is within the suit land. It does not constitute any boundary.

[21] In addition, the evidence of D. W.1 shows that the Plaintiff's father was the first person to start using the suit land and not the Respondent. I note that D. W.2 contradicted the evidence of D. W.1 when he stated that his father (Angello Akila) first gave the suit land to the Respondent before giving the land to the Appellant's father, and yet, D. W.1 testified that

the when he came to the suit land he found when the Appellant's father had already planted his bananas. This clearly proves that the Appellant's father was the first to occupy the suit land and the Respondent merely came and trespassed on the suit land later.

- [22] The trial Magistrate held that the Respondent had adduced evidence of earlier usage and possession of the suit land which included the remains of old homestead for the Respondent, ashes at the old cooking point, old avocado tree planted by the Respondent, the two graves of the Respondent's deceased relatives buried in 1996. However, the trial Magistrate did not take into account when the plants, graves and what she called evidence of old homestead came to be on the suit land. The evidence of the Appellant and his witness was that the Respondent had taken refuge on the suit land because of the LRA insurgency. No evidence was adduced by the Respondent to prove that the plants, graves and the homestead were on the suit land before the period of the LRA insurgency. There is no reason to doubt P. W.1 and P. W.2 that the Respondent settled on the suit land during the period of insurgency. In my view, because of that occupation during the insurgency, there was bound to be some evidence of the Respondent staying on the suit land such as the old homestead, graves and plants. Indeed, it was the Respondent's evidence that the children who were buried on the suit land were buried in 1996. This court takes judicial notice of the fact that in 1996 there was the LRA insurgency in northern Uganda. That evidence of the plants, graves and old homestead does not in any way prove the allegation of the Respondent that his father (Ojera Ronaldo) grew up from the suit land and that he (the Respondent) was born from the suit land and has since lived and utilized the suit land from his childhood to the time of filing his Written Statement of Defense, save for the period of insurgency when he temporarily left for Anaka Camp then subsequently to Kirombe in Gulu Town. The Respondent needed to prove what he and his parents planted or put on the suit land before the Appellant's father started using the suit land. He failed to do so. To the contrary, the Respondent and his witness testified that the Respondent was born at a place called Dog - Obot which was owned by his father. That evidence confirmed the evidence of P. W.1 and P. W.2 that the Respondent came from their home at Dog Obot which is 2 kms from the suit land and started trespassing onto the suit land in 2013.
- [23] The trial Magistrate also relied on what she considered as a contradiction between the evidence of P. W.1 and P. W.2 regarding whether the Appellant was born from the suit land. In my view, there was no contradiction between the evidence P. W.1 and P. W.2. In his evidence, P. W.1 was very clear that part of the land which was given to his grandfather forms the suit land. He stated that the suit land was used for cultivation. Although P. W.2 first stated that he was born on the suit land in 1970, it was very clear that he was referring to the entire land which was given to his grandfather. He later clarified that it is only part of their land which is in dispute. He stated that the part which is in dispute has the banana plantation of his father while the other part which is not in dispute is on the eastern side of the suit land.

[24] I have found the evidence of the Respondent and his witnesses that he was given the suit land in 1977 and he occupied it not convincing. First, he did not plead it. It is a clear afterthought. Secondly, I have already stated above, there is no evidence of what he put on the suit land in the 1970s to prove possession and ownership. Thirdly, P. W.2 testified that in 2009 the younger brother of the Respondent called Omona trespassed on the suit land. He wrote to the village chief and the LCII chairperson and his brother left the suit land. This evidence was not challenged in any way by the Respondent. If indeed the land was given to him and his brother came to the land on his account, why did he leave upon P. W.2 taking him to the local leaders. It clearly shows that the entire evidence that he was given the suit land by Angello Akila is not truthful.

[25] I therefore find that the trial Magistrate failed or neglected to properly evaluate the evidence on the court record which clearly shows that the Appellant and his father was in possession and use of the suit land much before the Respondent came and trespassed the suit land. Ground 1 of the appeal therefore succeeds.

Ground 2: The Learned trial Magistrate erred in law and fact when she failed to consider hearsay evidence of the Respondent and the fact that the Respondent departed from his pleadings hence came to the wrong decision.

[26] Counsel for the Appellant submitted that the Respondent departed from his pleading on how he acquired the suit land and yet the learned trial Magistrate relied on the evidence. Counsel pointed out that in his written statement of Defence, the Respondent pleaded that his grand fathers (Lawera Ongwech, Dario Ojunga, Ejeno Lugeng and Angelo Akila) first settled on the suit land in 1930 while the land was still vacant. His father, Ojera Ronaldo, grey up on the suit land and he (the Respondent) was born from the suit land and has since lived and utilized the suit land from his childhood to the time of filing his Written Statement of Defense, safe for the period of insurgency when he temporarily left for Anaka Camp then subsequently to Kirombe in Gulu Town. Counsel pointed out that in his evidence, the Respondent testified that the suit land is his, having acquired it through customary inheritance. He stated that it was first acquired by the brother to his grandfather called Angelo Akila who then gave it to him to live in. Counsel further pointed out that D. W.2 and D. W.3 departed from the Respondent's pleading when they testified that it is Angelo Akila who gave the suit land to the Respondent. Counsel for the respondent did not make any submission on this ground.

[27] It is a settled position of the law that a party is bound by their pleadings and is supposed to only adduce evidence at the trial to prove the case set out by them in their pleadings. This settled position of law was well articulated by the Supreme Court in **Interfreight Forwarders (U) Limited versus East African Development Bank (1990 – 1994) EA 117.** At page 125, Oder J. S. C stated that:

"The system of pleadings is necessary in litigation. It operates to define and deliver it with clarity and precision the real matters in controversy between the parties upon which they can prepare and present their respective cases and upon which the court will be called upon to adjudicate between them. It thus serves the double purposes of informing each party what is the case of the opposite party which will govern the interlocutory proceedings before the trial and which the court will have to determine at the trial. See Bullen & Leake and Jacob's Precedents of pleading 12th Edition, page 3. Thus, issues are formed on the case of the parties so disclosed in the pleadings and evidence is directed at the trial to the proof of the case so set and covered by the issues framed therein. A party is expected and is bound to prove the case as alleged by him and as covered in the issues framed. He will not be allowed to succeed on a case not so set up by him and be allowed at the trial to change his case or set up a case inconsistent with what he alleged in his pleadings except by way of amendment of the pleadings."

[28] From the testimony of DW.1, D. W.2. and D. W.3, it is quite evident they departed from the Respondent's pleaded case as to where he was born from and how he acquired the suit land. As I have stated in paragraph 2 above, the Respondent pleaded that His father (Ojera Ronaldo) grew up from the suit land and that he (the Respondent) was born from the suit land and has since lived and utilized the suit land from his childhood to the time of filing his Written Statement of Defense, save for the period of insurgency when he temporarily left for Anaka Camp then subsequently to Kirombe in Gulu Town. He categorically denied in the Written Statement of Defense that his land is 2kms away from the suit land. However, his evidence and those of his witnesses were contrary to his pleaded case. He testified that he was born at a place called Dog -Obot which was owned by his father and that his father was using the suit land. He further testified that he was given the suit land by Angelo Kila in 1977 to live in. P. W.2 also testified that Respondent was given the suit land by Angello Akila in 1977 and the Respondent started using the suit land for cultivation before people went to the camps. D. W.3 testified that the suit land was given to the Respondent by Angello Akila in the 1970s. The Respondent used the suit land for cultivation but he would stay at the home of his grandfather at Lawera across the road.

[29] The Respondent was supposed to adduce evidence to prove what he pleaded that he was born from the suit land and did not leave the suit land, save for the period he went to the camp. However, he departed from his pleading by introducing a new set of facts that he was born at a place called Dog -Obot and that the suit land was given to him in 1977. The trial Magistrate should have rejected the Respondent's evidence in as far as it departed from his pleading as to where he was born from and how he acquired the suit land. Had she done so, she would have found, as I do hereby find, that the Respondent failed to adduce any evidence of his allegation that he was born from the suit land and that he and his father grew up from the suit land. Ground 2 of the appeal also succeeds.

Ground 3: The Learned trial Magistrate erred in law and fact when she failed to consider the graves inconsistencies and contradictions in the Respondent's witnesses when he acquired the land and the size of the suit land hence came to a wrong conclusion.

- [30] Counsel for the Appellant submitted that D. W.3 contradicted the evidence of D. W.1 and D. W.2 when he stated that the land which was given to the father of the Appellant neighboring the suit land was 4 acres and yet D. W.1 and D. W.2 stated that it was approximately 1 acre. In addition, counsel submitted that D. W.2 contradicted the evidence of D. W.1 when he testified that the Respondent was given the suit land before the Appellant was given the land neighboring the suit land and yet the Respondent testified that when he was given the suit land he found when the Appellant's father had already been given the land neighboring the suit land and he had already planted banana on it. According to counsel for the Appellant the contradictions between the Respondent and his witnesses shows that they are not credible witnesses who did not know when and how the Appellant acquired the suit land. Counsel for the Respondent on the other hand submitted that the evidence adduced by the Respondent and his witnesses were consistent.
- [31] The law on inconsistencies and discrepancies is now settled. Grave inconsistencies or contradictions unless satisfactorily explained or reconciled will usually but not necessarily result in the evidence of a witness being rejected. Minor inconsistencies and contradictions will normally not have that effect unless they point to deliberate untruthfulness. See: *Uganda versus George William Simbwa S. CC. A No. 37 of 1995.*
- [32] On the size of the land of land, P. W.1 testified that Angello Akila gave the father of the Appellant a small piece of land measuring 80 x 80 meters next to the suit land wherein he planted bananas. D. W.2 stated that the land is about ½ an acre and D. W. 3 stated that the land the 4 acres. These contradictions, though they look minor, point to deliberate untruthfulness. I have already held that the alleged small piece of land is actually the suit land. The Respondent and his witnesses therefore lied about the size of the suit land to mislead the court that the rest of the suit land belonged to the Respondent. The trial Magistrate should have rejected that evidence.
- [33] On who was the first to acquire that land, I have already held above that D. W.2 contradicted the evidence of D. W.1 when he stated that his father (Angelo Akila) first gave the suit land to the Respondent before giving the land to the Appellant's father, and yet, D. W.1 testified that when he came to the suit land, he found when the Appellant's father had already planted his bananas. In my view, this is major inconsistency, D. W.2 intended to mislead the court that the Respondent was first in time to acquire the suit land. The trial Magistrate should have rejected his evidence in that regard.
- [34] In the end, this appeal succeeds with the following orders;
- 1. The decision of the trial Magistrate in Civil Suit No. 026 of 2019, dated 30th May 2022 is hereby set aside.
 - 2. The suit land is declared to belong to the Appellant and siblings inherited it from their father.

- 3. The Respondent is hereby ordered to give vacant possession of the suit land. The boundaries of the suit land are, Nyalo stream to the north, Beatrice Oyella to the south, Beatrice Oyella to the East and Abunu steam to the west.
- 4. A permanent injunction is hereby given to restrain the Respondent and his agents or any person deriving authority from him from trespassing onto the suit land.
- 5. The Respondent to bear the costs of this appeal and the costs in the lower Court.

I so order.

Dated and delivered by email this 28th day of March, 2024

Phillip Odoki

Judge.

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ulii.org/akn/ug/judgment/ughc/2024/121/eng@2024-03-28>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/arop-v-otto-civil-appeal-47-of-2022-2024-ughc-121-28-march-2024-unknown-topic-unknown-court-2024>

Prepared on 13 October 2026 · Esheria