

UGANDA / JUDGMENT

Arthur Bunya Kironde and Others v Commissioner Land Registration and Senkasi George (HCT-17-CV-MC- 004 - 2022) [2025] UGHC 310 (7 May 2025)

[2025] UGHC 310

COURT

High Court of Uganda

BEFORE

Wolayo, J

CASE / FILE NUMBER

HCT-17-CV-MC- 004 - 2022

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT LUWERO

HCT-17-CV-MC- 004 - 2022

(ARISING FROM LUWERO CRIMINAL CASE NO.300 OF 2016)

1. ARTHUR BUNYA KIRONDE

- **2. JOSHUA SENDAWULA**
- **3. JUSTINE NANSIKOMBI (Administrators of the estate of the late YOSIYA NKATA KIRONDE)APPLICANTS**

VERSUS

- **1. THE COMMISSIONER LAND REGISTRATION**
- **2. SENKASI GEORGE..... RESPONDENTS**

BEFORE LADY JUSTICE HENRIETTA WOLAYO**Introduction**

- 1. The applicants, brought this application for consequential orders by way of Notice of Motion under Section 177 & 178 of the Registration of Titles Act and Order 48 rr.1 & 2 of the Civil Procedure Rules SI 71-1. They sought the following Orders; that: -
 - (a) The first respondent cancels and deregisters the 2nd respondent registered as Senkasi George (son) Administrator of the estate of the late Kironde Y. Vide cause No.653 of 2014 from the private mailo certificate of land title of land comprised in Bulemezi Block 400 Plot 60 land at Mulunyiomu.
 - (b) The first respondent registers and or enters on the register Arthur Bunya Kironde, Sarah Ndawula, Joshua Sendawula, Justine Nansikombi and Juliet Namyenya (Administrators of the estate of the late Yosiya Nkata Kironde) vide Administration Cause No. 1449 of 2006 as the registered proprietors of the said property.
- 2. The application is supported by the affidavit of Arthur Bunya Kironde, the first applicant. Ssekabira Moses, a Registrar of Titles in the office of the first respondent, the Commissioner Land Registration filed an affidavit in reply, while Senkasi George, the second respondent did not file an affidavit in reply despite the fact that he was served by way of substituted service in the Daily Monitor newspaper of 10.11.2023 at page 41 as directed by the Assistant Registrar. This was because his whereabouts are unknown and service could not be effected on him in an ordinary manner.
- 3. When the matter came up for hearing on 22.11.2023, I directed the parties to file written submissions and the Ruling would be uploaded on ECCMIS thereafter. Only the applicants filed written submissions as the Commissioner Land Registration had made it clear in their affidavit in reply that they would comply the court's orders. I have carefully considered the application and supporting documents, the reply and submissions on record.

Legal Representation

- 4. The applicants were represented by M/s Mark Mwesigye & Co. Advocates while the first respondents were represented by the Office of Titles, Ministry of lands, Housing and Urban Development.

Background facts

- 5. Arthur Bunya Kironde, Joshua Sendawula and Justine Nansikombi are administrators of the estate of the late Yosiya Nkata Kironde vide letters of administration granted by the High Court at Kampala under HCT-00-CV-AC-1449- 2006. A certified copy of the grant is on record.

- 6. On 24.3.2016, Senkasi George registered himself as son (the administrator of the late Yosiya Nkata Kironde) on land comprised in Bulemezi Block 400 Plot 60 at Mulunyiomu measuring 10.95 hectares which forms part of the estate of the late

Yosiya Nkata Kironde for which Kironde, Sendawula and Nansikombi are mandated to administer.

- 7. As Senkasi was not a son to the late Yosiya Nkata Kironde, the applicants caused his prosecution in **Nakaseke Chief Magistrate's Court at Nakaseke Criminal Case No.300 of 2016**. Senkasi was found guilty of forgery of letters of administration c/s 347 and uttering false documents c/s 351 of the Penal Code Act (now Sections 324 and 328 respectively of Cap. 128). The forged grant was used to vest ownership of the suit land in Senkasi.
- 8. When the case came up for hearing on 9.3.2023, counsel informed me from the bar that he had obtained an order to serve the second respondent Senkasi by substituted service as his whereabouts were unknown after serving his prison sentence. Subsequently, proof of service in the Daily Monitor Newspaper of 10.11.2023 was provided through affidavit of service of Natuhwera Princess, a court process server attached to M/s Mark Mwesigye & Co. Advocates. A copy of the newspaper was also availed. In the circumstance, hearing proceeded ex parte.

Resolution of the case

9. Issue framed for determination:

Whether the applicants are entitled to the consequential orders sought.

10. **S. 161 of the Registration of Titles Act Cap 240** provides that;

Upon the recovery of any land, estate or interest by any proceeding from the person registered as proprietor thereof, the High Court may in any case in which the proceeding is not herein expressly barred, direct the registrar to cancel any certificate of title or instrument, or any entry or memorial in the Register Book relating to that land, estate or interest, and to substitute such certificate of title or entry as *the circumstances of the case require; and the registrar shall give effect to that order.*

- 11. In **Ssetuba Misairi v Registrar of Titles** (Miscellaneous Cause No. 55 of 2011) [2011] UGHC 182 (21 December 2011) ulii, Tuhaise J citing **Re Habib Lubwama [1991] HCB 74** (unreported) noted that an order stemming from a criminal case can form a basis for a consequential order.
- 12. Bunya, the first applicant, deposed in his affidavit that Senkasi fraudulently registered himself on land comprised in Bulemezi Block 400 Plot 60 at Mulunyiomu measuring 10.95 hectares which forms part of the estate of the late Yosiya Nkata Kironde for which Kironde, Sendawula and Nansikombi are mandated to administer.

- ## Orders

- DELIVERED VIA ECCMIS THIS 7TH DAY OF MAY 2025.**

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Prepared on 14 October 2026 · Esheria