

UGANDA / JUDGMENT

Baale and Another v Commisioner, Land Registration (Misc Cause 386 of 2023) [2024] UGHCLD 133 (15 May 2024) [2024] UGHCLD 133

COURT

HC: Land Division (Uganda)

BEFORE

Nkonge, J

CASE / FILE NUMBER

Misc Cause 386 of 2023

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

MISCELLANEOUS CAUSE NO. 386 OF 202g

5 I. BBAALE SADAT

2. GABULA JACQUELINE . APPLICANTS.

VERSUS

CoMMISSIONER, LAND REGISTRATION RESPONDENT

Before: La.du Justice Alexandra Nkonqe Ruaadua

RULING:

The applicants flcd this application seeking orders from this court that a cancellation process that was initiated on the rcspondents' iand comprised in Busiro block 485 plot 334-337 land at Mazzi bc removed, and/or vacated therefrom; and that the respondents pays costs of this application.

In the grounds as set out in their respective affidavits in support their claims were that the respondent had no cause to maintain the initiated process of cancellation on their land comprised in Busiro Block 486, plots 334-337 land at Mazzi. 15

20 That as a result of such intended action the applicants have suffered and continue to suffer damage and/or loss; and that interests of justice demand that the said cancellation process be removed and or vacated from the suit land.

[""]

Representation;

Both applicants were represented by the firm of M/s Bbale & Partners & Legal Consultants.

The evidence on record indicates that the respondent was duly served, but never filed a reply.

Consideration of the issue:

I have carefully read the pleadings and submissions by counsel. The respondent's failure to file a reply is acknowledgement of the fact that that the 1st applicant is currently the person registered as owner of the land comprised

in plot 335- 337, while the 2^d applicant is the registered owner of the land comprised in plot 334, 10

Attached to the application are copies of the certificates of title for the plots which they each claim. Also attached is an agreement entered between a one Kasule Living as vendor and Yasin Lubega as purchaser of the land comprised in plot

43, covering an area of 2 acres which the applicants claim was the original plot before the subdivisions were made to create plots 334- 337. 15

The contents of the affidavit in support are similar and I will not reproduce them in detail. The two claim as registered owners relying on the same agreement by which Kasule had in 2013 sold the land to Yasin Lubega.

- Lubega had according to the 2nd defendant subdivided, sold and transferred the land into her names. She claimed however that she could not dispose of the land because a search at land office showed that there was a cancellation process initiated by the respondent; and that all prospective buyers had shunned away from the land. 20
- That despite her efforts to engage respondent, no satisfactory answer was given to justify the intended action of cancellation. Neither Lubega nor Kasule (who 25

were parties to the agreement relied on by the applicants) filed any affidavit to confirm the positions as alleged.

A perusal of the said agreement dated 22nd January, 2013 as a matter of fact indicates that the full purchase price of Ugx 50,000,000/= was to be paid for

the two acres to Kasule Living by Yasin Lubega, a land dealer. An advance payment of Ugx 20,000,000/= was paid to Kasule, the vendor, at the time of signing the agreement.

As per the same agreement, the balance of Ugx 50,000,000/= was to be paid upon completion of the subdivision of the purchaser's portion. On the signing of the agreement, Kasule, the vendor had purportedly handed over the signed transfer forms and original title to facilitate the process of subdivision.

The agreement further indicates that the purchaser, Yasin Lubega was at liberty to take possession and utilize the land as soon as the final payment of consideration was made.

- The applicants were neither parties nor witnesses to that agreement. There is besides, no indication as to whether the said balance was ever paid to Kasule; no survey report to prove that the land was subdivided as per the agreement; and no area schedule was availed to court to indicate that the plots in dispute were indeed created out of the plot 43. 15
- Also deduced from the applicants' arguments, Yasin Lubega sold to the applicants but neither the respective sale agreements signed between him and applicants nor the signed transfer forms were attached to this application to prove in the first place that indeed Kasule the original owner had duly transferred the 2 acres to Lubega; and that Lubega had in turn subdivided the land to create 20
- the said plots 334-337, before transferring them to the applicants, as they would both like this court to believe. 25

Regarding the intended action by the respondent to cancel the said titles that too was not documented, thereby leaving much to speculation by court. The only

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evidence on record is a letter by the applicants' counsel to the respondent, dated 24th October, 2022.

In that communication, the firm claimed that they learnt that some unnamed person had sought cancellation of the applicants' titles. The firm therefore requested the respondent not to proceed with the plan, since the applicants were in physical and actual possession.

With all due respect, the 'rumors' from the land office ought to have been reduced into writing, and brought as evidence to court before any appropriate action can be taken. Court orders/ actions can neither rely on rumors, nor can they therefore be made in vacuo.

For those reasons, I therefore decline to grant this application.

No costs awarded.

15 Alexandra Rugadga

Jud.ge

75th Mag,2024

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Prepared on 14 October 2026 · Esheria