

UGANDA / JUDGMENT

Bakaine v Sessanga (Miscellaneous Application 2767 of 2024) [2024] UGHCLD 294 (10 December 2024) [2024] UGHCLD 294

COURT

HC: Land Division (Uganda)

BEFORE

Naluzze Aisha Batala, J

CASE / FILE NUMBER

Miscellaneous Application 2767 of 2024

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

MISC. APPLICATION NO. 2767 OF 2024

(ARISING FROM CIVIL SUIT NO. 142 OF 2022)

HAJJI KASAI ABDUL BAKAINE ::::::::::: APPLICANT

VERSUS

1. SESSANGA JOHN

2. MUKASA KIBUUKA SAMUSONI

(administrators of the Estate of the Late Albert

Mackay Kalula Mukasa)

- 3. MUSSICO(U)LTD ::::::::::: RESPONDENTS
- 4. ALLEN NASSANGE
- 5. CUMIKA INVESTMENT LTD
- 6. COMMISSIONER LAND REGISTRATION

BEFORE HON LADY JUSTICE NALUZZE AISHA BATALA

RULING

Introduction;

1. Hajji Kasai Abdul Bakaine hereinafter referred to as the applicant brought this application against the respondents for orders that;
 - i) The plaint and Civil Suit No 142 of 2022 be struck out for not disclosing a cause of action and for being frivolous, vexatious and an abuse of court process.
 - ii) Costs of this application be provided.

Applicant's evidence

- 2. The application is supported by the evidence contained in the affidavit deponed by the applicant which briefly states as follows;
- i) The 1st and 2nd respondents' claim in the suit premised on being beneficiaries and administrators of the estate of the late Albert Mackay Kalula Mukasa.
- ii) The 1st and 2nd respondents are not beneficiaries and administrators of the estate of the late Albert Mackay Kalula Mukasa.
- iii) The 1st and 2nd respondents both obtained the grant of letters of administration of the estate of the late Albert Mackay Kalula Mukasa by fraud and illegally.
- iv) The letters of administration of the estate of the late Albert Mackay Kalula Mukasa vide Administration cause No 225 of 2013 were revoked by the High Court vide Civil Suit No.179 of 2013 George Kasedde Mukasa & Ors v Mukasa Kibuuka and Anor.
- v) The 1st and 2nd respondents' application for review No. 309 of 2022 was dismissed.
- vi) The 1st and 2nd respondents are not administrators of the estate of the late Albert Mackay Mukasa.
- vii) The rightful administrators of the estate of the late Albert Mackay were granted letters of administration after determination of Civil Suit No 1021 of 004 vide administration cause 1338 of 004.

Representation;

3. The applicant was represented by Counsel Deus Nsengiyuwa of M/S Ayigihugu & Co. Advocates whereas the 5th respondent was represented by Counsel Nelsen Wamala. Only the applicant filed written submissions which I have considered in the determination of this application.

Issues for determination;

Whether Civil Suit No.142 of 2022 should be dismissed for non-disclosure of cause of action against the applicant?

Resolution and determination of the issues;

- 4. Counsel for the applicant submitted that the 1st and 2nd respondents sued in their capacity as beneficiaries however they obtained the grant for letters of administration illegally.
- 5. That the letters of administration of the estate of the late Albert Mackay Mukasa vide Administration cause No 225 of 2013 were revoked. The rightful administrators of the Estate were granted letters after determination of Civil Suit No 1021 of 2004 vide Administration Cause No.1338 of 2004.
- 6. Counsel added that the respondents have no locus to bring this action and hence the plaint does not disclose a cause of action against the applicant. Counsel relied on *Kapeka Coffee Works Ltd v NPART CACA No 3 of 2000*.
- 7. Order 7 rule 11(a) of the Civil Procedure Rules mandates courts to reject plaints that do not disclose a cause of action
- 8. In the case of *Kapeka Coffee Works Ltd v NPART CACA No 3 of 2000* court observed that in determining whether a plaint discloses no cause of action, the court must look at the plaint and its annexures if any, and nowhere else.
- 9. In the plaint, the plaintiffs state that they are male adult Ugandans and administrators of the estate of the Late Albert Mackay Kalula Moses.
- 10. However, it has come to the court's attention that the said letters of Administration were revoked by Court in Civil Suit No. 179 of 2013. I have had the opportunity to peruse the judgment by Hon Justice David Matovu whose effect was to revoke the letters of administration that were granted fraudulently to the respondents.
- 11. It thus follows that at the time the plaintiffs brought Civil Suit No. 142 of 2022, they were without valid letters of administration.

- 12. It is a settled position of the law that a party should be clothed with locus standi at the time of commencing an action regardless of the mode. (See **Fakhruddin Vallibhali Kapasi & Anor v Kampala District Land Board & Anor**, HCCS No 570 of 2016) (Samuel Mubiru Kizito v Edward Sekabanja Kato T/A Sekabanja and Co Advocates MA No. 1844 of 2022)
- 13. Lack of locus is directly linked to the lack of a cause of action. See **Fakruddin Vallibhai Kapasi case (supra)**.
- 14. The plaintiffs at the time of bringing the suit were

without valid letters of administration and consequently without a cause of action at law.

- 15. In consideration of the foregoing, the plaintiffs/respondents did not have locus standi as Administrators of the Estate of the Late Albert Mackay to commence any action for the estate. As a result, the plaintiffs are without a cause of action.
- 16. The application hereby succeeds with the following orders;
- i) The plaint and Civil Suit No 142 of 2022 are hereby struck out for want of locus standi.
- ii) The applicant is awarded costs.

I SO ORDER.

NALUZZE AISHA BATALA

Ag. JUDGE

10th /12/2024

Delivered Electronically Via ECCMIS on the 10th day of

December 2024.

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