

UGANDA / JUDGMENT

Cornerstone Community Ministries and Another v Kalempera (MISCELLANEOUS APPLICATION NO. 2580 OF 2024) [2025] UGHC 244 (30 April 2025)

[2025] UGHC 244

COURT

High Court of Uganda

BEFORE

Kazaarwe, J

CASE / FILE NUMBER

MISCELLANEOUS APPLICATION NO. 2580 OF 2024

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA (LAND
DTVTSTON) MISCELLANEOUS APPLICATION NO. 2580 OF 2024 (AR|StNG FROM
CrvrL SUIT NO. 785 OF 2017)

1. CORNERSTONE COMMUNITY MINISTRIES

2. PATRICK MUWONGE

3. ALOYSTUS NTEGE-----, APPLICANTS

VERSUS

KALEMERA EDWARD ---RESPONDENT

Before: Hon. Ladv Justice olive Kazaarwe Mukwava

RULING

This Application is brought for stay of execution under Section 33 of the Judicature Act Cap 13,
Section 98 of the Civil Procedure Act Cap 71and Order 52 rules 1 and 2 of the Civil Procedure
Rules S.l 71-1. 15

The Respondent is opposed to the application mainly on the ground that the Applicant has not
demonstrated that their Appeal has a likelihood of success or that they will suffer

irreparable damage if the Application is denied. 2A

> In order for the Court to grant an application for a stay of execution, the applicant must establish that

> a. his/her appeal has a likelihood of success; or a prima facie case of his right to appeal

b. he/she will suffer irreparable damage or that the appeal will be rendered nugatory if a stay is not granted.

c. If (a) and (b) above have not been established, the Court must consider where the balance of convenience lies.

(d) the applicant must also establish that the application was instituted without delay

DETERMINATION OF THE APPLICATION

The Applicant's Counsel focused on the fact that the pending Appeal will be rendered nugatory if this Application is not granted.

- As to whether there is an arguable Appeal, Counsel for the Applicant relied on the case of *Nalwoga v EDCO Ltd & Anor* (Ma. No. 07 of 2013) [2013] UGHCLD 49 (29 May 2013) where Murangira, J held that this Court should avoid saying anything that indicates a concluded view as to the merits of the action on fact or law, because the matter of appeal is the subject matter of the appeal and will have to be heard and dealt with thereafter.
- However, the Supreme Court in *Gashumba Maniraguha vs Sam Nkudiye* [2015] UGSC 7 held that the likelihood of success of the pending appeal is the most important consideration in applications for stay of execution.

In conclusion and in agreement with Counsel for the Respondent, I find that the Applicants have failed to demonstrate that their Appeal has a likelihood of

success. It is for this reason that I decline to grant the Application for stay of execution. This application is dismissed with costs

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Olive Kazaarwe Mukwaya

JUDGE

20 30th April 2025

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