

UGANDA / JUDGMENT

# Kaahwa v Attorney General (Civil Suit 29 of 2023) [2025] UGHC 106 (10 January 2025)

[2025] UGHC 106

## COURT

High Court of Uganda

## BEFORE

Byaruhanga Rugyema, J

## CASE / FILE NUMBER

Civil Suit 29 of 2023

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA HOLDEN AT HOIMA  
CIVIL SUIT NO. HCT-16-LD-CS-029 OF 2023

FRANCIS KAAHWA::::

VERSUS

THE ATTORNEY GENERAL::::

BEFORE: HON. JUSTICE BYARUHANGA JESSE RUGYEMA

## JUDGMENT

- The Plaintiff's claim against the Defendant in this suit for: \$[1]\$
- Fair and adequate compensation pursuant to compulsory \$(a)\$ acquisition of his 27 parcels of land in Buliisa District comprised in the following areas, Avogera village, Ngwedo sub-county, Bikongoro village, Kigwera sub-county, Ngwedo Centre, Ngwedo sub-county, Kijumbya village, Buliisa subcounty, Kamadindi village, Ngwedo sub-county, Kasinyi village, Ngwedo sub-county and Kibambura village, Ngwedo sub-county, whose details are clearly accordingly pleaded in the Plaintiff's plaint.
- A declaration that the compensation in the sum of Ugx. \$(b)\$ \$342,000,906/\$ = offered to the Plaintiff by the Defendant on behalf of the Government of Uganda for the compulsory acquisition of the 27 parcels of land belonging to the Plaintiff is low, unfair and inadequate.

- An order directing that the Plaintiff be compensated a total sum \$(c)\$ of Ugx. 4,340,389,288/= for the 27 parcels of land measuring 39.301 acres.
- General damages of Ugx. \$1,000,000/\$ = for inconvenience and \$(d)\$ mental anguish.
- Special damages of Ugx. 1,000,000/= for variation of the \$27\$ \$(e)\$ parcels of land.
- Costs of the suit. \$(f)\$
- The Defendant on the other hand denied and rejected the Plaintiff's \$[2]\$ claims on the following grounds:
- The Plaintiff's consent and input is not required by law, for the \$(a)\$ Government of Uganda to assess the compensation for land compulsory acquired under the Land Acquisition Act.
- The Defendant followed due process in the compulsory \$(b)\$ acquisition of the Plaintiff's parcels of land in accordance with the legal framework of compensation in Uganda including but not limited to the Constitution of the Republic of Uganda 1995 (as amended), the Land Act, Land Acquisition Act, Land Acquisition Resettlement Framework 2016, Best International Practices and guidelines on resettlement and compensation.
- The sums assessed for compensation to the Plaintiff are fair and \$(c)\$ adequate in accordance with the approved methodology for the assessment of compensation.
- The valuation undertaken by the Plaintiff is manifestly illegal \$(d)\$ and wrong, and in accordance with the approved valuation method for the Tilenga Project.

## Background

- The Government of the Republic of Uganda, represented by the \$[3]\$ Ministry of Energy & Mineral Development granted petroleum production licences, to TOTAL E&P (U) CNOOC (u) ltd for areas now designated as the Tilenga Project in the districts of Hoima and Buliisa, Uganda. The implementation of the project required a land acquisition process.
- The Tilenga project affected area included the 27 parcels of land \$[4]\$ owned by the Plaintiff measuring a total of 39.301 acres identified for compulsory acquisition.
- The Plaintiff on his part granted consent to the Defendant to access \$[5]\$ the land pending computation and payment of fair and adequate compensation.
- The land and developments including crops thereon were assessed \$[6]\$ and valued by the Tilenga Project's Assessment Officer, the Chief

Government Valuer (CGV) at Ugx. 342,000,906/=. The Defendant contends that the valuation was based on the Approval Valuation Methodology for the Tilenga Project.

- The Plaintiff rejected the sum awarded as compensation as being low, \$[7]\$ inadequate and unfair. The Plaintiff contended that the Defendant without his input assessed compensation for the 27 parcels of land acquired at Ugx. 342,000,906/= which he considered low, unfair and inadequate and for that reason, he contracted a private valuer, Covae Associates who valued the parcels of land and assets thereon at Ugx. \$4,340,389,228/=\$ .
- The Plaintiff therefore seeks inter alia, declarations that the \$[8]\$ compensation offered by the Defendant is low, unfair and inadequate, an order directing that he be compensated a total sum of Ugx. 4,340,389,288/= for the 27 parcels of lands measuring 39.301\$ acres. It is the Defendant's contention that the compensation sum assessed and valued by the Tilenga Project Assessment Officer is fair and adequate for the Plaintiff.

### **Counsel legal representation.**

The Plaintiff was represented by Mr. Amar Ali of M/s Kabayiza, \$[9]\$ Kavuma, Mugerwa & Ali Advocates, Kampala while the Defendant was represented by State Attorneys, Uwizera Frankline and Clare Kukunda of Attorney General Chambers, Kampala. The Counsel filed their respective submissions for consideration in the determination of this suit.

### **Issues for determination.**

- [10] At scheduling, the parties formulated the following issue for determination of this suit:
- Whether the compensation offered by the Defendant to the \$1.\$ Plaintiff is fair and adequate.
- What remedies are available to the parties. \$2.\$

### **Whether the compensation offered by the \$\$ Defendant to the Plaintiff is fair and adequate.**

- \$[11]\$ Agreed upon facts:
- Total Energies EP (U) is currently engaged in the exploitation of \$(a)\$ oil in the Albertine Graben in the Western part of Uganda and acquisition of parcels of land on behalf of Government of Uganda (the Defendant) for the Tilenga project operation and it identified 27 parcels of land owned by the Plaintiff measuring 39.301 acres for compulsory acquisition.
- The Plaintiff as land owner was required to transfer ownership, \$(b)\$ title and unconditionally relinquish to the Government of Uganda his entire rights and interest in the 27 parcels of land including but not limited to any developments thereon, the user and re-user rights and rights of occupancy.
- On 31/5/2022, the Plaintiff granted consent to the Defendant to \$(c)\$ access the land pending computation and payment of fair and adequate compensation.

- The Defendant assessed compensation for the parcels of land \$(d)\$ acquired to the tune of Ugx. 342,00,906/= which the Plaintiff considered low, unfair and inadequate for the 27 parcels of land.
- The Plaintiff contracted a private valuer, Covae Associates who \$(e)\$ valued the properties/ parcels of land to the tune of Ugx. \$4,340,389,288/\$ = which he contends is fair and adequate as sums realised \$\operatorname{CGV}\$ \$\quad\$ of \$\quad\$ Ugx. the \$\rm bv\$ opposed to the \$342,000,906/= \$ .
- [12] Counsel for the Plaintiff submitted that compulsory land acquisition in Uganda is guided by Art. 26 of the 1995 Constitution of Uganda and S. 42 of the Land Act, that no person shall be compulsorily deprived of property or any interest in or right enter property without prompt payment of fair and adequate compensation prior to the taking of possession or acquisition of the property.
- [13] Counsel relied on S.77 (1)(o) of the Land Act for computation of compensation which provides thus:

" The District Land Tribunal shall in assessing compensation referred to in Section 76 (1) (b) take into account the following: (a) In the case of a customary owner, the value of the land shall be the open market value of the unimproved land".

Counsel argued that in this case, the Plaintiff testified that as a land owner in Buliisa, he has entered into lease with ATC (U) and Total Energies E&P (U) where he leased his land at a monthly rate of Ugx. \$998,510/= \$ acre per acres and Ugx. for \$0.222\$ \$458,333/= \$ respectively.

- [14] That in line with the above, the Plaintiff found it unfair to be offered an average of Ugx. 12,592,628/= per parcel of land approx. Ugx. 8,651,202/= per acre yet he receives in excess of the above amount per annum while renting out his other pieces of land in the same area.
- [15] Counsel submitted further that the Principal Government Valuer, Mr. Okumu Benon (DW2), during cross-examination stated that he used the "COMPARABLE SALES" methodology for valuation of land to value the Plaintiff's land to reach the value of Ugx. 342,000,906/= but confirmed that the "INCOME APPROACH" methodology which was used by Joseph Biribonwa (PW2) to value the Plaintiff's 27 of land to reach the value of Ugx. 4,340,389,288/= is both an internationally and nationally recognised method of valuing land and property. Counsel argued that despite the above, the Government of Uganda went ahead and utilised a methodology of valuing property that unfairly treats the Plaintiff and does not provide for a fair and adequate compensation.
- [16] Counsel concluded that considering the market value principle based on the rental rates in the area, the compensation offered by the Defendant to the Plaintiff is unfair and inadequate.

- [17] Counsel for the Defendant on the other hand submitted that the value of the Plaintiff's land, Ugx. 342,000,906/= was based on the prevailing market values at the cut off dates using the market value approach i.e. the "comparative sales method" of valuation where the market value of the land to be acquired is compared to the market value of the other land in its vicinity. That the Approved Valuation

Methodology (D. Exh.7) employed by the Defendant is for all the Resettlement Action Plans (RAPs) of the Tilenga Project and provides for valuation of crops and economic trees which follows the approved District compensation rates in accordance with S.60 (1) (e) and (f) of the Land Act Cap. 236 (Revised Edition, 2023).

- [18] Counsel attacked the Plaintiff's private valuer use of the "Income Approach", while valuing the Plaintiff's land as being speculative and not suitable for the Plaintiff's land on the grounds that it values property basing on its expected future cash flows yet the Plaintiff's land was not actively being used for an income generating activity. That therefore, the circumstances surrounding the land to be valued informed the decision to use a particular methodology. Counsel Therefore concluded that in the instant case, where the land was not actively generating any income for the Plaintiff, it would be grossly unreasonable for the Defendant to use the income approach which the Plaintiff has applied in his private valuation. Counsel contended that the compensation by the Government Assessment Officer was fair and adequate.
- [19] This court has looked at and perused the 2 valuation reports relied upon by the Plaintiff and the Defendant respectively. It is stated in evidence of both parties that whereas the private valuer deployed by the Plaintiff employed the "INCOME APPROACH" methodology, the APPROACH "COMPARABLE SALE employed the Defendant methodology to arrive at their respective preferred values of the Plaintiff's compulsory acquired land by the Defendant. The Plaintiff's Private valuer, Joseph Lawrence Kaburaisoke Biribonwa (PW2) took into account of the fact that the Plaintiff was leasing his other portions of land in the area to ATC (U) and Total Energies EP (U) earning Ugx. 458,333/= for 0.222 acres and Ugx. 998,510/= per acre per month respectively signifying that he would rather lease his 27 parcels of land measuring a total of 39.301 acres than sell or be compensated the meagre sum of Ugx. 342,000,000/=:, depriving him of his parcels of land for good. Indeed, Okumu Benon (DW2), a Principal Government Valuer of the Defendant conceded during cross-examination at page 8-9 of the proceedings thus:

"I am aware of the valuation Reports on court record... I used the following methodology: 'comparable sales' method of land - through guidance by law especially the Land Act about assessment of the values of land. Compensation Assessment under Land Acquisition Act 2017 which provides for general framework of how assessment should be conducted...

In this case, we did not consider rental capacities in this area... The plaintiff's valuer used the "Income Approach" methodology, an international recognised methodology. Considering the values gotten by CGV [Chief Government Valuer] and the Plaintiff's valuer, I would say that those of CGV were not fair to the Plaintiff."

- [20] As a starting point, Art.26 (2) (a) & (b) (i) of the Constitution provides thus:
- \$(2)\$ No person shall be compulsorily deprived of property or any interest in or right over property of any description except where the following conditions are satisfied-
- (c) The taking of possession or acquisition is necessary for public use or...
- the compulsory taking of possession or acquisition of \$(d)\$ property is made under a law which makes provision for
- prompt payment of fair and adequate compensation, \$(i)\$ prior to the taking of possession or acquisition of the property..."
- [21] In the instant case, the Plaintiff by show of a good gesture to the Government (Defendant), thus evidence that he supports the Defendant's commitment to develop Uganda's hydro - carbon resources and ensure the social economic transformation of the country, granted the Defendant permission to taking possession or acquisition of the 27 parcels of land in question before the constitutionally requirement of "prompt payment of fair and adequate compensation, prior to the taking of possession or acquisition of the property".
- [22] The above apart, both Art. 237 (2)(o) of the Constitution and S.43 of the Land Act (Cap.236) (Revised Edition 2023) provides for

acquisition of land by Government or Local Government in public interest, subject to Art. 26 of the Constitution.

- [23] S.77 of the Land Act (Now S.78 of the Land Act (Revised Edition 2023) provides that in assessing compensation, the following have to be taken into account:
- \$(a)\$ In the case of a customary owner, the value of land shall be the open market value of the unimproved land:
- The value of the buildings on the land, which shall be taken at \$(b)\$ open market value for urban area and depreciated replacement cost for the rural areas:
- The value of standing crops on the land, excluding annual crops \$(c)\$ which could be harvested during the period of notice given to the tenant.

- [24] Clearly, the above does not exclude consideration of rental capacities in the area while considering the open market value of the land as the Principal Government Valuer (DW2) tried to convince court and that therefore, the "income approach" methodology employed by the Plaintiff's private valuer was not suitable in the valuation of the Plaintiff's 27 parcels of land.

[25] In *Sheema Cooperative Ranching Society & 31 ors vs AG H. C. C. S. No. 103/2010* and *Buran Chand Mary vs The Collector under the India Land Acquisition Act (1894)* 1957 EACA 125, court held that:

"The market value of land is the basis on which compensation must be assessed and the market value of land on the basis on which compensation must be based is the price at which a willing vendor must be expected to obtain from a willing purchaser. A willing purchaser is one who although may be a speculator is not a wild or unreasonable speculator".

Madrama, J. A. (as he then was) in *AG vs Etot Paul Peter & 8 ors C. A. C. A. No. 144 of 2018*, upon examination of other authorities, regarding valuation of land and compensation by other jurisdictions concluded as follows:

"The principles used for valuation which flow from the \*foregoing are as follows:\*

- (a) The value of compensation should not be less than the loss imposed by the compulsory acquisition and not more. This includes loss of valuable items found on the land.
- (b) It is assessed on the basis of the value of the land to the owner. I note that this includes the intended use by the owner and its potential.
- (c) The other basis is what a willing seller is expected to  $\frac{1}{2}$  realise upon a sale in the open market. This is the market \*value principle.\*
- [26] In the instant case, I have perused and studied the Defendant's valuation Report comprised in D. Exhs. 2 & 7, whereas it is the Defendant's case that a "Comparative sales" method of valuation was used whereby the market value of the land acquired was compared to the market value of other land in its vicinity, there is no evidence from the report or from the Principal Government Valuer (DW2)'s evidence that the alleged comparison was made to arrive at a fair value of the Plaintiff's parcels of land. There is no copy of the comprehensive market research in the entire project area report relied on by the Defendant's valuer as DW2 claimed in his evidence. that was reflected or attached to the valuation report. DW2 admitted during cross-examination that though he used the "comparable sale" approach to arrive at the "appropriate sum", he did not indicate any comparable sales in the report.

- [27] What is visible in the report are the available **District compensation** rates, (2018/19 in regard to food and cash or tree crops, **structures, graves and ponds**. There is no evidence that the value of the 27 parcels of land of the Plaintiff were arrived at by comparing values of other similar parcels of land in the vicinity. The report does not disclose all significant assumptions made during the valuation process along with their rationale, Standard 103 of the International Valuation Standards.
- [28] The Plaintiff's private valuer valuation report, regarding the 27 **parcels of land** (P. Exh.2) on the other hand, attached comparable properties for example, Kigogole 2 well pond and ATC (U) ltd

facility, both located in the vicinity of the Plaintiff's 27 parcels of land together with the tenancy agreements (leases) with ATC (U) ltd and **Total E & P. (U) B. V** respectively (P. Exhs. 4 & 3) indicating the accruing rental income per annum. Whereas the comparable properties are not on the Plaintiff's 27 parcels of land in question, they do reflect the enhanced value of the subject properties by virtue of the intended projects in the area. A willing seller would definitely consider these developments and take advantage of them.

[29] The Defendant did not challenge the rental capacities of the Plaintiff's land in the vicinity save for **DW2** conceding that during the valuation of the Plaintiff's parcels of land, he did not consider these rental capacities in this area. As observed by Mubiru J. in *Aya Investments (U) Ltd vs Industrial Development Cooperation of South Africa*, H. C. M. A. No. 2908 of 2023;

> "Property is valuable because of the future benefits it is expected (anticipated) to provide. A property's value may be defined as the present worth of the rights to all real property. Therefore, investors buy income - producing properties today for the future benefits, or income, that is anticipated they will produce in the future. One of the responsibilities of a valuer is obligated to consider both the likelihood of future trends and the impact that such trends will have on buyers, sellers, and tenants, as expressed in present market transactions".

## Secondly that

"Valuation reporting is the provision of a written opinion as to capital value or price, or rental value, of any given basis in respect of an interest in property with or without associated \*information, assumption or qualifications.\*"

[30] In the instant case, the Plaintiff's preferred Valuation report comprised in **P. Exhs. 3 & 4** cannot be found to contain information that is not reliable or that the Plaintiff is an unreasonable speculator in the absence of any challenge from the Defendant regarding its The Plaintiff's preferred valuation report discloses the content. major factors considered by the valuer in the valuation report that assists the court to have a complete understanding of the valuation. Unlike the Defendant's preferred Valuation report, the Plaintiff's Valuation report justifies the figures arrived at.

[31] As was held in *Bank of Africa (U) Ltd vs Ssemaganda Mark & Anor C. A. C. A No. 131 of 2021*, preferring one valuation report over another is a discretionary exercise. This court is faced with 2 Valuation reports where the Plaintiff preferred the "Income Approach Methodology" and the Defendant preferred the "Comparison Sales" Methodology". As again observed in *Aya Investments (U) Ltd (supra)*;

> "The main method of valuation in the residential sector is the direct comparison method. This method compares the subject property with recent sales of similar properties in the local area making necessary adjustments based on fundamental differences between the properties. Comparable sales are used as a reference point of valuation. There are also instances where purported comparable sales from a geographically different area or different market segment to that of the subject property are referenced in a valuation. Commercial and rural valuation are mere complex and include income based analysis and replacement cost analysis".

- [32] In the instant case, as already observed, there is no evidence that actually the Defendant's Valuation report took into consideration of the recent sales of similar properties in the local area to make the necessary adjustments based on a fundamental differences between the properties. The Defendant was not able to discredit the Plaintiff's preferred Valuation report that was based on the "Income Approach" analysis. The Principal Government Valuer (DW2) appraised court that the "Income Approach" methodology is an International recognised methodology.
- [33] The Plaintiff's private valuer (PW2) on the other hand denied Ministry of Lands published knowledge \$\quad\text{of}\quad\$ the approved compensation rates for land. Indeed, none were provided and attached to the Defendant's valuation report as the basis for the sum arrived. In the premises, I find that PW2 utilized the recognised International valuation approach, income approach, because Uganda

does not have its own approved one for use. The domestic valuation standards issued by the Ministry of Lands 2017, have the same guiding principles as those contained in the International valuation standards. It cannot in the circumstances be said that the Plaintiff's Valuers' approach in valuing the Plaintiff's parcels of land was not suitable for the fair value of the property.

- [34] Lastly, Counsel for the Defendant submitted that under **S.6(1) of the Land Acquisition Act**, it is only the Assessment officer who is mandated to make an award for compulsory acquisition purposes. That **S.1 of the Act** defines "Assessment Officer" to mean "a public officer or other person appointed by the Minister to be an assessment officer, for the purposes of this Act, either generally or in a particular case".
- [35] However in my view, the fact that Art. 26 of the Constitution envisages a dispute after the compulsory acquisition of the property by giving a right of access to a court of law to any aggrieved person and **S.13 of Land Acquisition Act** provides for any aggrieved party to challenge the compensation awarded by the Assessment Officer, then, the law envisages private valuers for purposes of court action to counter the Assessment Officer's awards. To outlaw private valuation in land acquisition by the Government would render the citizens

who would feel aggrieved by the awards of the Assessment officers without any remedy especially in a case like the instant one where the Permanent Secretary, Ministry of Lands, Housing & Urban Development out rightly rejected the Plaintiff's submitted valuation report for approval on the grounds that it was submitted under an incorrect procedure, i.e. that it was not submitted through Total Energies EP (U), (who in this case breached payment of compensation to the Plaintiff and a tortfeasor with the Defendant in the suit) and, that the Plaintiff used a wrong valuation methodology instead of using the impugned one (P. Exh.9), yet it was not shown how the Defendant's valuation was wrong and or faulted by evidence of the Principal Government Valuer (DW2).

- [36] In cases of compulsory acquisition of land, a party contesting the valuation of his/her property for purposes of compensation must

provide an alternative value he or she asserts as the right value that meet the failure and adequate compensation test. That alternative value has to be conducted by an independent valuer from the private sector.

[37] In conclusion, I find that the Defendant's valuer failed to ensure a fair and accurate proper valuations of the Plaintiff's 27 parcels of land when he failed to conduct a proper valuation of the property on the basis of the market value principle i.e. what a willing seller is expected to realise upon a sale in the open market. As a result, this court relies on the Valuation by the Plaintiff's valuers, Covae Associates of Uganda valuing the 27 parcels of land at Ugx. \$4.340.389.288/= \$ .

## Issue No.2: What remedies are available to the parties.

- (a) Payment of compensation amounting to Ugx. \$4,340,389,288/= \$ .

[38] This court having found that the Defendant's valuer failed to ensure a fair and accurate proper valuation of the Plaintiff's 27 parcels of land when he failed to conduct a proper valuation of the property on the basis of the market value principles, it follows that the compensation offered by the Defendant to the Plaintiff is unfair and inadequate contrary to Art. 26 (2)(b)(i) of the Constitution which calls for a prompt payment of fair and adequate compensation for the compulsory acquisition of the property. As a result, this court finds that the Plaintiff is entitled to payment of compensation of a total sum of Ugx. 4,340,389,288/ = from the Defendant for the 27 parcels of land measuring 39.301 acres compulsorily acquired by the Government of Uganda.

## (b) Special damages

The Plaintiff pleaded Ugx. \$100,000,000/\$ = allegedly incurred in the valuation of the subject 27 parcels of land by Joseph Lawrence K. Biribonwa (PW2). The law requires special damages to be specifically pleaded and strictly proved, *W. M Kyambadde vs Mpigi District Administration* [1984] HCB 44.

- [39] In this case, although the special damages were specifically pleaded, no evidence was adduced by the Plaintiff or his Valuer, PW2, or documentary, to show that this particular amount was paid by the Plaintiff to Covae Consultants, the Valuers, for the valuation of the Plaintiff's 27 parcels of land in question. Counsel for the Plaintiff argued that P. Exh.10, a copy of the professional fees for valuation surveyors in Uganda clause 9 provides that the costs for valuation for compensation are 2.5% of the value of the property. With due respect, P. Exh.10 is not evidence that Ugx. 100,000,000/= was paid to the surveyor for the valuation of his 27 parcels of land since the Valuer retains his discretion to charge less and the customer also has a right to negotiate for less following the rules of negotiation.
- [40] As a result, of the above, though I firmly believe that the Plaintiff incurred costs for the valuation of his 27 parcels of land, without evidence that the claimed sum was charged for the service and was paid, I find that the Plaintiff has not satisfied the required burden of proof upon him to prove the said Special damages and as a result, the claimed sum of Ugx. 100,000,000/= is accordingly declined.

### (c) General damages

[41] The Plaintiff in this case is claiming general damages of Ugx 1,000,000,000/=. In the East African Court of Appeal in *Dharamshi vs Karsan* [1974]1 EA 41 it was held that;

> "general damages are awarded to achieve restitutio in integrum which principle is that the plaintiff has to be restored as nearly as possible to a position he or she would have been at, had the injury complained of not occurred."

See also *Robert Coussens vs A. G. S. C. C.* A No. 8 of 1999. Lord Macnaghten in *Stroms vs Hutchinson* [1905] AC 515, UK HL 844 at 847 defined general damages as damages such as the law will presume to be the direct natural or probable consequence of the act complained of. Counsel for the Plaintiff submitted and argued that the action of the Defendant of not paying the Plaintiff fair and adequate compensation prior to the compulsory acquisition of his land amounted to a breach of Art.26 of the Constitution and the Plaintiff's inconveniences and suffering can be remedied by an award of general damages which, relying on *A. G. Vs Etot Paul Peter & 8 Ors* (supra), he put to Ugx. 1,000,000,000/=:, the approximately 25% of the amount valued. That the amount as general damages is for breach of the rights of the Plaintiff's enshrined in Art. 26 of the **Constitution** and for the inconveniences suffered by the Plaintiff.

- [42] In the instant case however, it should be noted that there is no evidence of breach by the Defendant of the Plaintiff's rights enshrined in Art. 26 of the Constitution. The Plaintiff, as per his good gesture, granted the Defendant project access to the suit land. The Plaintiff merely rejected the offered compensation and allowed that it be deposited on an escrow account pending resolution of his grievance.
- [43] General damages are usually not capable of precise qualification in monetary terms. They are presumed to be the natural or probable consequence of the wrong complained of with the result that the Plaintiff is required to only assert that such damages have been

suffered. The quantum of general damages is arrived at on the principle that the innocent party is to be placed, so far as money can do so, the same position as if the breach has not occurred. Damages are therefore designed to compensate for an established loss and not to provide a gratuitous benefit to the aggrieved party. As such, the general damages awarded by court, are meant to compensate the Plaintiff but not to unjustly enrich him or her, *Waigloba (U) Ltd vs Sai Beverages Ltd*, H. C. C. S. No. 16 of 2017.

- [44] In the instant case, it is apparent that the Plaintiff compensation sum has been held by the Defendant since 22/3/2023 when the Defendant unreasonably rejected the approval of his Valuation report that reflected the Market value principle of his 27 parcels of land. The Plaintiff lost investment and commercial opportunities to invest had the compensation sum been in his pocket. The above definitely inconvenienced him. Besides, the Plaintiff must have spent money to have a valuer conduct a fresh valuation of his properties, something that would have been avoided had the Defendant's Valuer properly and fairly conducted the valuation of his property. This definitely compounded the inconveniences suffered.
- [45] Considering the totality of the above, I find the general damages proposed by the Plaintiff exorbitant and unjustifiable. I accordingly award the Plaintiff Ugx. 154,000,000/= as general damages.

#### **(d) Costs and interest.**

- [46] It is trite law that costs follow the event. Both costs and interest are discretionary in nature, Ss.27 and 26 CPA respectively. In the instant case, the Plaintiff being the successful party, is granted costs of the suit. In order to cushion the Plaintiff's decretal sum and general damage amounts, against inflation, they are to carry interest of 18% from the date of filing the suit and the date of the judgment till payment in full respectively.
- [47] In conclusion, judgment is entered in favour of the Plaintiff with the following declarations and orders:
- A declaration that the compensation offered to the Plaintiff by \$(1)\$ Total Energies EP (U) on behalf of the Government of the compulsory acquisition of the 27 parcels of land belonging to the Plaintiff is low, unfair and not adequate.
- \$(2)\$ An order directing that the Plaintiff be compensated a total sum of Ugx. 4,340,389,288/= for the 27 parcels of land measuring 39.301 acre.
- General damages of Ugx. \$154,000,000/= \$ . \$(3)\$
- \$(4)\$ Interest of 18% per annum on both the decretal sum and general damages from the date of filing the suit and date of judgment till payment in full respectively.
- (5) Costs of the suit are awarded to the Plaintiff as the successful party.

Dated at Hoima this \$10<sup>th</sup>\$ day of **January**, 2025.

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**Byaruhanga Jesse Rugyema IUDGE**

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