

UGANDA / JUDGMENT

Kalangabusa (Experte) (Miscellaneous Cause No. 8 of 2018) [2021] UGHCLD 469 (23 April 2021) [2021] UGHCLD 469

COURT

HC: Land Division (Uganda)

BEFORE

Nkonge, J

CASE / FILE NUMBER

Miscellaneous Cause No. 8 of 2018

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THE REPUBLIC OF UGANDA**IN THE HIGH COURT OF UGANDA AT KAMPALA****LAND DIVISION****MISCELLANEOUS CAUSE NO. 008 OF 2018****KALANGABUSA EMMANUEL ::::::::::::::::::::::::::::::****BEFORE: LADY JUSTICE ALEXANDRA NKONGE RUGADYA****RULING: (EXPARTE)****Introduction:**

This application (exparte) seeks an order directing the Registrar of the Land Office of Luwero District at Bukalasa to:

- 1. substitute the names Paulo Kyasi with that of KALANGABUSA of the title deed comprised on **Block 695 Plot 3** land at Kanyogoga Luweero district;
- 2. issue appropriate orders as to where the balance of the purchase price should be deposited; and
- 3. *the costs of this application be provided for.*

Grounds of application:

The grounds of the application are laid out in the affidavit of the applicant Mr. Kalangabusa Emmanuel. \$25\$

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Briefly:

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He contends that he bought land comprised on **Block 695 Plot 3** land at Kawula and Kanyogoga Bulemezi County, Luweero district from one Paulo Kyasi of Kyadondo, the then registered proprietor in 1979, measuring 30 acres (a copy of the purchase agreement (Luganda language and its English translation (annexed and marked "A"), at a consideration of *Ugx* 50,000/= (fifty thousand. He paid *Ugx* 48,000/= (forty eight thousand remained with some balance which was to be paid on 12/12/1979.

He further claims to have carried out a thorough search to trace the said Paulo Kyasi or his known relatives, with a purpose of paying the balance but after the war, the vendor could not be traced and the balance could not be therefore be paid to him..

That a search was made in Bukalasa land office and the search results showed that the names of the vendor, Paulo Kyasi, appeared on the original land title and the same had no encumbrances.

That the process of obtaining a land in Bulemezi **Block 695, Plot 3** and to change the same into his names could not be properly effected without being granted a court order, which he now seeks in this application.

The application was represented by the firm of *M/S Katongole & Co. Advocates*.

Consideration of the issue:-

The applicant seeks an order (among others) to transfer land from the names of Paulo Kyasi to those of the applicant, for the land comprised in **Block 695, Plot 3**, land at 20 Kanyogoga, Luweero; and for an appropriate order as to where the balance of purchase price should be deposited.

I have carefully read the application and submissions of counsel and I note that the application lacks supporting documents, some of which were referred to in the affidavit

in support of the application. 25

> The applicant in *paragraph 3* of the affidavit, referred to a sale agreement made in 1979 between him and Kyasi, by which part payment of *Ugx 50,000* had been paid, leaving a balance of *Ugx 48,000/=*. This agreement was not however annexed to the affidavit.

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The applicant failed to provide any proof therefore that payment had been made as purchase price for the suit land. Furthermore, he did not avail to court any documentary proof of ownership by him or Paulo Kyasi whom he claimed to be the current registered owner of the land comprised in **block 695 plot 3**, land at Kawula and Kanyogoga.

The said Paulo Kyasi was not even made party to this application. Without any copy of \$ $\backslash\mathrm{mathsf{S}}\backslash$ certificate of title or search statement, it was neither possible to ascertain if Kyasi was the actual owner of that land nor establish the current status of that land.$

With the above missing information, it cannot be concluded that a valid transfer had been that would entitle the applicant to the remedies sought in this application.

Finally, the applicant has not demonstrated what effort he has made to establish the 10 whereabouts of the registered owner, Mr. Paulo Kyasi.

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

No order to costs.

Alexandra Nkonge Rugadya

JUDGE

19/4/2021 20

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