

UGANDA / JUDGMENT

Karuguta Town Council (Civil Appeal 38 of 2022) [2024] UGHC 1030 (30 October 2024)

[2024] UGHC 1030

COURT

High Court of Uganda

BEFORE

Wagona, J

CASE / FILE NUMBER

Civil Appeal 38 of 2022

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT FORT PORTAL 3
CIVIL APPEAL NO. 038 OF 2022 (ARISING FROM KARUGUTU, LAND CIVIL SUIT NO.
04 OF 2021) KARUGUTU TOWN COUNCIL ::::::::::::::::::::::::::::::::::: APPELLANT

6 VERSUS

1. MUHINDO GEORGE Alias NYAMWONGA

2. MASEREKA NYAMWONGA ::::::::::::::::::::::::::::::::::: RESPONDENTS

9 BEFORE: HON. JUSTICE VINCENT WAGONA JUDGMENT

Introduction:

12 This is an appeal against the decision of His Worship Byekitinisa Franklin, Magistrate Grade One at Karugutu in Ntoroko District.

The Case of the Respondents in the Trial Court:

The respondents filed Civil Suit No. 038 of 2022 claiming ownership of the suit land. They contended that part of the suit land belonged to the late Kesi Nyamwonga, father to the 1st respondent/plaintiff, who acquired it from Mpoko Sulaiman. Before his death in 1999, Kesi Nyamwonga had given the land to the 1st respondent/plaintiff. By then the 1st respondent/plaintiff was already in possession. On 10th January 2012,

- the 1 st respondent/plaintiff who is an uncle to the 2nd 21 respondent/plaintiff sold part of the said land to the 2 nd respondent/plaintiff. Around 2012, the appellant through her agents opened up a road through the suit land, destroyed their developments and
- 24 did not compensate them. In 2018, the appellant started dumping rubbish in front of land, which subsequently accumulated. In 2021, the appellant without any color of

right entered the suit land and started constructing thereon. The Respondents asked for compensation from the appellant which was not given hence the suit.

The Case of the Appellant in the Trial Court:

The appellant in her defense contended that the suit land formerly belonged to her 6 successor in title Budibugyo District Local Government. Bundibugyo District Local Government purchased the land from Eriya K. Wasswa and Kagoro Mustapha for purposes of establishing a market. The land had been used as a public market since 9 1993 and as a dumping site since 2010. In 2020, the appellant decided to construct semi-permanent stalls like the ones which were previously on the suit land. Mpoko

stalls to Kesi Nyamonga and not the land. On November 5 th 2021, the 2nd 12 respondent/plaintiff bought a wooden Kiosk from Katabalira who had been using it for business on the defendant's land. It was not true that the 1st respondent/plaintiff

Sulaiman passed ownership of the semi-permanent mud wattle structures and the sold land to the 2nd 15 respondent/plaintiff.

Decision of the trial Court:

The trial Magistrate entered judgment in their favour of the respondents/plaintiffs with orders that; (a) the respondents/plaintiffs were the rightful owners of the suit 21 land, (b) The appellant/defendant was declared a trespasser on the suit land, (c) a permanent injunction issued against the appellant/defendant from further trespass on the suit land, (d) General damages of shs 5,000,000/= awarded to each of the

respondents/plaintiffs, (e) The 2nd 24 respondent/plaintiff awarded special damages of 10,000/= per day from the date of trespass (d) Costs of the suit awarded to the respondents/plaintiffs.

Grounds of Appeal:

- (1)The learned trial Magistrate erred in law and fact when he held that the
- 3 Respondents are the lawful owners of the suit land, their interest being the first prevails over the appellants.

- (2)The learned trial Magistrate erred in law and fact when he held that the 6 appellant is a trespasser on the suit land.
- (3)The learned trial Magistrate erred in law and fact when he failed to evaluate the evidence on record as to the Appellant being the lawful 9 owner of the suit land hence arriving at an erroneous decision.
- (4)The learned trial Magistrate erred both in law and fact when he issued an eviction order and permanent injunction in respect of the suit land yet 12 the same is occupied by a community market.
- (5)The learned trial Magistrate erred in law and fact when he awarded general damages of shs 5,000,000/= without any legal justification.
- 15 (6)The learned trial Magistrate erred in law and fact when he awarded special damages 10,000/= per day from the date of trespass that were never pleaded and proved.

18 Representation and Hearing:

Mr. Ronald Kawalya of Attorney General's Chambers Fort Portal appeared for the 21 appellant while *Mr. Enock Wahinda* appeared for the Respondents. Both counsel filed written submissions which I have considered.

Duty of this Court:

As the first appellate court, my duty is to subject the evidence presented to the trial court to a fresh and exhaustive scrutiny and re-appraisal before coming to my own

- 3 conclusion. *(See: Father Nanensio Begumisa & 3 others vs Eric Tiberaga SCCA 17 of 2000 [2004] KALR 236)*. I am duty bound to do a re-evaluation of the evidence on record of the trial court as a whole weighing each party's evidence, keeping in 6 mind that as opposed to the trial court, I had no chance of seeing and hearing the witnesses testify to assess their demeanor and consistency. *(See: Uganda Breweries*
- 9

CONSIDERATION BY COURT:

v Uganda Railways Corporation 2002 E. A).

12 I will start with Grounds No. 5 and No. 6 relating to general damages and special damages awarded by the learned trial Magistrate.

15 Submissions for the Appellant:

General damages are intended to restore the loss and suffering that the successful 18 party was subjected to as a result of the conduct complained of. In this case no pain was suffered by the respondents since they did not have any interests in the suit land. Further, the award of shs 5,000,000/= was made without any legal justification and

- 21 ought to be set aside. On special damages, it is a requirement of the law that special damages must be pleaded and proved and where they are not, court cannot grant the same. *(See: Zuberi Augustinov Anicet Mugabe (1992) TLR 137).* In this case no
- 24 special damages were pleaded and thus the trial Magistrate erred to grant the same.

Submissions for the Respondents:

General damages are intended to compensate the aggrieved party fairly of the inconveniences accrued as a result of the conduct complained of. The award of shs

- 5,000,000/= by the learned trial Magistrate was fair. The 1st 3 respondent gave evidence that he had a house on the suit land where he used to collect rent which was subsequently demolished. The respondents had prayed for shs 15,000,000/=
- 6 each and thus the award of 5,000,000/- to each was fair. In respect of special damages, it is not mandatory to title or indicate in the plaint that the claim is for special damages. As long as it is discernable from the pleadings that
- 9 a party seeks to recover such, court can award the same as general damages (*Court of Appeal, Civil Appeal No. 241 of 2015, Uganda Development Bank v Florence Mufumba)*. The 2 nd respondent pleaded under paragraph 8 that he had a house on
- 12 the suit land which was removed. In hi evidence, he stated that he was deriving income from the said structure. The learned trial Magistrate rightly awarded general damages of shs 5,000,000 to each respondent.
- 15

Decision:

- 18 General damages are intended to restore nearly as much as possible to the position a party was in before the wrong complained of happened. They are none pecuniary, not capable of precise quantification and presumed by law to be the nature and
- 21 probable consequence of the wrong complained of. Therefore, the plaintiff is only required to generally plead such and lead evidence to justify the grant. (See: *Uganda*

Wildlife Authority v Kuluo Joseph Andrew & 2 others, SCCA No. 03 of 2011).

On the other hand special damages connote the specific loss that a party has been subjected to as a result of the wrong complained of. These are capable of monetary

quantification and grant of the same accrues after they are pleaded and proved. The law on grant of special damages was well stated by *Okello JSC in Gapco (U) Ltd v*

- 3 *A. S Transporters Ltd, SCCA No. 07 of 2007* thus; *"In my opinion, the principle governing an award of special damages is clear. Special damages must be pleaded and proved..... Special damages however need not always be proved by*
- 6 *production of documentary evidence. Cogent verbal evidence can also do."*

An appellate court should be hesitant to interfere with the award of damages made

- 9 by the trial court. Interference is only permitted where the grant is premised on a wrong principle of law or where it is manifestly excessive. His Lordship Order JSC put it in *Crown Beverages Ltd v Sendu Edward, SCCA No. 01 of 2005,*thus; *"I turn*
- 12 *now to the trial court's discretion on matters of damages. The law is now well settled that an appellate court cannot interfere with an award of damages by the trial court unless the trial court acted upon a wrong principle of law or that the*
- 15 *award is so high or so low so as to make it entirely an erroneous estimate of damages to which the plaintiff is entitled..."*
- 18 A Magistrates Court in awarding damages must be keen to its pecuniary jurisdiction limit. Jurisdiction is a creature of statute as emphasized in *Baku Raphael Obudra& Anor V AG (SCCA No. 1 of 2005). Any award of damages should not exceed the 21 pecuniary jurisdiction of a Magistrates court. Where the aggregate amount awarded as damages is above the pecuniary jurisdiction, it implies that the award is illegal and liable to be set aside. Musoke Kibuuka J *(as he then was)* in *Joseph*
- 24 *Kalingamire v Godfrey Mugulusi [2003] KALR 408, at 410,*noted as follows: *It follows, therefore, that when a Grade one magistrate makes an order awarding*

general damages the sum of which exceeds the monetary jurisdiction of Ushs 2,000,000/= (now Ushs 20,000,000/=) set by the law in S. 219 of the Magistrates

- 3 *Court's Act 1970 (now S. 207 (1) (b) of The Magistrates Courts Act as amended by Act No. 7 of 2007), such magistrate would be exercising jurisdiction not vested in him.*
- 6

Similarly, in *National Housing and Construction v T. N Bukenya, H. C. Civil Appeal No. 02 of 2009*, court held that; *"A magistrate awarding shs 24.000.000=*

- 9 *general and punitive damages exceeds his or her jurisdiction. The monetary jurisdiction of shs 20.000.000= provides the ceiling beyond which the total award should not exceed otherwise by itemizing the damages as the trial magistrate did*
- 12 *in this case would mean that by granting an award of less than 20.000.000= for each item a trial magistrate may award amounts well in excess of his or her jurisdiction."*
- 15

Therefore, the aggregate sum awarded as damages should not exceed the pecuniary limit of the trial Magistrate. The appeal before me arises from a decision of a 18 Magistrate Grade One whose pecuniary limit is shs 20,000,000/= per section 206 of the Magistrate's Court Act. The trial Magistrate awarded general damages of 5,000,000 to each of the respondents/plaintiffs making it a sum of 10,000,000/=. He 21 went ahead and awarded a sum of shs10,000/= per day as special damages from the date of trespass to the 2 nd respondent/plaintiff. The award was in respect of the salon which the 2nd respondent had on the land which was destroyed by the appellant.

In the plaint under paragraph 4 (e), the plaintiffs seem to state that the trespass started in 2012 when the appellant/defendant through her agents opened up a road on part

of their land and destroyed developments thereon and did not compensate them. Further, under paragraph 4 (i), the plaintiffs averred that in 2021, the defendant 3 entered the remaining land of the respondents/plaintiffs without any color of right and started constructing thereon. In his evidence, the 2nd respondent who testified as PW3 stated that he purchased part of the suit land in 2012. In 2014, he put a wooden 6 structure where he started a saloon. He used to collect 10,000/= from the salon. That around 2014 and 2015, the appellant/defendant passed into his land and destroyed it. In 2018, the appellant/defendant started dumping rubbish on the same plot.

From the evidence and the findings of the trial Magistrate, it was unclear as to when the trespass started which involved the destruction of the 2nd plaintiff/Respondent's 12 salon. In his evidence, he seems to state that it was between 2012 and 2015. He further states that the salon was put up in 2014, suggesting that it was destroyed in 2015. This is because per his testimony, the trespass took place before the dumping

- 15 of the rubbish started in 2018. So the destruction of his salon if any was before 2018. In my evaluation, the salon was destroyed around 2015 since it was built in 2014. From 2014 to 2022, those are 6 years and 10 months. This would translate into a 18 sum of shs 24,900,000/=. This award is above the jurisdiction of the Magistrate Grade One.
- 21 In *Mubiru Kaloli and 21 others v Kayiwa Edmond and 5 others [1979] HCB 212* (CA), the Court of Appeal of Uganda held that; "An order made without jurisdiction is a nullity. In the instant case, since the order of the trial magistrate awarding*

- 24 *general damages in the sum of Ushs 2, 400,000/= to the plaintiff was made without appropriate jurisdiction. It was a nullity ab-initio".* Since in this case the learned

trial Magistrate awarded a sum as special damages above his pecuniary jurisdiction, the same is a nullity and is hereby set aside.

To conclude this matter, this court has to establish whether special damages were pleaded and proved. In the plaint (para 4(d), the 2nd respondent/plaintiff averred that 6 he bought the suit land in 2012 and put up a wooden structure. In his evidence, he states that the structure was put up in 2014. He also stated under para 4 (e) that the trespass took place in 2012 when the appellant opened the road through their land. 9 This would mean that by the time the trespass occurred in 2012, he had not put up the wooden structure. In particular and notably, no evidence was led as to the exact period when the structure was built and when it was demolished by the appellant, 12 and the cost involved. Further, the fact that the structured served as a salon and issue of income from the salon were not pleaded in the plaint. I thus find that the claim of special damages was neither pleaded, nor proved, and could not be awarded.

15 Therefore, the award was illegal to that end and is hereby set aside.

For general damages, whereas the respondents claim the trespass happened in 2012 18 and later 2018, they did not complain or lay any claim until 2021 when the alleged construction took place. The land was used dumping rubbish to ensure a clean environment. There is no evidence that the appellant derived any income there from.

- 21 I thus find the award of Ugx 5,000,000/= to each of the respondents/plaintiffs was made without sufficient justification. In my evaluation, the said award was manifestly excessive and is thus hereby set aside. Therefore, grounds 5 and 6 of the
- 24 appeal succeed.

Grounds 1, 2, 3 and 4 of the appeal, will be resolved under one issue being - Whether the learned trial Magistrate properly evaluated the evidence and 3 considered the law in declaring the Respondents owners of the suit land and the appellant a trespasser.

- The claim revolved on ownership of the suit land. The 1st 6 respondent/plaintiff asserted that the land originally belonged to his father Kesi Nyamwonga who gave it to him and he later sold part of it to the 2 nd respondent/plaintiff. The 9 appellant/defendant trespassed on the same in 2012, 2018 and later 2021 when they started construction thereon. The appellant/defendant on the other hand contended

- that the land formed part of the area gazetted as a market. That the land formerly 12 belonged to Mustapha Kagoro and Eriya Wasswa who sold it to Karugutu Town Council Bundibugyo District and the same passed to the appellant upon its operationalization as a district.

- 15

The 1st respondent/plaintiff (PW1) testified that the land in dispute was bought by his father, the late Kesi Nyamwonga on 5/5/1990 from Mboko Solomon (PW3) at 18 shs280,000/= and an agreement (PEX11) was made to that effect. That prior to his death, the late made a will (PEX1) dated 30/11/1999 giving the land in issue to the 1 st respondent/plaintiff. In 2012, he sold part of the said plot to the 2nd plaintiff (PW2) 21 who also confirmed the sale. That he kept in possession of the suit land from 1993 to 2012 when the appellant's/defendant's agents trespassed on the same and constructed a road through the plot.

PW3 (Mboko Solomon) testified that he was a tailor and formerly resided in Karugutu prior to shifting to Mubende. He was born in 1953 and lived on the suit 3 land since 1968 and later sold it to Kesi Nyamwonga on 5/5/1990. That he came in the area as a refugee of Rwenzururu warriors and was permitted by the government of Iddi Amin to stay on the upper side of the road. That the area had a forest by 1968 6 and it was vacant. That he used to plant food crops like cassava, maize and ground nuts. His neighbours were Wasswa on the upper side, a mountain, and Matsiko on both sides. That he built a semi-permanent house thereon in 1985 which had two 9 doors and started his sewing business. Later he decided to sale the same to Kesi Nyamwonga. That he had a kibanja and not a plot. That Economic was in Ibanda I and he sold 50ft by 100ft. That the land was separated with Miramura trees which 12 were uprooted. That the boundary features were not described in the agreement. The house in Ibanda III was for commercial purposes. That he knew how to write thought the agreement was written by the secretary in the office of the area chairperson. In 15 cross examination he stated that he was staying in Economic in Ibanda LC. I. That he settled in Economic Ibanda I around 1970. That he left economic when the market was shifted and he also shifted. That he left economic in 1997 and shifted. There 18 were no authorities managing the market. He was in Ibanda in the village. That from Ibanda to where the land was in Ibanda III one would take about 30 minutes to an hour. In re-examination, he stated that by the time he sold his plot, he was in Ibanda 21 III though staying in Ibanda I. In further clarification by Court he said that when he went in the area, he found houses which he was informed belonged to the Town

Council. That he had documents of acquisition of the plot and they were in Boma.

24 That it was Kalisa who partitioned for them the land.

PW2's evidence is that he bought part of the suit land from PW1. PW4 confirmed the sale by PW3 but stated that the suit land is near the market. PW4 stated that the

- 3 area was slashed by sub county workers who later erected stalls. That he participated in the exercise. PW5 testified that he participated in demarcating the market and it was the tractor of the appellant that was used to construct a road through the suit
- land. PW6 testified that she used to rent the house on the suit land from 1 st 6 respondent/ plaintiff since 2000 till the house was demolished in 2012. That she was paying 3000/= and later 5000/=. PW7 stated that he stays in Karugutu and was aware
- the market had been in existence for over 20 years. PW7 stated that the 1st 9 respondent/ plaintiff was his brother and was given the suit land in 1993 which was equivalent of a plot. The 1st respondent/plaintiff later sold part of the plot to the

2 nd 12 plaintiff in 2012. That he was present together with other residents.

The appellant/defendant on the other hand contended that the suit land was part of 15 land bought from Kagoro Mustapha and Eriya Masereka. DW1 a town clerk testified that previously the market was at Ntoroko Road to Ibanda III in Karugutu Town Council. Later the market vendors were moved from the old market and allocated 18 space in the new market. DW2 (Kagoro Mustapha) stated that part of the land belonged to his father Soteri Kagoro and he inherited it. In 1992 he sold it to Bundibugyo. That he sold it at shs 900,000 in exchange for a tender of the market 21 for two years. He became the chairperson of the market and there was no person on the suit land save the market.

24 *DW3 (Mwangusya Abel*), states that he was appointed as Finance Secretary at Karugutu Sub County. That the land was bought from two people that is Mustapha

and Eriya K. Wasswa. When the market was shifted, space was allocated to the vendors to construct their market stalls on the suit land. That Bundibugyo District 3 retained ownership of the land. That he did not know about Nyamwonga and the plaintiff. *DW4 (Kisembo Abbas)* testified that he was one of the neighbors of the market and had been on his land since 1978. The land initially belonged to Kagoro 6 who later sold to Bundibugyo District L. G. That he was present and was among the people who demarcated the land and was present when vendors were allocated space. The vendors were given small space for the market and ownership of the land 9 remained with government.

DW5 (Monday Amos) stated that he has been residing in Ntoroko since 1960. That 12 he served as a Parish Chief from 1994 to 2005 and later retired. That he was serving as the Chairperson LC. II Karugutu Ward. That he was among the people who drew the sketch for the market. That purchase took place in 1992 and consideration was 15 in form of a market tender. That he had known the land as a market and previously Thursday was the market day, which was later shifted to Wednesday. That from 1999 to 2000, he used to collect revenue from the market vendors in

form of dues 18 and a license was shs 10.000/= That previously the market was on Ntoroko road and later shifted to Karugutu Ibanda in 1992. *DW6 (Bahwere Luke)* added that he was present when the suit land was demarcated as a market and used to do business 21 in the market located at Ntoroko road and later shifted to the new market on the suit land. That they cleared bushes and shrubs to create a market and to date the market is still on the suit land. That they were not given documents at first but were paid shs 24 30,000 to remove the semi-permanent structures for the construction of the permanent ones. That people who had semi-permanent structures included himself,

Joseph Bakombi and Mboko Solomon. Their structures were made of mud wattle and roofed. That he was the chairperson of the market by then. That he had worked 3 in the market for the last 35 years and he knew the suit land as a market belonging

- to government and he was shocked to hear the plaintiffs were claiming the same.
- 6 *DW7 (Kitalibala Moses)* testified that he requested for permission from Karugutu Town Council to install a kiosk on Town Council Land. That he was given space near the garbage collection site where he put a stall and started a saloon which he
- 9 had for the last 15 years. That for the time he was doing his salon business, he used to pay rent to the Town Council. That on 3/11/2021, he sold the Kiosk to the 2nd respondent/ plaintiff at shs 300,000. That his wife was present and his son and an

agreement was made which was taken by the 2 nd 12 respondent/plaintiff.

I have considered all the evidence on record and the documents exhibited in court as

- 15 well as the judgment of the trial Court and the submissions of both counsel on appeal. The claimed interests of the respondents accrue from Mboko Solomon who is said to have sold land to the 1st respondent's/plaintiff's father, the late Kesi Nyamwoga.
- 18 In his testimony, Mboko Solomon stated that he got the land in issue in 1968 and was allowed to stay there by the then Amin Government as a refugee of Rwezururu warriors. In cross examination, he admitted that he used to stay at Economic which
- 21 is a place away from Ibanda III where the suit land is located. It was the evidence of Mboko Solomon that the land in dispute was in Ibanda III. That for him he was in Economic Ibanda I and left in 1997. I thus believe from Mboko's own testimony that
- 24 he lived in Economic and not in Ibanda III where the suit land is located. Therefore, the land which he was given in 1968 when he first came in the area as a refugee, is

not actually the one in dispute. This is confirmed by his further testimony that when the market was shifted, he also shifted. This clearly confirms that Mboko's land was

- 3 never at Ibanda III where the suit land is but at Economic. He only shifted to Ibanda III when the market was shifted.
- 6 The shifting is supported by the testimony of DW2, DW3 and DW6 that Mboko was among the vendors from the old market who were allocated space in the new market. I believe after allocation of the space, he shifted and started operating in the new
- 9 market. DW6 who knew Mboko very well and whose testimony was not shaken in cross examination stated that after allocation of space in the new market, they constructed semi-permanent houses made of mud and wattle and roofed with irons
- 12 sheets. That however, land remained property of government. The averment by Mboko that he had lived on the suit land since 1968 was watered down by his own evidence in cross examination where he admitted that he was staying in Ibanda I and
- 15 not Ibanda III where the suit land is currently located. He further confirmed this fact in re-examination. I therefore believe the narrative by the appellant/defendant that what Mboko had was a house in the market on the land allocated to him by the Town
- 18 Council where he did his sewing from. What he could have sold if any was the house which he put up on town council land and not the land.
- 21 Further evidence is the inference drawn from PEX1, the will of the late Kesi Nyamwonga. He clearly stated under item 6 that; **"The plot of land in Economic village, you should demolish the house on it, sale that plot of land so that you**
- 24 **can buy a big land."** In my evaluation, this is the plot Mboko sold to the late Kesi. In his evidence Mboko says he was staying at Economic and he sold land to Kesi

which had a house. In my evaluation, this house and land is the one transacted in PEXII and not the land in dispute. Further evidence is the inference to be drawn from

- 3 paragraph 7 of the alleged will of Kesi Nyamwonga states that; **"The house in Karugutu is for George Muhindo"**.* The inference here is that Kesi Nyamwonga only owned a house and not the land at Karugutu. In paragraph 6 whereas the plot 6 had a house, he mentioned the plot and the house and here he only mentioned a
- house. In my evaluation, if the Kesi Nyamwonga intended to talk about land and the house, he would have expressly stated so.
- 9

In the present case, the appellant/defendant proved that Mboko was only allocated space to put up a stall. That if he sold, he sold the stall and not the land. I agree with 12 the submissions of the appellant to that end. Mr. Mboko who was only a licensee on Town Council land permitted to constructed a stall thereon for purposes of conducting his business thereon could not pass interest in the land which he did not 15 own. His interest if any was in the stall he erected which I find that he sold and this well captured in PEX1.

- 18 In addition to the above, the conduct of the respondents tends to support the position that they did not have any interest in the land but in the stall. The respondents aver that the trespass started in 2012 when the appellant created a road into their plot.
- 21 They however never complained or lodged a suit. The appellant later used part of the suit land as a dumping site for garbage and none complained or filed a suit against the appellant. They brought the suit in 2021 when the appellant started to construct
- 24 a permanent structure thereon. The respondents by conduct made a representation to the appellant that they had no interest in the land and the appellant continued her

activities on the suit land without any interruption from the respondents/plaintiffs who were living in the area and who were fully aware of the said activities.

Be that as it may, the person from whom the plaintiffs claim interest, that is Mboko Solomon, had no interests in the suit land which he could pass to the late Kesi

- Nyamwonga, father to the 1st respondent and in the same vein the 1st 6 respondent had no proprietary interests in the suit land which he could pass to the 2nd respondent. Mboko's interests were in the temporary structure he had on the suit land as a tenant.
- 9 The crystal position of the law is that a tenant on public land is a tenant at sufferance whose tenancy may be terminated at will by the controlling authority. In simple terms, he or she is a tenant at sufferance who may be evicted at any time by the
- 12 controlling authority unless agreed otherwise in the lease agreement. (See: *[Havinder] (<https://ulii.org/akn/ug/judgment/ughcld/2017/22/eng@2017-03-10>) [v Asea& Anor \ (Civil Appeal No. 0008 of 2016\ \[2017\] UGHCLD 22 \ (10 March)] (<https://ulii.org/akn/ug/judgment/ughcld/2017/22/eng@2017-03-10>) [2017\])(<https://ulii.org/akn/ug/judgment/ughcld/2017/22/eng@2017-03-10>)*Thus grounds 1,2,3 and 4 succeed.

I therefore find that the respondents/plaintiffs on the balance of probabilities failed to prove their claim of ownership of the land in dispute. This appeal therefore 18 succeeds in its entirety with the following orders:

- **1. The judgment and orders of the learned trial magistrate in Karugutu, Land Civil Suit No. 04 of 2021 are hereby set aside.**

- 21 2. The respondents'/plaintiffs' suit is hereby dismissed and an order is hereby issued confirming the appellant as the rightful owner of the suit land.
- 24 3. The costs in the High Court and the court below are awarded to the appellant..

It is so ordered.

3 Vincent Wagona

High Court Judge FORTPORTAL

6 DATE: 30/10/2024

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Prepared on 14 October 2026 · Esheria