

UGANDA / JUDGMENT

Kateera v Commissioner of Land Registration & 6 Others (Miscellaneous Cause 81 of 2023) [2024] UGHCCD 64 (2 May 2024)

[2024] UGHCCD 64**COURT**

HC: Civil Division (Uganda)

BEFORE

Musa Ssekaana, J

CASE / FILE NUMBER

Miscellaneous Cause 81 of 2023

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA (CIVIL DIVISION) MISCELLANEOUS CAUSE NO. 081 OF 2023

JUSTINIAN KATEERA.....APPLICANT**VERSUS****COMMISSIONER OF LAND REGISTRATION.....RESPONDENT****AND**

- 1. KANGWA GODWIN LIMITED.....1ST INTERESTED PARTY 2. MICROFINANCE SUPPORT CENTER.....2ND INTERESTED PARTY 3. MAUDA KIMEIZI.....3RD INTERESTED PARTY 4. MARION AKANKWASA.....4TH INTERESTED PARTY *(ADMINISTRATOR OF THE ESTATE OF THE LATE GIDEON AKANKWASA)* 5. ROSE KATEERA.....5 TH INTERESTED PARTY *(ADMINISTRATOR OF THE ESTATE OF THE LATE JONATHAN KATEERA)* 6. MARGARET KASIBAYO.....6TH INTERESTED PARTY *(ADMINISTRATOR OF THE ESTATE OF THE LATE CHRIS KASIBAYO)***

BEFORE: HON. JUSTICE SSEKAANA MUSA**RULING**

The Applicant filed an application for judicial review by way of Notice of Motion under Sections 33 and 36 of the Judicature Act Cap 13, Section 96 & 98 of the Civil Procedure Act Cap 71 and Rules 3, 4, 6 7 and 8 of the Judicature (Judicial Review) Rules, S. I. No.11 of 2009, for orders for judicial relief(s) for;

- *1. An Order of Certiorari to remove to this Honourable Court and quash the decision of the respondent to remove and /or vacate the applicant's caveat and further reverse all entries made in the register book on the basis of the above decision.*
- *2. A declaration that the impugned decision to remove the beneficiary caveat over FRV LUW5, Buruli Block 173, Plots 20, 21, 22 and LRV 4656, Buruli Block 173 Plots 23, 24, 25, 26, 27, 28, 29 and 30, land at Kitalesa and Nakiganda (hereinafter referred to as the suit land) is illegal, ultra vires, irrational and procedurally improper.*
- *3. A declaration that the removal of the beneficiary caveat over the suit land is void ab-initio and of no legal consequence.*
- *4. A declaration that the impugned decision to remove the beneficiary caveat over the suit land was a violation of the applicant's constitutional rights guaranteed under Article 26(1), 42 and 44(c) of the Constitution;*
- *5. An Order of Mandamus compelling the respondent to reinstate the applicant's beneficiary caveat over the suit land consisting of FRV 4656 Buruli Block 173, Plots 20, 21, 22 and LRV 4656, Buruli Block 173 Plots 23, 24, 25, 26, 27, 28, 29 and 30.*
- *6. An Order quashing the transfers and issuance of Special certificates of title to the 1st Interested Party in respect of LRV 4656, Buruli Block 173, Plots 23, 24 and 25.*
- *7. An Order quashing the amendments to the register and issuance of special certificate of title to the 1st Interested party in respect of LRV 4656, Buruli Block 173, Plots 23, 24 and 25.*
- *8. An Order quashing amendments to the register and the issuance of a certificate of title to the 3rd Interested Party in respect of LRV 4656, Buruli Block 173, Plot 26, land at Kitalesa.*
- *9. An Order quashing the amendments to the register and consequent registration of Mortgage over certificate of title in respect of LRV 4656, Buruli Block 173, Plots 27, 28 and 29 Land at Kitalesa and Nakiganda.*
- *10. An Order of Mandamus compelling the respondent to reinstate and restore the certificate of title in respect of the suit lands to the status quo ante.*
- *11. An Order of Prohibition restraining and barring the respondent, its agents or officials from removing the said beneficiary caveat without following the due process of law.*

- *12. General, Punitive and Exemplary damages.*
- *13. Interest on the above at a rate of 25% from the date of filing the suit.*
- *14. Costs.*
- *15. Interest on costs at a rate of 25% from the date of Judgment until payment in full.*

The grounds upon which the application is based set are laid out briefly in the Notice of Motion, and expounded upon in the affidavit of Justinian Kateera but in brief is as follows.

- 1. The applicant is a male adult Ugandan of sound mind and states in his affidavit that he is the biological son and beneficiary of the Estate of the Late Jonathan Kateera, who died intestate on the 16th of September 1995.
- 2. That the estate under administration consists of 813 hectares of jointly owned land at Buruli Block 173 Plot 5 (later sub divided into Plots 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 situated at Kitalesa and Nakiganda in Nakasongola District.
- 3. The suit land was bought in 1975 from Ssebuggulu Bwa Nyomo Limited by the Late Jonathan Kateera, the Late Christopher Kasibayo and the Late Gideon Akankwasa (Formerly partners in Hunter & Greig

Advocates who passed away in 1995, 1986 and 1984 respectively) and was held as a tenancy in common with equal shares.

- 4. That the suit land was initially owned by Sebuggulu Bwa Nyomo Ltd was thus restored to the administrators of the Estates of the Late Jonathan Kateera, the Late Christopher Kasibayo and the Late Gideon Akankwasa to wit; Mrs. Rose Kateera, Mrs. Margaret Kasibayo and Mrs. Marion Akankwasa.
- 5. That knowing that the said land was held in trust for the beneficiaries of all the aforementioned estates who include the applicant and was undivided and not distributed in accordance with the law, the applicant registered a beneficiary caveat to prevent any dealings or transfer and the said caveat was duly registered on the 25th day of August 2020 vide Instrument No. LUW 0006727.
- 6. That the applicant was surprised to receive a report which showed that the beneficiary caveat had been removed or vacated and that the search report showed part of the suit lands consisting of LRV 4656, Buruli Block Plots 23, 25, 25, 27, 28 and 29 had been transferred to the 1st Interested party-Kangwe Godwin Limited at various dates on the 13th of December 2021 and 21st February, 2022.
- 7. That a further search reveals a creation on the 30th March 2022 of Mortgages over LRV b4656, Buruli Block 173, Plots 27, 28 and 29 to Micro-Finance Support Centre.

- 8. That the search also revealed that the transfer of LRV 4656, Buruli Block 173, Plot 26 to Mauda Kimeizi who the applicant claims to know as the caretaker of the suit land for a period of over 40 years.

The respondent in their affidavit in reply upon perusal of the Register stated as follows;

9. Land comprised Leasehold Register Volume 4170 Folio 18 Buruli Block 173 Plot 5 at Kitalesa and Nakiganda, Nakasongola District was formerly known as LRV 995 Folio 22 Buruli Block 173 Plot 5 which was registered in the names of Ssebuggulu Bwa Nyomo Ltd which got a lease vide instrument No. 1199231 registered on the 17th day of February 1977. This lease expired.
- 10. The said lease was renewed through a lease agreement between Ssebugulu Bwa Nyomo Ltd and Nakasongola District Land Board in 1980 which was later extended vide Instrument No. 00012506.
- 11. That Under Instrument No. 449763 of 10th June, 2011 at 11:38 AM, the said land comprised in Leasehold Register Volume 4170 Folio 18 Buruli Block 173 Plot 5 at Kitalesa and Nakiganda, Nakasongola District was transferred in the names of Rose Katera, Margaret Kasibayo and Marion Akankwasa as tenants in common in equal shares.
- 12. That the said lease was later extended by Nakasongola District Land board and the extension effected on the Register on 29/5/2015 under Instrument No. 00012506.
- 13. That under Instrument No. 493958 of 23/12/2019, land comprised in LRV 4170 Folio 18 Buruli Block 173 Plot 5 Kitalesa and Nakiganda, Nakasongola District was later subdivided in Plots 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30. Plots 23, 24, 25, 27, 28 and 29 were transferred into the names of Kangwa Godwin Ltd (1st Interested Party) and subsequently got mortgage in favour of Micro-Finance Support Centre Ltd in respect of Plot 27,28 and 29.
- 14. Plot 26 was transferred in the names Kimeizi Mauda and Plots 20, 21, 22 and 30 are still registered in the names of Rose Katera, Margaret Kasibayo and Marion Akankwasa as tenants in common in equal shares.
- 15. The office of the respondent received letters from Nakasongola District Land Board approving the conversion from Leasehold tenure to Freehold Tenure in respect of Buruli Block 173 Plots 20, 21 and 22 and the same was complied with by the respondent.
- 16. That the office of the respondent received a request to remove a caveat on land comprised in LRV 4656 Folio 16, 17, 18 Plots 23, 24 and 25 Block 173 from Rose Kateera, Margaret Kasibayo and Marion Akankwasa dated 4/08/2021.

- 17. That critical perusal of the transfer reveals that the Rose Kateera, Margaret Kasibayo and Marion Akankwasa were to be registered as Administrators of their respective husbands that is Jonathan Kateera, Chris Kasibayo and Gideon Akankwasa as tenants in common in equal shares since the said husbands had entered into agreements of purchase with the Registered Proprietor which was the company. However, instead of being registered as Administrators to their deceased husbands they were erroneously registered as proprietors.
- 18. That the caveat of the applicant was lapsed since it did not fall under the exceptions provided under the law and therefore the office of the respondent has mandate to lapse such caveats.
- 19. That the applicant's caveat was not registered as one claiming under a will or settlement and such caveat could be lapsed upon request of the registered proprietor and the respondent followed the proper procedure as required by law.
- 20. That before the respondent lapsing the said caveat a notice to the caveator of an application to remove a caveat issued to the applicant and was duly served through the registered mail address.

The Interested Parties equally filed affidavits in reply after they were added on directives of court

- 21. That the property comprised in Buruli Block 173 Plots 20, 21, 22, 23, 24, 25, 26, 27, 28, 29 and 30 has never formed part of the Estate of the Late Jonathan Kateera, nor has it been subject of any administration proceedings, and the registered proprietors, Ms Kateera, Ms Marion Akankwasa and Ms Margaret kasibayo were registered on the certificate of title as tenants in common, not administratrixes of estates of their late husbands.
- 22. That there is nothing to prevent the registrar of titles from exercising power vested in him/her by law to correct the Register of Titles anytime whether at the instance of the complainant or on his/her own motion if satisfied that the caveat was entered in error.
- 23. That the land formerly comprised in Buruli LRV 4170 Folio 18 Block 173 Plot 5 was registered in the names of Ms Rose Kateera, Ms Margaret Kasibayo and Ms Marion Akankwasa as tenants in common in equal shares and held the land as lessee for a period of 49 years and had purchased the same from Ssebuggulu Bwa Nyomo Ltd in 2010.
- 24. That on the 7th of February 2019, the 1st Interested Party-Kangwa Godwin Ltd purchased land comprised in LRV 4656 Folio 18 Block 173 Plot, 23 Folio 16 (Measuring approx. 62.303 hectares) Plot 24 Folio 17 Measuring approx. 97.800 hectares) and Plot 25 Folio 18 (measuring approx. 100.067 hectares) located at Kitalesa and Nakiganda, Buruli from Marion Akankwasa at a consideration of UGX 640,000,000/=.
- 25. That later the 1st Interested Party on 17th April 2019 further purchased plots 27, 28 and 29 LRV 4656 Folio 20, 21 and 22 Block 173 from Rose Kateera at a Consideration of 768,000,000/=.

- 26. That after the said purchase, the 1st interested party paid stamp duty and registration fees for the said pieces of land to be transferred into the name of the Kangwa Godwin Ltd.
- 27. That the 1st Interested Party is a bonafide purchaser for valuable consideration whose title cannot be impeached and the remedy being sought is overtaken by events.
- 28. The 2nd Interested party contended that they duly followed the right procedure and legally lodged a mortgage on the land comprised in LRV 4656 Folio 20 land at Kitalisa Block 173 Plot 27.
- 29. The 3rd Interested Party stated that she is a wife of the late Paulo Kakuuto who was the farm Manager and care taker of the 2000-acre farm until his death during the war. They stayed on this land since 1986 with her children and grandchildren and have protected this land from encroachers.
- 30. That she was given 20 acres of land as compensation and was asked to vacate the rest of the land upon an agreement.
- 31. The other interested parties equally filed affidavits in reply denying the contents of the application and contending that the application was filed out of time and that the application was filed in bad faith and it is devoid of any merit.

ISSUES FOR DETERMINATION

- *1. Whether the application is properly before the court?*
- *2. Whether the remedies sought by the applicant can be competently granted by way of judicial review?*
- *3. Whether the Commissioner Land Registration properly released the caveat of the applicant over the suit property?*
- *4. Whether the applicant is entitled to any remedies?*

The parties agreed to address the issue of;

Whether the respondent properly released the beneficiary caveat of the applicant?

The applicant was represented by *Samuel Ssemwogerere and Edwin Tusiime* while the respondent was represented by *Ssekitto Moses and Arinaitwe Sharon*. The 1st interested party was represented by *Robert Mackay*, *Richard Rugambwa and Atukwasa Christine*, the 2nd Interested party was represented by *Ricky Mudaali* and the 3rd Interested party was self-represented, the 4th Interested Party was represented by *Renato Kania* and the 5th Interested party was represented by *V. Agaba Advocates*. The 6th Interested Party never filed a reply or attended court**.

DETERMINATION

Whether this matter is properly before the court or amenable to Judicial review?

The respondent challenged the propriety of the application and contended that an application for judicial review should on the face of it demonstrate that the applicant seeks to establish that a decision of a public authority infringed rights whose protection the applicant was entitled to under public law. They submitted that the application did not disclose a cause of action.

Analysis

Lawfulness thus stands at the core of the general constitutional law principle of legality and applies to all public actions. An analysis of lawfulness in administrative law thus always involves comparing the administrative action to the authorisation for that action in the relevant empowering provision. Therefore, lawfulness or lack of mandate provides public decision makers with the tools to identify specifically what they are entitled to do.

In determining whether the grounds of this application warrant the grant of judicial review, this court is guided by the position of the law as variously upheld in different court decisions and precedents. Therefore, Judicial review can be granted on three grounds, namely; *Illegality; irrationality and procedural impropriety. See Council of Civil Service Unions vs Minister for the Civil Service [1985] 1 A. C 374*

An applicant who wishes to succeed in an application for judicial review must therefore as a matter of law, plead and prove that the decision complained of was arrived at either illegally, irrationally or there was procedural impropriety implying, flouting of well-known procedure in that regard.

Without some kind of control of administrative authorities by courts, there is a danger that they may be tempted to commit excesses and degenerate into arbitrary bodies. Such a development would be inimical to a democratic constitution and the concept of rule of law.

It is an accepted axiom that the real kernel of democracy lies in the courts enjoying the ultimate authority to restrain the exercise of absolute and arbitrary powers by the administration. In a democratic society governed by rule of law, judicial control of administration plays a very crucial role. It is regarded as the function of the rule of law, and within the bounds of law and due procedure.

It is thus the function of the courts to instil into the public decision makers the fundamental values inherent in the country's legal order. These bodies may tend to ignore these values. Also between the individual and the State, the courts offer a good guarantee of neutrality in protecting the individual.

The courts develop the norms for administrative behaviour, adjudicate upon individuals' grievances against the administration, give relief to the aggrieved person in suitable case and in the process control the administration.

The exercise of power by the Commissioner Land Registration is subject to control under Judicial review since it is statutory under the Registration of Titles Act and the Land Act. Such power is checked under the courts supervisory role and to ensure that the rule of law is upheld.

The concept of justiciability means that all decisions are not justiciable before the court of law. In other words there are matters in relation to which the court because of the doctrine of separation of powers between the executive and the judiciary may be exceedingly reluctant to review. There is no hard and fast rule as to justiciability of a controversy.

This case is justiciable under the principle of judicial review and it is a proper case for court to scrutinize the exercise of power by the Commissioner Land Registration.

Whether the Commissioner Land Registration properly released the caveat of the applicant over the suit property?

The applicant brought this case challenging the respondent for wrongly or illegally removing the caveat lodged by the applicant as a beneficiary of the estate of the late Jonathan Kateera who passed on in 1995.

The applicant contends that under the law a caveat of a beneficiary of the deceased estate does not lapse unless and until it is removed by a court Order. It was his submission that the removal of his caveat that it had lapsed was illegal and or an error of law for which he is challenging in this court under Judicial review.

The applicant in a bid to impeach the 1st, 2nd and 3rd Interested parties title contended or tried to raise several actions or omissions which in his view would amount to illegalities upon which this court should grant the remedies of cancellation of titles. It is his case that the transfers were effected subsequent to and as result of the illegal removal of the said beneficiary caveat; the registration of the said transfers should not have been effected without payment of stamp duty as required by law; transfer of specifically plots 23, 24, and 25 was effected by issuance of a special certificate of title and yet the applicant was not the registered proprietor; special certificates of title was made before transfer forms were signed; special certificates were issued before expiry of 30 days notification by the gazette.

The applicant in his submissions denied ever receiving notification of a request to remove his caveat or any proceedings related to the removal of the said caveat. It was his argument that the respondent re-designated his caveat in order to have the caveat lapsed as an ordinary caveat from a beneficiary caveat.

The applicant went further to challenge the transfer of land being tainted with illegalities which in his wisdom should cause the cancellation of title.

The respondent counsel in his submission contended that in order to lodge a caveat a person must have a legal or equitable interest in the land; interest in the land, not merely contractual or a personal right but an interest recognizable under the law.

The respondent contended that the procedure for the removal of caveat is for the party wishing for its removal to write to the caveator and invite them to execute a withdrawal of caveat to remove the caveat lodged by them to the property. If the caveator does not respond to the request to withdraw the caveat, a Lapsing Notice can be issued on application to the Commissioner Land Registration supported by a statutory declaration stating the opinion of the applicant that the caveator does not have the estate or interest claimed for the removal of the caveat or the removal of the caveat, or lodgment by a transfer or dealing with registration.

The respondent submitted that the respondent duly received a request to remove the caveat and also issued notices to lapse the caveat lodged by the applicant. The said notices were duly served on the addressed availed by the applicant before the same could be lapsed. The respondent properly exercised the powers under the law to lapse the caveat lodged by the applicant.

The respondent also submitted that if indeed the deceased had bought the suit land, then their interest extinguished upon expiry of the lease on the 1st August 1980.

Analysis

The Commissioner Land Registration must be careful and ought to give due consideration to the grounds on which a caveat is lodged by an intending caveator, in light not just of the caveator's assertions but also in view of the supporting documentation the caveator may have at hand, so as to exercise his or her independent forensic judgment in ascertaining if the caveator has any interest in the subject matter of the land. In the case of **Hunter Investments Ltd v Simon Lwanyanga & Another HMC No. 024 of 2012**, it was held that for a caveat to be valid, the caveator must have a protectable interest legal or equitable to be protected by the caveat otherwise the caveat would be invalid.

The applicant contended that he lodged his caveat as a beneficiary of the estate of the Late Jonathan Kateera whom in view owned this land jointly with the Late Christopher Kasibayo and the Late Gideon Akankwasa. This assertion was a mere statement not supported by the evidence on record of the unimpeached certificates of title of Rose Kateera, Marion Akankwasa and Margaret Kasibayo.

Section 139 of the Registration of Titles Act provides that;

"Any beneficiary or other person claiming any estate or interest in the land under the operation of this Act....may lodge a caveat with the commissioner....forbidding registration of any person as transferee or proprietor of and of any instrument affecting that estate or interest until after notice of intended registration or dealing is given to the caveator, or unless the instrument is expressed to be subject to the claim of the caveator as required in the caveat, or unless the caveator consents in writing to the registration."*

The applicant needed to prove to the court that indeed he was a beneficiary or was claiming interest in the of the estate of the late Jonathan Kateera by showing court how he is beneficiary of the estate. This proof should not merely stop at producing Letters of Administration but rather the application for letters of administration showing the applicant as being part of the family and thus a beneficiary or a will or a true testament of deceased mentioning him as a son and beneficiary. The applicant should not assume that everyone should know him as the biological son and a beneficiary of the estate of the late Jonathan Kateera simply because he holds the name Kateera without any proper evidence to support the assertion.

The Commissioner Land Registration should not lodge caveats on people's estate property without such cogent evidence otherwise it will be an abuse of office and power for which they should be held personally liable for the general inconvenience to the estate of a deceased person. The respondent had a duty to examine and scrutinize documents or evidence available whether the applicant satisfies the requirements of a beneficiary caveator.

The lodgment of any caveat is an exercise of power under the Registration of Titles Act and such exercise of power can be subject to judicial review to question any wrongful exercise of power or discretion to accept or not to accept the caveat. The respondent equally has the power to correct any errors made in accepting to lodge a caveat or not and it is not illegal to correct errors made to the register in exercise of their statutory mandate under the Registration of Titles Act or the Land Act.

In the present case the respondent received the request to remove the caveat by the applicant. The said caveat was removed or lapsed because it had been 'baptized' as *'beneficiary caveat'* and yet the land was not registered in the names of the Late Jonathan Kateera. This was a glaring error to entertain such a caveat as a beneficiary caveat which would not lapse under the law as rightly stated by the respondent's counsel. The land in issue was registered in persons who are still alive and not deceased and such a caveat could not be lodged unless and until their titles/ ownership was impeached by court to revert back to the estate of the alleged deceased persons.

The respondent was justified to treat the said caveat as an ordinary caveat which would lapse upon expiry of 60 days or upon request by the affected person. This exercise of power is conferred upon the Commissioner Land Registration/Registrar of Titles under the Registration of Titles Act. Section 140(2) of the Registration of Titles Act provides;

*'...except in the case of a caveat lodged by and on behalf of beneficiary claiming under any will or settlement or by the Registrar, every caveat lodged against a proprietor is deemed to have lapsed upon the expiration of 60 days after the notice given to the caveator that the proprietor has applied for the removal of the caveat'. See *Kabiito Karamagi (Receiver/Manager Spencon Services in Receivership) & DFCU Bank Ltd v Yanjian Uganda Company Ltd & Native Power Company Limited HCMA No. 1202 of 2021*.*

The respondent was right not to treat the applicant's caveat as a beneficiary caveat which does not lapse because the land in question registered in the names of the persons who are alive and not the Estate of the Late Jonathan Kateera or other estates of deceased persons.

The power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The power is intended neither to review governance under the rule of law nor do the courts step into areas exclusively reserved by the *superma lex* to other organs of the State. A mere wrong decision, without anything more, in most of the cases will not be sufficient to attract the power of judicial review. The supervisory jurisdiction conferred upon a court is limited to see that the authority concerned functions within the limits of its authority and that decisions do not occasion a miscarriage of justice.

The scope and extent of power of the judicial review would vary from case to case, the nature of the order, the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether the power is statutory, quasi-judicial or administrative.

The applicant further contended that he was never informed of the decision to remove or lapse the caveat. In simple terms he denies being accorded a hearing before his caveat was removed.

The evidence on record shows that there was *'the notice to the caveator of an application to remove a caveat'* issued on 24th September 2021. This means that the applicants caveat lapsed because it did not fall under the exceptions provided for under the law and therefore the respondent has the mandate and authority to lapse such a caveat after issuance of a notice to caveator.

There is evidence of *'Notice to caveator of an application to remove a caveat'* properly addressed to the applicant-Justinian Kateera, P. O. Box 7026, M/s Kateera and Kagumire Advocates, Kampala-Mobile Phone 0772456952. The said notice was duly sent via Posta Uganda and there is a receipt of delivery. This was adequate notification and in absence of any order by the High Court extending the caveat, the respondent was justified to lapse the caveat and accordingly cause its removal.

The 1st Interested party purchased part of this land from the registered proprietors-Rose Kateera and Marion Atukwasa at a consideration and thus got registered as the registered proprietor. In my view the 1st respondent became a *'bonafide purchaser'* for value without notice and his interest should merely be impeached by the applicant on claims that he is beneficiary of the Estate of the Late Jonathan Kateera. The persons who sold the land had properly obtained a new

lease upon expiry in 2007 and this new lease has never been cancelled by the issuing authority or court.

The 1st Interested party bought this land on 7th February 2019 and 17th April 2019 from the registered proprietors and there was no caveat forbidding any transaction on the suit land. The applicant lodged the alleged 'Beneficiary Caveat' over the said land on 25th August 2020. The 4th, 5th and 6th respondents got registered on this land in June 2011 and the same remained unchallenged without any caveat by the of the person's claiming under the estate after 9 years of registration by the widows and 16 months after purchase by Kangwe. The said caveat is highly questionable as not being an innocent act since the applicant or any of the other beneficiaries have never challenged the proprietorship of the Rose Kateera, Marion Akankwasa and Margaret Kasibayo in any court of law since 2011 when they obtained new lease in personal names and not as administrators of the different Estates.

The 3rd Interested party acted bonafide when they received a certificate of title as security or mortgage since this land did not belong to any deceased estate and there was no caveat forbidding any transaction of the said land.

The nature of proceedings by way of judicial review would not be the best procedure to challenge claims in the said of land which has since 2011 changed ownership and is now in the hands of innocent third parties. The applicant has made many allegations in order to impeach the titles/ interests of the 3rd parties, this court has not found it fit to give them attention since they do not fall within the purview of judicial review.

In sum therefore, this application fails and is dismissed with 50% of the costs.

I so Order

Ssekaana Musa Judge 02nd May 2024

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