

UGANDA / JUDGMENT

Kente v Kabuye (Civil Appeal 120 of
2024) [2025] UGHCLD 126 (9 July 2025)
[2025] UGHCLD 126

COURT

HC: Land Division (Uganda)

BEFORE

Kazaarwe, J

CASE / FILE NUMBER

Civil Appeal 120 of 2024

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THE REPUBLIC OF UGANDA

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IN THE HIGH COURT OF UGANDA AT KAMPALA

(LAND DIVISION)

CIVIL APPEAL NO. 0120 OF 2024

(ARISING FROM CHIEF MAGISTRATES COURT OF ENTEBBE AT ENTEBBE
MISCELLANEOUS APPLICATION NO. 002 OF 2023)

(ALSO ARISING FROM ENTEBBE LAND CIVIL SUIT NO. 025 OF 2019)

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KENTE JOHN

APPELLANT

VERSUS

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KABUYE HENRY DARLINGTON

RESPONDENT

Before: Hon. Lady Justice Olive Kazaarwe Mukwaya

RULING

This Appeal is brought under section 98 of the Civil Procedure Act, section 33 of the Judicature Act and Order 44 rule 1(2) & (4) of the Civil Procedure Rules seeking for 15 an order that the proceedings in Entebbe Civil Suit No. 25 of 2019 be stayed pending the determination of High Court Civil Suit No. 516 of 2021.

By way of background, Civil Suit No. 025 of 2019 was filed by the Plaintiff, now Appellant, Mr. Kente John, against the Defendant, now Respondent, Mr. Kabuye Henry Darlington, before the Chief Magistrates Court of Entebbe. 20

> Before Mr. Kabuye amended his Written Statement of Defence and Counterclaim on the 17th January 2022, both parties were claiming a Kibanja on the suit land comprised in Busiro Block 435 Plot 647.

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On the 24th September 2021, during the pendency of Civil Suit No.25 of 2019 before the Magistrates Court, the Respondent, Mr. Kabuye was registered on the suit land as a registered proprietor.

Meanwhile, a Mr. Peter Bibangamba brought a suit against Mr. Kamoga Muhammad and a Mr. Kaluzadalo Francis before this court vide Civil Suit No. 516 of 2021. Mr. Kamoga Mohammad, according to the Certificate of Title for the land comprised in Busiro Block 435 Plot 647, is the Respondent's immediate predecessor in title.

In the High Court matter, Mr. Peter Bibangamba obtained an extension of interim order vide MA 2036 of 2021, on the 9th November 2021, maintaining the status quo of the suit property comprised in Busiro Block 435 Plot 8, as subdivided into Plots (628-674) and other land.

When these facts came to the attention of the Appellant, he applied before the Magistrates Court for a stay of proceedings in land suit no. 25 of 2019, pending determination of High Court Civil Suit No. 516 of 2021. The Appellant premised his application on the existence of the Interim order, among other reasons. The application was brought under section 209 of the Magistrates Courts Act Cap 19, Section 6 and 98 of the Civil Procedure Act Cap 282 and Order 52 Rule 1 & 2 of the Civil Procedure Rules.

The learned Magistrate Grade 1 declined to grant the application on grounds that the suit land in the Magistrates Court, and the High Court was not related.

Dissatisfied with the decision, the Applicant lodged the appeal on grounds that the two \$20\$ suits were related and proceedings before the Magistrates Court ought to be stayed.

REPRESENTATION

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The Appellant was jointly represented by Ms. Nshemereirwe Peruth of M/S Nshemereirwe, Arigye & Co. Advocates and M/S F. X Ogwado & Co. Advocates while the Respondent was represented by Mr. Ivan Wanume of Naafi & Wanume Advocates.

Counsel for the parties filed written submissions which I do appreciate.

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Ground of Appeal

Whether the proceedings in Land Civil Suit No. 25 of 2019 ought to be stayed pending the determination of the High Court Civil Suit No. 516 of 2021?

DETERMINATION BY THE COURT

\$\mathsf{S}\$ Section 6 of the Civil Procedure Act states:

"6. Stay of suit

No court shall proceed with the trial of any suit or proceeding in which the matter in issue is also directly and substantially in issue in a previously instituted suit or proceeding between the same parties, or between parties under whom they or any of them claim. litigating under the same title, where that suit or proceeding is pending in the same or any

other court having jurisdiction in Uganda to grant the relief claimed."

My understanding of Mr. Kabuye's objection to the grant of the stay of proceedings is that the appellant, Mr. Kente claims a Kibanja interest in the suit before the Magistrates Court, which is not in issue before the High Court suit.

15 In her ruling, the Learned Magistrate Grade 1 stated;

I have also considered the cause of action where in the High Court, the Plaintiff's claim against the Defendants is for a declaration that the Plaintiff is entitled to 35% of the land that was recovered by him on land formerly comprised in Block 435 Plot 8,10,9 and 96 and he clearly listed the plots that were affected. I have carefully studied the list and I am unable to locate Block 435 Plot 647 as claimed by the applicants thus making it a totally different property from the one being litigated in the High Court as listed by the Plaintiffs there in Civil Suit No.517 of 2021. (Emphasis added)

While the Learned Magistrate may have been unable to locate Block 435 Plot 647 as claimed by the Applicants in the Interim Order, she ought to have been satisfied with the phrase "land formerly comprised in Block 435 Plot 8..." which in my view was clear in the extension of the Interim Order before the High Court. The order read;

\$25\$

"The interim order issued by this Honorable Court on the 4th day of November 2021 maintaining the status quo of the suit property comprised in Busiro Block 435 Plot 8 as subdivided into plots (628-674) ..."

I find that there was no need to look any further for a relationship between the two suits since the subject matter was the same, in agreement with the submissions of Counsel for the Appellant.

In conclusion, this appeal is allowed, the proceedings of Land Civil Suit No. 025 of 2019 in the Entebbe Chief Magistrates Court are hereby stayed pending the determination of High Court Civil Suit No. 516 of 2021.

Costs shall be in the cause.

Olive Kazaarwe Mukwaya 10 **JUDGE** 9th July 2025 **Delivered by ECCMIS**

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