

**Kulabako v Commissioner Land
Registration (Miscellaneous Cause No. 0206
of 2022) [2025] UGHCCD 92 (26 June 2025)**
[2025] UGHCCD 92

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- c) A permanent injunction doth issue restraining the respondent and all its agents, servants, and officials from implementing the findings and orders of the respondent in so far as they are detrimental to the applicant.
 - d) Costs of the application be provided for.
- [2] The grounds upon which the application is based are summarized in the Notice of Motion and also set out in the affidavit in support of the application deposed by **Kulabako Betty**, the applicant. Briefly, the grounds are that the applicant was the registered proprietor of land comprised in Block 268 Plot 157 situate at Namusera in Wakiso District. In June 2019, she received a notice from the office of the Commissioner Land Registration (the respondent) to appear for a hearing regarding a complaint by her sister, one Harriet Nansinjo, wherein it was alleged that the applicant had fraudulently transferred the suit land into her names in 2006. On 12/7/2019, the applicant appeared before a Registrar of titles, a one Mr. Kibande, at which her sister Harriet Nansinjo, her boyfriend and the squatters then living on part of the said land were also present. The applicant was informed that she had fraudulently registered herself on the certificate of title to the suit land without the consent of her sister who was at the time mentally ill. The applicant denied the allegations and requested to appear with other family members. She was also requested to produce the duplicate certificate of title without fail.
- [3] When the applicant appeared for the second meeting in July 2019, she informed the Registrar that she had not come with the duplicate certificate of title because she had not obtained registration by fraud and did not intend to let her sister be manipulated by her boyfriend and the squatters to take away the land which belonged to all their siblings. On 9th August 2019, the applicant's lawyers wrote to the Commissioner Land Registration advising that since the complainant was alleging forgery and it was a contentious matter, the complainant should be advised to take the matter before court so that both parties are fully heard. In October 2019, the applicant went to the Registrar's office and was informed that Mr. Kibande did not accept her plea of a subsequent meeting with other family members and that he had signed an amendment order cancelling the title. The applicant lodged a complaint to the Commissioner Land Registration who called the Wakiso Land Office and was informed that the amendment order had not been effected. The Commissioner Land registration caused the file to be transferred from Wakiso Land Office to the Commissioner's office. As the applicant attempted to sub-divide the suit land into several plots to cater for the rest of the siblings, she was informed that her entry on the certificate of title had been cancelled pursuant to an amendment signed in 2019. The applicant attempted to register a caveat on the suit land which was refused by the registrar of the respondent. The applicant concluded that the actions by the officers of the respondent leading to cancellation of the certificate of title from her name were tainted with illegality, irrationality and procedural impropriety.

- [4] The respondent opposed the application through an affidavit in reply affirmed by **Mr. Babu Hakim**, a Registrar of Titles with the respondent. He stated that the respondent is an official of government charged with registration of titles and maintaining the sanctity of the register. The respondent received a letter from F. Ssenkooba & Co. Advocates on behalf of Nansinjo Harriet, a former registered proprietor requesting the respondent to exercise its legal mandate and cancel the name of the applicant off the certificate of title for land comprised in Block 264 Plot 157 situate at Namuseera, Wakiso District. The respondent issued a notice of intention to effect changes in the register inviting the applicant to attend a public hearing which she duly attended and was given a fair hearing. Upon conclusion of the public hearings, the respondent duly served the applicant with both the findings and the decision of the respondent to cancel the entry of her name off the register for being erroneously registered as proprietor without consent or approval of the registered proprietor. He concluded that the respondent duly discharged its statutory duty and mandate under the law and prayed for dismissal of the application with costs.

Representation and Hearing

- [5] At the hearing, the applicant was represented by **Ms. Annet Kisekka** of M/s Ssebunya & Turyagenda Advocates while the respondent was represented by **Mr. Ssekitto Moses** from the Legal Department of the respondent. The hearing proceeded by way of written submissions which were duly filed by both counsel. I have considered the submissions in the determination of the matter before Court.

Issues for determination by the Court

- [6] Three issues were agreed upon for determination by the Court, namely;
- *a) Whether the application is amenable for judicial review?*
 - *b) Whether the decision of the respondent was illegal, irrational and/or procedurally improper?*
 - c) *Whether the applicant is entitled to the remedies claimed?*

Resolution of the Issues

Issue 1: Whether the application is amenable for judicial review? Submissions

- [7] Counsel for the respondent opposed the amenability of the application for judicial review on the ground that the applicant had not exhausted an alternative remedy which was provided for under the law pursuant to the provision under Section 88 (12) of the Land Act which gives a person dissatisfied with the decision of the respondent a right to appeal. Counsel argued that by bringing the present application for judicial review instead of appealing as provided for under the law, the application before the Court is not amenable for judicial review and ought to be dismissed. Counsel cited the decisions in **Nakku & 2 Others v*

Commissioner Land Registration & Anor, Civil Appeal No. 64 of 2010* and *Mohammed Magezi v Commissioner Land Registration Misc. Cause No. 172 of 2017* for his submission.

- [8] For the applicant, it was submitted that the respondent is a statutory body under the Registration of Titles Act and the Land Act and its exercise of power is subject to control under judicial review. Counsel argued that the applicant had exhausted the existing remedies by way of a complaint to the Commissioner Land Registration whereupon the Commissioner called back the file from the Wakiso Land Office to the headquarters. A notice was issued to the complainant for another hearing but she refused. Counsel for the applicant concluded that the application is amenable for judicial.

Determination by the Court

- [9] Rule 5 of the Judicature (Judicial Review) (Amendment) Rules, No. 32 of 2019 introduces Rule 7A into the principal rules, which lays out the factors to be considered by the court when handling applications for judicial review. It provides as follows;

"*7A. Factors to consider in handling applications for judicial review*

- *(1) The court shall, in considering an application for judicial review, satisfy itself of the following –*
- *(a) That the application is amenable for judicial review;*
- *(b) That the aggrieved person has exhausted the existing remedies available within the public body or under the law; and*
- *(c) That the matter involves an administrative public body or official.*

- [10] It follows, therefore, that for a matter to be amenable for judicial review, it must involve a public body in a public law matter. The court must, therefore, be satisfied; first, that the body under challenge must be a public body whose activities can be controlled by judicial review; and secondly, the subject matter of the challenge must involve claims based on public law principles and not the enforcement of private law rights. See: **Ssekaana Musa, Public Law in East Africa, P.37 (2009) Law Africa Publishing, Nairobi**. It is, therefore, a requirement that the right sought to be protected is not of a personal and individual nature but a public one enjoyed by the public at large. In that regard, the duty of an applicant in an application such as this is to satisfy the court on a balance of probabilities that the decision making body or officer subject of his/her challenge did not follow due process in making the respective decisions or acts and that, as a result, there was unfair and unjust

treatment of the applicant; which is likely to have an effect on other members of the public.

- [11] On the matter before me, the applicant seeks to challenge the decision by the respondent cancelling the entry of her name on the certificate of title to the suit land. The application is based on grounds of illegality, irrationality and procedural impropriety on the part of the respondent. It is not in dispute that the respondent is a public body and that the decision to

cancel the applicant's registration on the certificate of title was an exercise of statutory authority by the respondent. The matter in issue is therefore a public law matter and has a bearing on exercise of functions by a public body that may affect other members of the public. On this account, the application is amenable for judicial review.

[12] The other contention raised by Counsel for the respondent was that the applicant did not exhaust the existing remedy within the law that governs the exercise of power by the respondent as a public body. Counsel argued that under Section 88 (12) of the Land Act, a person dissatisfied with the decision of the respondent affecting registration of an interest in land had a right to appeal. Counsel argued that the application for judicial review brought without exhausting the alternative remedy provided for under the law is improper and ought to be dismissed.

[13] The relevant provision under Section 88 (12) of the Land Act Cap 236 provides as follows:

"Any party aggrieved by a decision or action of the Commissioner under this section may appeal to the District Land Tribunal within sixty days after the decision was communicated to that party".*

[14] The position of the law is that where there exists an alternative remedy through statutory law or within the mechanism of the concerned public body, then it is desirable that such statutory remedy should be pursued first. A court's inherent jurisdiction should not be invoked where there is a specific statutory provision which would meet the necessities of the case. This is the only way institutions and their structures will be strengthened and respected. See: *Sewanyana Jimmy v Kampala International University HMC No. 207 of 2016*. The Court of Appeal of Uganda in *Leads Insurance Limited v Insurance Regulatory Authority & Another, CACA No. 237 of 2015* approved the statement of the law by the Learned Trial Judge thus:

"The remedy by way of judicial review is not available where an alternative remedy exists. This is a preposition of great importance. Judicial review is collateral challenge; it is not an appeal. Where Parliament has provided by statute appeal procedures, it will only be very rarely that the court will allow the collateral process of judicial review to be used to attack an appealable decision. See: *Breston Vs IRS* 1985 Vol. 2 ... Land Reports pg 327 at page 330 Per Lord Scarman".*

[15] The Court in *Leads Insurance Limited v Insurance Regulatory Authority & Another (supra)*, however, went ahead to find that if the applicant is to satisfy the Court to entertain the judicial review application in presence of an alternative remedy, the applicant has to show some exceptional circumstances or some other ground why it is inappropriate for the matter to be dealt with by the alternative forum. The Court cited with approval the decision in *Housing Finance Company of Uganda Ltd v The Commissioner General URA, HC M. C No. 722 of 2005* where it was stated;

"I must hasten to add that there are exceptions to the 'rule' at hand. If a matter in question or decision in issue is questioned on the basis of the same being ultra vires or procured by fraud, ill will, or some other circumstances *that makes it imperative that judicial review be embarked upon, leave may be granted regardless of the existence of an alternative remedy"*.

- [16] In the instant case, although the applicant did not specifically plead any exceptional circumstances as to why she did not explore the existing alternative remedy, it is apparent that there is legal difficulty or uncertainty regarding the remedy of appeal in a case such as this. A question lingers as to whether the alternative remedy of appeal was convenient and effective since the forum to which the appeal was supposed to be lodged was non-existing. According to Section 88 (12) of the Land Act Cap 236, the appeal was supposed to be lodged with the District Land Tribunal. It is common ground that pursuant to Practice Direction No. 1 of 2006, and following the expiry of contracts of Chairpersons and Members of the District Land Tribunals, the jurisdiction that was being exercised by the District Land Tribunals was conferred upon Magistrates Courts presided over by Magistrates of the rank of Magistrate Grade 1 and above. Pursuant to that provision, the appeal that was supposed to be lodged with the District Land Tribunal in accordance with Section 88 (12) of the Land Act would have had to be lodged with the Magistrates' Court. However, in some cases, some of which have been cited by the respondent's counsel, the courts have expressed the view that the appeal could be filed in the High Court since it has unlimited jurisdiction.
- [17] Regarding the option to lodge the appeal in the High Court, Counsel for the respondent placed reliance on the decision in *Sarah Nakku & Others v The Commissioner Land Registration & Another, HC Civil Appeal No. 064 of 2010* in which the trial Judge exercised jurisdiction to entertain the appeal despite an objection to the jurisdiction of the court by the respondents. I note that in the said case, the trial Judge was persuaded by the absence of the District Land Tribunals, the existing questions as to whether the appeal should have properly been lodged before the Magistrate's Court and the fact that the High Court enjoys unlimited original jurisdiction and such appellate jurisdiction as granted under the law. Clearly therefore, the finding by the Court was based on the particular circumstances of that case. The decision cannot be taken as making a rule of law that appeals referred to under Section 88 (12) of the Land Act have to be filed in the High Court. It is highly possible that another Judge could reach a different conclusion and thus dismiss the appeal for not being legally grounded before the High Court. This is especially so given the clear legal position that an appeal is a creature of statute. Indeed, under Article 139(1) of the Constitution of Uganda, the High Court has *"unlimited original jurisdiction in all matters and such appellate and other jurisdiction as may be conferred on it by this Constitution or other law"*. It follows that in absence of a law conferring appellate jurisdiction upon the High Court in those circumstances, a party cannot assume such jurisdiction upon the Court. The court can only exercise inherent jurisdiction in a matter that is properly before it.

- [18] In my considered view, therefore, the division of opinion as to the appropriate forum to which the appeal could be lodged created an uncertainty that made the said alternative remedy inconvenient and less effective. In such circumstances, where an applicant seeks to challenge the decision of a public body on grounds of illegality, irrationality and/or procedural impropriety, it would not be in the interest of justice to oblige them to take recourse to such kind of alternative remedy. Indeed, it is also a common legal position that the rule for exhaustion of existing alternative remedies is a rule of discretion on the part of the court and the exercise of discretion is stricter where the challenge by the aggrieved party is premised on the merits of the decision rather than the decision making process. Where the challenge is directed against the decision making process, the judicial review option may be more preferable. See: **Salim Alibhai & Others v Uganda Revenue Authority*, HC M. C No. 123 of 2020*.
- [19] In the circumstances, therefore, the said alternative remedy was not adequate, convenient and effective enough as to compel this Court to lock out the present application. The application by the applicant is therefore properly before the Court and is amenable for judicial review.

Issue 2: Whether the decision of the respondent was illegal, irrational and/or procedurally improper?

- [20] Judicial review is concerned not with the decision but the decision making process. Essentially, judicial review involves an assessment of the manner in which a decision is made. It is not an appeal and the jurisdiction is exercised in a supervisory manner, not to vindicate rights as such but to ensure that public powers are exercised in accordance with the basic standards of legality, fairness and rationality. The duty of the court, therefore, is to examine the circumstances under which the impugned decision or act was done so as to determine whether it was fair, rational and/or arrived at in accordance with the rules of natural justice. See: **Attorney General v Yustus Tinkasimmire & Others*, CACA No. 208 of 2013* and **Kuluo Joseph Andrew & Others v Attorney General & Others*, HC MC No.1 06 of 2010*.
- [21] It therefore follows that the court may provide specific remedies under judicial review where it is satisfied that the named authority has acted unlawfully. A public authority will be found to have acted unlawfully if it has made a decision or done something: without the legal power to do so (unlawful on the grounds of illegality); or so unreasonable that no reasonable decisionmaker could have come to the same decision or done the same thing (unlawful on the grounds of unreasonableness or irrationality); or without observing the rules of natural justice (unlawful on grounds of procedural impropriety or unfairness). See: **ACP Bakaleke Siraji v Attorney General*, HC MC No. 212 of 2018*.

- [22] On the case before me, the decision challenged by the applicant is the cancellation of entry of her name on the certificate of title to the suit land. The allegation by the applicant is that the decision of the respondent was tainted with illegality, irrationality and procedural impropriety. I will consider each of the grounds separately.

The Ground of Illegality

- [23] Illegality has been described as the instance when the decision making authority commits an error in law in the process of making a decision or making the act the subject of the complaint. Acting without jurisdiction or ultra vires or contrary to the provisions of the law or its principles are instances of illegality. See: **Council of Civil Service Unions v Minister for Civil Service (1985) AC 375**. A public authority will be found to have acted unlawfully if it has made a decision or done something without the legal power to do so. Decisions made without legal power are said to be ultra vires, which is expressed through two requirements: one is that a public authority may not act beyond its statutory power; the second covers abuse of power and defects in the exercise. See: **Dr. Lam-Lagoro James v Muni University, HCMC No. 007 of 2016**.
- [24] It is also the position of the law that where discretionary power is conferred upon legal authorities, it is not absolute, even within its apparent boundaries, but is subject to general limitations. As such, discretion must be exercised in the manner intended by the empowering Act or legislation. The limitations to the exercise of the discretion are usually expressed in different ways, such as requirement that the discretion has to be exercised reasonably and in good faith, or that the relevant considerations only must be taken into account, or that the decision must not be arbitrary or capricious. See: **Smart* *Protus Magara & 13 Others v Financial Intelligence Authority, HCMC No. 215 of 2018**.
- [25] On the case before me, it was submitted by Counsel for the applicant that under the Land Act the respondent has no powers to cancel a certificate of title or an entry thereto based on the ground of fraud. Counsel stated that in this case, the respondent through the notice of intention to effect changes in the register indicated that it had been alleged that the applicant had forged her sister's signature and transferred the land into her names. Counsel argued that the decision of the respondent to cancel the title on the basis of forgery was illegal and ultravires as he had no powers to do so and ought to have advised the complainant to institute a suit in the High Court which has powers to cancel titles on the basis of fraud.
- [26] For the respondent, it was submitted that section 88(1) of the Land Act Cap 236 gives the office of the respondent special powers and provides that "subject to the Registration of Titles Act, the registrar shall, without referring a matter to a court or a district land tribunal, have power to take such steps as are necessary to give effect to this Act, whether by endorsement or alteration or cancellation of certificates of title, the issue of fresh certificates of title or otherwise". Counsel submitted that the office of the respondent acted within the confines of the law in the process that led to the cancellation of the certificate of

title in respect of the suit land. Counsel concluded that the allegation that the respondent acted ultra vires is baseless and should be rejected.

- [27] The question to be answered by the Court is what occasioned the decision by the respondent to cancel the entry of the applicant's name on the register? Was it because the entry was erroneous, irregular, illegal or fraudulent? The parameters within which the respondent is empowered to exercise the authority granted to the office under section 88 of the Land Act are clearly expressed under sub-section (2) of section 88 of the Land Act. These are where the certificate of title or instrument; (a) is issued in error; (b) contains a wrongful description of land or boundaries; (c) contains an entry or endorsement made in error; (d) contains an illegal endorsement; (e) is illegally or wrongfully obtained; or (f) is illegally or wrongfully retained. Clearly, certificates of titles or instruments that are fraudulently obtained or entered are not part of the list.
- [28] On the facts before me, the notice of intention to effect changes in the register that was accessed by the applicant indicated that the complaint was that the applicant had taken advantage at a time when her sister (Harriet Nansinjo) had a mental problem, forged her signature and transferred the land into her names. The amendment order issued by the respondent stated that the applicant had taken advantage of the mental impairment of her sister, presented documents allegedly signed by her and procured registration illegally. In my opinion, these facts do not point to an error, irregularity or illegality within the meaning of section 88 of the Land Act. Rather, they point to alleged fraudulent conduct. In my view, before the matter between the concerned parties could be resolved, the adjudicator had to establish a number of things, namely; whether it is true that at the time of registration of the applicant on the certificate of title, Harriet Nansinjo had a mental impairment; if so, what was the prevailing state of mind of Harriet Nansinjo at the time the current complaint was raised; whether the signature of Harriet Nansinjo on the transfer forms was forged or she signed without capacity owing to mental illness; whether Harriet Nansinjo was holding the land in issue in her personal capacity or in trust for her siblings; among others.
- [29] The above questions, when answered, would lead the adjudicator to a conclusion as to whether the registration of the applicant on the certificate of title was fraudulent or not. Clearly, those questions could not be investigated and determined by the respondent within the purview of section 88 of the Land Act. The questions are not within the boundaries of the respondent's powers as pointed out above.
- [30] I also need to point out that the law is that where a person has obtained registered proprietorship over land, they can only be deprived of the same in circumstances spelt out under sections 176 and 177 of the Registration of Titles Act (RTA). Under those provisions, the power to order the cancellation of such title, instrument or an entry thereof is a preserve of the High Court. Section 176 of the RTA provides that a registered proprietor of land can only be deprived of land in any of the circumstances stated thereunder. Relevant to this case is in the case of a person deprived of any land by fraud as against the person registered as proprietor of that land. Under Section 177 of the RTA, only the High Court has power to

order cancellation of a certificate of title or an entry on a certificate of title after being satisfied on the ground of fraud. It follows, therefore, that any action that may lead to deprivation of land based on allegations of fraud must be filed in court, investigated and determined by the court. See: **Hilda Wilson Namusoke & 3 Others [As administrators of the Estate of the late Nambi Magdalene Scot] v Owalla's Home Investment Trust & Commissioner Land Registration, SCCA No.15 of 2017**.

- [31] In the circumstances, therefore, I am able to come to a conclusion that in cancelling the entry of the applicant's name on the certificate of title in issue upon facts disclosing fraud as presented in the complaint before the respondent, the respondent acted ultra vires the powers granted to them under section 88 of the Land Act Cap 236. The respondent also acted contrary to the provisions of sections 176 and 177 of the Registration of Titles Act Cap 240. This constitutes an instance of illegality on the part of the respondent. This ground of the application is therefore proved by the applicant on a balance of probabilities.

The Ground of Procedural Impropriety

- [32] The case by the applicant is that owing to the conduct by the respondent's Registrar of Titles, she was denied her right to a fair hearing which is nonderogable under Article 44 of the Constitution of Uganda. The applicant further stated that the respondent having recalled the land file from Wakiso Land Office back to the headquarters, the use of the previously issued amendment order of 2019 in disregard of the notice issued in 2020 calling for another meeting was tainted with procedural impropriety for failure to observe the rules of natural justice. For the respondent, it was submitted that the applicant was afforded a proper and fair hearing before the impugned decision was reached.
- [33] Procedural impropriety has been defined to mean "the failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision." See: **Council of Civil Service Unions & Others v Minister for the Civil Service (supra)**. Under the law, procedural impropriety encompasses four basic concepts; namely (i) the need to comply with the adopted (and usually statutory) rules for the decision making process; (ii) the requirement of fair hearing; (iii) the requirement that the decision is made without an appearance of bias; (iv) the requirement to comply with any procedural legitimate expectations created by the decision maker. See: **Dr. Lam – Lagoro James v Muni University (supra)**.
- [34] In this case, the claim by the applicant is that she was not given a fair hearing before the respondent made the decision to cancel the entry of her name on the certificate of title. The applicant raised two issues allegedly disclosing breach of the rules of natural justice. The first is that after the first public hearing and upon making of the amendment order, the same was not served upon her and she only learnt of the same when she had instructed a surveyor to sub-divide the land in issue in favour of all the siblings. The respondent indicated that they served the notice of the public hearing by registered post. This was not denied by the applicant and she indeed attended the hearing. However, the respondent led

no evidence of service of the amendment order upon the applicant. I have believed the applicant's claim that she was not served with the same which is a breach of the procedural requirement under section 88(4) of the Land Act. The provision states that upon making a finding on the matter, the Registrar of Titles shall communicate his/her decision in writing to the parties, giving the reasons for the decision made. The failure by the respondent to adhere to this procedural requirement constituted a procedural impropriety.

- [35] The second procedural matter raised by the applicant was that after perceiving that she had not been fairly treated by the Registrar that handled her matter, she lodged a complaint to the respondent who recalled the land file from the Wakiso Land Office before the amendment order was effected. Another Registrar was assigned who called for another meeting but the initial complainant refused to attend. Before another decision was made, the office of the respondent went ahead and effected the amendment order cancelling her entry on the certificate of title.
- [36] I have seen an endorsement by the respondent on the letter dated 27th November 2020 written by the applicant's lawyers, addressed to the respondent. The endorsement from the office of the respondent, addressed to the SRT (Senior Registrar of Titles) states: "Please halt the registration of the memo of cancellation and send the file here". This corroborates the applicant's claim that the file was recalled before the amendment order was halted and another meeting organized for the parties. The question is how the decision to effect the previously issued amendment order was reached without communicating any decision to the applicant over her complaint. The respondent has not shown that they made any formal response in that regard. This conduct was in breach of the rules of natural justice and discloses an instance of procedural impropriety.
- [37] The applicant has therefore proved on a balance of probabilities that the decision by the respondent was reached in breach of the rules of natural justice and was thus tainted with procedural impropriety.

The Ground of Irrationality or Unreasonableness

- [38] In judicial review, irrationality refers to arriving at a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it. See: **Council for Civil Service Unions v Minister for Civil Service (supra)**. Mubiru J. in **Dr. Lam-Larogo James v Muni University (supra)** held that in judicial review, reasonableness is concerned mostly with the existence of justification, transparency and intelligibility within the decision making process. It is also concerned with whether the decision falls within a range of possible, acceptable outcomes which are defensible in respect of the facts and the law.

- [39] In the present case, the complaint raised by the applicant under this ground is the same as has been dealt with under the ground of procedural impropriety. The application thus raises no separate allegation pointing to irrationality. In view of my findings above, I do not need to make any further consideration on this ground. This ground of the application has not been made out.

Issue 3: Whether the applicant is entitled to the remedies sought?

- [40] In view of the above findings, the application by the applicant has succeeded on the grounds of illegality and procedural impropriety. The applicant prayed for orders of certiorari, prohibition, a permanent injunction and costs of the application.
- [41] Regarding the prayer for the writ of Certiorari, rule 3 of the Judicature (Judicial Review) (Amendment) Rules 2019 defines "certiorari" as an order by court to quash a decision that is ultra vires. In **Editors Guild Uganda Limited & Another v Attorney General, HC MC No. 400 of 2020,** the Court stated that when a decision is illegal or ultra vires, the remedy is certiorari. A writ of certiorari should often freely be granted by the courts, where a prejudicial decision has been made by a public authority in the course of exercise of its statutory or public authority. In the instant case, it has been established by the applicant that the decision by the respondent cancelling the entry of her name on the certificate of title to the suit land was ultra vires and thus illegal. It therefore ought to be quashed. An order of certiorari thus issues to that effect.
- [42] The applicant further prayed for an order of Prohibition restraining the respondent, their servants, agents or officials from implementing the impugned order of the respondent. Under rule 3 of the Judicature (Judicial Review) (Amendment) Rules 2019, "prohibition" is defined as an order issued by the court to forbid some act or decision which would be ultra vires. In this case, it is clear to me that any further enforcement of the impugned amendment order of the respondent would be an ultra vires and illegal act. I therefore allow to issue an order of Prohibition forbidding the respondent, their servants, agents or officials from implementation of the impugned order.
- [43] The applicant also prayed for an order of a permanent injunction restraining the respondent, their agents, servants or officials from implementing the findings and orders of the respondent. In my view, what is sought under this relief has already been catered for by issuance of the order of prohibition. I therefore issue no order in that regard.
- [44] Regarding costs, in line with section 27 of the Civil Procedure Act, the applicant is entitled to the costs of this application and the same are accordingly awarded to her against the respondent.
- [45] In all, therefore, the application succeeds and is allowed with the following orders;

- a) A writ of Certiorari doth issue quashing the decision of the respondent communicated by the amendment order dated 12/09/2019 ordering the cancellation of the entry of the applicant's name on the certificate of title for land comprised in Block 268 Plot 157 situate at Namusera in Wakiso District.
- b) A writ of Prohibition doth issue forbidding the respondent, their servants, agents or officials from implementing the said impugned order of the respondent.
- c) The costs of the application shall be paid to the applicant by the respondent.

It is so ordered.

Dated, signed and delivered by email this 26th day of June, 2025.

Boniface Wamala JUDGE.

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