

UGANDA / JUDGMENT

Mariana Agencies Ltd v Bwogi and Anor (H.C.Miscellaneous Application No. 290 of 2021) [2021] UGCommC 87 (12 April 2021) [2021] UGCommC 87

COURT

Commercial Court of Uganda

BEFORE

Gaswaga, J

CASE / FILE NUMBER

H.C.Miscellaneous Application No. 290 of 2021

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**THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA
[COMMERCIAL DIVISION] M. A No. 290 of 2021 (Arising out of Civil Suit No. 268 of
2018) MARIANA AGENCIES LIMITED:APPLICANT VERSUS**

1. JAMES BWOGI

2. GODFREY BWOGI KIMERA:RESPONDENTS

BEFORE: HON. JUSTICE DUNCAN GASWAGA RULING

- [1] This is an application brought under The Constitution of the Republic of Uganda, The Judicature Act, Section 98 CPA and Order 52 rules ¹ & 3 CPR for orders that; *the respondents immediately produce in court an encumbrance free duplicate certificate of title for land and property comprised in Kyadondo Freehold Register Volume 625 Folio ¹ Plot 31 William Street, Kampala; the respondents immediately hand over to the applicant the said title deed plus a duly signed transfer form together with all other documents required to effect a transfer of the said property into the name of the applicant and for costs of this application.*
- [2] The grounds of the application were detailed in the affidavit of Tom Kitandwe and they were briefly that; the respondents, in breach of the consent settlement signed by the parties on 11/06/2018, failed and or refused to deposit the said title deed in court; that the applicant paid the full purchase price for the said property to the respondents

according to the consent settlement but has no title thereof and that it is just and equitable that the respondents are ordered to produce and hand over to the applicant the said title with all the required transfer instruments in fulfillment of the consent settlement.

- [3] At the hearing of the application Counsel for the applicant informed court that the respondents had been served with the Notice of motion and the written submissions but had not filed their affidavit in reply and submissions thereof. Counsel prayed that the orders prayed for be granted since the application was unchallenged.
- [4] ^I have read the pleadings and also listened to the submissions of Mr. Kahuma Counsel for the applicant. In particular, ^I have noted from the affidavit of service sworn by one Tom Kitandwe and ^I am satisfied that service of court process on the respondents was effected. The respondents filed no affidavit in reply to the application. They also chose not to come to court without excuse. In short this application stands and remains undefended.
- [5] The application is accordingly granted with the following orders;
- 1) That the respondents immediately produce in court an encumbrance free duplicate certificate of title for land and property comprised in Kyadondo Freehold Register Volume 625 Folio ¹ Plot 31 William Street, Kampala

OR

- 2) The respondents immediately hand over to the applicant the said title deed plus a duly signed transfer form together with all other documents required to effect a transfer of the said property into the name of the applicant.
- 3) All the above should be done within a period of one month from the date hereof.
- 4) The respondents pay the costs of this application

^I so order

Dated, signed and delivered this 12th day of April 2021

JUDGE

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Prepared on 14 October 2026 · Esheria