

UGANDA / JUDGMENT

Mpungu and 4 Others v Ddamulira and 2 Others (Civil Appeal No. 327 of 2019) [2021] UGCA 75 (21 July 2021)

[2021] UGCA 75

COURT

Court of Appeal of Uganda

BEFORE

Monica K. Mugenyi, JA, Kasule, Ag JA, Kiryabwire, JA

CASE / FILE NUMBER

Civil Appeal No. 327 of 2019

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THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NO. 327 OF 2019

- 1. MPUNGU RONALD
- 2. SSERUNKUMA ROBERT
- 3. SSENKOOTO EDWARD
- 4. LUMU FRANCIS

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- 5. LUTALO DOUGLAS

VERSUS

- 1. DDAMULIRA ABDUL \$10\$
- 2. KAKOMO PAUL

HIMMORPHISMISSION RESPONDENTS

HIREFORM APPELLANTS

- 3. COMMISSIONER FOR LAND REGISTRATION

(Appeal from the Judgment of the High Court at Mpigi before the Hon Mr Justice 15 Wilson Masalu Musene, dated 14th June 2019, in consolidated HCCS Nos 73 of *2018; 60 of 2017; 42 of 2017 and 75 of 2016)*

JUDGMENT OF THE HON. MR. JUSTICE GEOFFREY KIRYABWIRE, JA \$20\$

Introduction

This is a first Appeal from the decision dated 14th June 2019 of the Hon. Mr. Justice Wilson Masalu Musene sitting at the High Court of Uganda at Mpigi. $\$ \backslash \mathrm{mathsf{S}} \$$

Brief Facts

This Appeal is a consolidation of several suits that were filed in different trial Courts. The dispute arises from Mailo land which was originally comprised in Gomba Block 181 Plot 5 measuring 50.00 acres situated at Namulaba (Katete),

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Kabulassoke sub county in Gomba District (herein after referred to as the "Suit Land"). It was registered in the name of Susana Nambi in the year 1956.

According to the facts as summarized by the trial Court, the Appellants (then Plaintiffs) sued the Respondents jointly and severally on the suit land for fraud, an order for recovery of land; an order to the Commissioner for Lands to cancel

the title into the names of Nambi (from whose names it had been transferred to 15 that of the first Respondent Ddamulira Abdu); the grant of fresh Letters of Administration to the first and second Appellants; general damages; mesne profits; interest and costs of the suit.

It is the case for the Appellants that Susana Nambi was born at Namulaba, Kabulassoke in Gomba District and she stayed there throughout her life time. \$20\$ Susana Nambi died in the year 1991; without a will. It is further the case of the Appellants that the late Nambi was married to one Semakula Yowana (RIP) and together they had one child Katende Paul (RIP) who subsequently had his own child Ssenkooto Edward (the third Appellant).

\$2\$ | Page

It is further alleged that at the last funeral rites of Nambi it was decided that the suit land title be given to her sisters Ntabadde Mariam and Amina Nabbosa for safe custody. These are the facts agreed upon by the Appellants and first Respondent.

It is the case for the first Respondent that Nambi never married or had children $\$ \backslash \mathrm{mathsf{S}} \$$ and died intestate. The last funeral rites therefore allowed Ntabadde Mariam and Amina Nabbosa to become administrators of Nambi's estate and they were subsequently granted Letters of Administration by the High Court. The Aunts (now both deceased) then gave the suit property to the first Respondent as a

\$10\$ gift *inter Vivos*.

> Subsequently, it is the case for the Appellants that the suit title disappeared and was found to be with a money lender and it was necessary to raise money to redeem it. It was at the time of redeeming the suit title that the Appellants allege that they discovered the title of the suit land to be in the names of the first

15 Respondent.

> It is the case for the Appellants that the transfer of the suit land to the first Respondent was fraudulent. That the giving out of the suit land to the first Respondent as a gift inter vivos by Ntabadde Mariam and Amina Nabbosa was to defeat the interests of the beneficiaries in the estate.

This then led to a multiplicity of suits at the High Court namely HCCS No 603 of \$20\$ 2012 (Land Division later HCCS No 075 of 2016 Mpigi) against the second Respondent; HCCS 073 of 2018 (Mpigi); HCCS No 042 of 2017 (Family Division) and HCCS No 60 of 2017 (Family Division).

In the multiplicity of suits that arose between the parties, the Appellants and the second Respondent allege that they are grandchildren of late Susana Nambi \$25\$ 3 | Page

and whose estate was administered and disposed of by her surviving elder siblings and sisters Amina Nabbosa and Mariam Ntabadde in 1995. The Appellants and the second Respondent claim that they had a benefit in the late Nambi's estate. In one of the suits in the Family Division the Appellants sought

to take out a fresh Court grant so that they could legally gain access to late \$\\overline{5}\$ Susana Nambi's property, particularly the suit land at Gomba Block 181 Plots 20 and 21 at Namulaba (Katete), Kabulassoke Sub County.

On the other hand, the first Respondent in his defence states that the Appellants and the second Respondent were not grandchildren of late Susana Nambi and

\$10\$ therefore they have no interest in her estate. It was further contended by the first Respondent that by the time Suzanna Nambi died in year 1991 she had not had children. No family member expressed knowledge that Nambi had had a spouse. But she was survived by her siblings Amina Nabbosa and Mariam Ntabadde with whom they shared the same father Yoana Gyagenda and same mother Ziriya Nanfuka. 15

The various suits were consolidated and the following issues framed for determination: -

- 1. Whether all the parties have a beneficial interest in the estate of late Susana Nambi.
- \$20\$
- 2. Whether or not the transfer and /or Registration of the Suit land in the name of Ddamulira was lawful.

- 3. Whether or not Kakomo Paul obtained registration of the suit land fraudulently.
- 4. What were the remedies available to the parties?

The trial Court found for the first Respondent and inter alia held that Susana Nambi passed on without having been married or with children and that there was no fraud in Ntabadde Mariam and Amina Nabbose being administrators of the late Nambi transferring the suit property into the names of the first Respondent as a gift **inter vivos**. He also found that many of the suits were also time barred under the Limitation Act.

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The Appellants appealed against the decision and preferred the following grounds: -

- 1. The learned trial Judge erred in law and fact in holding that the
- Appellants did not have a bonafide interest in the Estate of the Late Susana Nambi
- 2. The learned trial Judge erred in law and fact in holding that the first Respondent did not fraudulently obtain certificates of title on the suit property;
- 3. The learned Judge erred in law and fact in holding that the 15 registration of the suit land in favour of the Respondent, the same ceased to be Ntabadde and Nabosse's property as well as part of the estate of the late Susana Nambi;
- 4. The learned trial Judge erred in law and fact in holding that there is no property of the late Susana Nambi that requires appointment of new administrators
- 5. The learned trial Judge erred in law and fact in holding that the Appellants claims to the estate of the late Susana Nambi and the suit land are time barred.
- 6. The learned trial Judge erred in law and fact in holding that the Appellants' petition for Letters of Administration of the Estate of the Late Susana Nambi be dismissed

\$\mathsf{S}\$ Appearances

$\{x_1, \ldots, x_{n-1}\}$

Mr. Hannington Mutebi appeared for the Appellants while Mr. Simeon Lutaakome appeared for the first Respondent.

Procedure Adopted

- \$10\$ This Appeal took place within the restrictions imposed during the COVID-19 whereby parties were expected to file written submissions and if necessary appear in Court to highlight them. The Appellants were expected to file and serve their submissions by the 25th March, 2021. The Respondents were then directed to file and serve their response by the 23rd April, 2021. The Appellants
- \$15\$ would then file their rejoinder by 30th April, 2021. The Appellants did not follow the directed timelines. The first Respondent then filed Misc. Cause No 106 of 2021 to strike out the Appeal on the grounds that the Appellants had violated Rule 82 of the Rules of this Court for not complying with the directed timelines. This notwithstanding, the Appellants did eventually file their submissions in
- Court and served the Respondents on the 26th April, 2021. This Court takes note \$20\$ of this difficult period of COVID-19 and in the interests of justice and resolving this Appeal on its merits, accepts the late filing under Rule 2 (2) of the Rules of this Court. In any case the filing, though late was still within the wider period of

time allowed by this Court. Consequently, Misc Cause No. 106 of 2021 is struck out with no Order as to costs.

Duty of a first Appellate Court.

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This is a first Appeal. The duty of a first Appellate Court was well detailed in the case of *Selle v Associated Motor Boat Co.* [1968] EA 123 where it was held that a first Appeal: -

"...is by way of retrial and the principles upon which this Court acts in such an appeal are well settled. Briefly put they are that this Court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in this respect. In particular, this Court is not bound necessarily to follow the trial judge's findings of fact if it appears either that he has clearly failed on some point to take account of particular circumstances or probabilities materially to estimate the evidence or if the impression based on the demeanor of a witness is inconsistent with the evidence in the case generally (*Abdul Hameed Saif vs. Ali Mohamed Sholan* (1955), 22 E. A. C. A. 270 followed) ..."

I shall follow these principles in determining this Appeal. I shall further take the same order in resolving the grounds as did the parties.

Ground No. 5: The learned trial Judge erred in law and fact in holding that \$20\$ the Appellants claims to the estate of the late Susana Nambi and the suit land are time barred.

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Submissions for the Appellants

Counsel for the Appellants submitted that the trial Judge accepted the submissions of the Respondent that the Appellants' suit was time barred because it was filed after over 20 years since the grant was made and the land transferred to Ddamulira. Counsel argued that it was wrong for the trial Judge to hold that the Appellants' suit was time barred as it was premised, in the pleadings, on an allegation of fraud for which there is an exception under section 25 (a) and (b) of the Limitation Act, Cap 80. This Section provides: -

"...where in the case of any action for which a period of limitation is prescribed *bv this Act, either -*

- (a) The action is based upon the fraud of the defendant or his or her agent or any person through whom he or she claims or his or her agent;
- (b) the right of action is concealed by the fraud of any person as is $\frac{1}{2}$ *mentioned in paragraph (a) of this section;*
- or the period of limitation shall not begin to run until the plaintiff has discovered the fraud or the mistake, or could with reasonable diligence *have discovered it..."*

Counsel for the Appellants submitted that they pleaded that the fraudulent acts of the first Respondent were established in 2012 and the suit was filed seven years later and therefore could not be time barred.

Submissions for the first Respondent.

Counsel for the first Respondent submitted that it is false for the Appellants to claim that they first knew of the alleged fraud in the year 2012. He argued that the Appellants and second Respondents knew of the transfers on the suit land

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from the mid-1990s and so they cannot take advantage of the provisions of the Limitation Act. He further submitted that by the time the third Appellant signed a power of Attorney to appoint the second Respondent to recover the suit land which had been pledged, that the suit land had already been transferred to

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National National National National National \$\\mathrm{S}\$ members had attended Nambi's last
funeral rites in 1993.

Findings and decisions of the Court

I have had the opportunity to peruse the submissions and the authorities relied upon by both counsel on this ground.

- Before I address this ground it is important to observe this is a family dispute \$10\$ involving persons who are not strangers but are well known to each other. Unfortunately, this land dispute has split the family into different camps and has generated a multiplicity of suits premised on the same facts but different causes of action. These suits were consolidated into one matter to achieve the
- ends of justice. This is in line with Section 33 of the **Judicature Act** which 15 provides: -

"... The High Court shall, in the exercise of the jurisdiction vested in it by the Constitution, this Act or any written law, grant absolutely or on such terms and conditions as it thinks just, all such remedies as any of the parties to a cause or matter is entitled to in respect of any legal or equitable claim properly brought before it, so that as far as possible all matters in *controversy between the parties may be completely and finally determined* and all multiplicities of legal proceedings concerning any of those matters avoided..."

So the causes of action for purposes of the trial Court were also consolidated and looked at as a whole.

The application of the time limits in the Limitation Act as a defence is an absolute bar to a suit because it goes to jurisdiction and the suit can then be struck out.

In paragraphs 5-10 at page 83 of the Record of Appeal the trial Judge had this to S say:

"... I entirely agree with the submissions of counsel for the 1st defendant that the Plaintiffs slept on their right and cannot wake up to challenge the administration of the estate of Susana Nambi and Nabbosa over the 20 years since Susana Nambi died. Their actions are time barred. And to make matters worse, the Administrators who passed on the title to the 1st defendant, Ddamulira Abdu are also dead. And again since they were the* ones who allegedly committed fraud with the 1st Defendant, the suit should have been filed when they were still alive. They are now dead and gone and *cannot come back from death to defend their actions..."*

The trial Judge continues at line 26 to find: -

"... And the pleadings of the Plaintiff do not contain any provision as to why *the suits were not filed within the time prescribed by the law..."*

However, in his final Orders the trial Judge correctly does not dismiss the consolidated suit but makes 14 individual Orders to address all remedies of the \$20\$ suits as filed. In Order (7) among others the trial Judge states: -

> ".. That the plaintiff's and second defendant's claims to the estate of late Nambi and the suit land are tie (sic) barred in light of the Limitation Act..."

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Even though the trial Judge did not allocate the Orders to the particular suits filed it is clear from the pleadings on record that he was referring to the Appellants' suits in HCCS No 60 of 2017 (at the Family Division Makindye) and HCCS No 73 of 2018 (at the High Court at Mpigi). In reviewing the said pleadings, I am inclined to agree with the trial Judge that the Appellants did not \$\\mathrm{S}\$ plead when they discovered the fraud or why they could not, with reasonable diligence, have discovered it within the meaning of Sections 25 (a) and (b) of the Limitation Act. It is not sufficient to plead fraud without further complying with this extra requirement in the law. Failure to comply with this extra requirement was fatal to their suit.

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That being my finding, I accordingly disallow Ground Number 5.

Grounds No. 2, 3, and 4: -

The learned trial Judge erred in law and fact in holding that the first Respondent did not fraudulently obtain certificates of title on the suit **property**; and

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The learned Judge erred in law and fact in holding that the registration of the suit land in favour of the Respondent, the same ceased to be Ntabadde and Nabossa's property as well as part of the estate of the late Susana Nambi; and

The learned trial Judge erred in law and fact in holding that there is no \$20\$ property of the late Susana Nambi that requires appointment of new administrators.

Submissions for the Appellants

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Counsel for the Appellants' submitted that the trial Judge was wrong to find in fact that the Appellants did not adduce conclusive evidence of the marriage of the late Nambi and that Ssenkooto was her son. He pointed to the evidence of Lubega Benard (78 years old, at the time PW3) who he referred to as an elder who testified that Nambi was married and lived with her husband in Kiganda but separated from her husband and returned to her father's home where she was buried. He further testified that Nambi had a son called Katende who then had his own son called Edward Ssenkooto; who was Nambi's grandson. This evidence was corroborated by the evidence of the second Respondent Kakomo Paul who was from the same clan as the late Nambi. It was also argued that Kakomo was the head of the lineage of the late Yowana Gyagenda who was the father of the late Nambi. Counsel further argued that court wrongly rejected the birth certificate produced by Ssenkooto that Katende Paul was his father on the grounds that the origin of Katende Paul was doubtful.

Counsel also argued repeatedly that the trial Judge was wrong to find that the first Respondent had got a gift inter vivos from Ntabadde and Nabbosa. In substance, counsel for the Appellants submitted that the said gift arose from a transfer form executed on the 22nd December, 1995 one month after the Letters of Administration were obtained on the 3rd November, 1995 and two years

- \$20\$ before the transfer was registered on the title on 12th April, 1997. This he submitted was evidence of fraud. He further argued that the said transfer was illegal because all transfers on the land title were done within 5 minutes of each other without any attestation and translation of the contents of the transfer
- which is contrary to Section 147 (2) of the Registration of Titles Act. Counsel \$25\$ argued that the trial Judge totally disregarded the multiple fraudulent and or \$12\$ | Page

illegal acts committed by the first Respondent to have the suit land transferred into his names against the law. Counsel referred the Court to the case of Kampala Bottlers Ltd V Damanico (U) Ltd, SCCA No. 22 of 1992 for the proposition that in order to impeach the title of a registered proprietor of land, fraud must be attributed to the registered proprietor either directly or by necessary implication. Counsel submitted that the first Respondent fraudulently obtained title to the suit land which ought to be cancelled for fraud which he was directly or by necessary implication privy to since the execution of transfer instruments by which he got registered was fraudulent and by necessary implication the first Respondent was privy to the scheme to create a

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\$10\$ gift inter vivos in his favour in 1995 and later executed in 1997.

Counsel further argued that Ntabadde Mariam and Amina Nabbosa did not own the suit land but were joint administrators; who were to keep the suit land for the children of the deceased. It was therefore strange that Amina Nabbosa did

- not sign the gift together with Ntabadde Mariam. He submitted that the failure to sign by Nabbosa was contrary to section 134 (3) of the Registration of Titles Act and Section 272 of the Succession Act. In this regard he relied on the case of *Silver Byaruhanga V Fr. Emmanuel Ruvugwaho* and another SCCA No 09 of 2004.
- Counsel for the Appellants further argued that the trial Judge erred when he held that the Appellants do not have a bona fide interest in the estate of the late Susana Nambi. Counsel generally on this ground repeated his earlier arguments that the third Appellant Ssenkooto was the grandson of the late Nambi and the only one with a direct lineage linked to her. For brevity, I shall not restate those arguments again. I shall just indicate that counsel for the Appellants argued in conclusion that with such a direct lineage it followed that the third Appellant and his relatives (the rest of the Appellants) have a direct interest in the estate of the late Nambi contrary to the findings of the trial Judge.

Submissions for the first Respondent

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Counsel for the first Respondent opposed these grounds of Appeal.

- He argued in particular that the evidence of the third Appellant Ssenkooto was not reliable and was full of falsehoods. He questioned why he testified that he was the sole surviving child of the late Nambi and yet in his Power of Attorney dated 8th August 2012 he stated that he and one Sebilanda Joseph were the grand children of the late Nambi. Counsel for the Respondent found it strange
- that Ssenkooto admitted that he sued the first Respondent yet he did not know him and met him in Court for the first time. This all pointed to the fact that the third Appellant was not a true son of the late Nambi.

Counsel further argued that there was no fraud in Ntabadde Mariam and Amina Nabbosa transferring the suit land to the first Respondent as they acted in their

- powers as Administrators and there was no opposition to what they did. He submitted that there was nothing wrong in having the suit land first transferred into the names of the Administrators then subsequently into the names of the first Respondent as the times on the transfer instruments show; and this cannot be evidence of fraud.
- Counsel submitted that if there was evidence of fraud then it was on the side of the Appellants. First the Appellants tried to get a fresh grant of Letters of Administration for the estate of the late Nambi well aware one had already been granted and the said estate had ceased to exist in 1997. Secondly the first and second Respondents had tried to fraudulently obtain a death certificate for the

- late Ntabadde Mariam and Amina Nabbosa from Kabulassoke Sub County in \$25\$ \$14\$ | Page

Gomba but were arrested and subsequently charged for this offence. The third Appellant was also on the said charge sheet but run away and never appeared in court (see pages 285 to 292 and 342 to 253 of the Record of Appeal).

Findings and decisions of the Court

I have had the opportunity to peruse the submissions and the authorities relied upon by both counsel on these grounds.

These grounds are critical to resolving this Appeal on the merits.

The first inquiry in my view for re-evaluation here is whether the late Nambi actually was married and had a child called Ssenkooto the third Appellant. The

burden to prove the foregoing assertion lay with the Appellants as Plaintiffs at the trial Court. The Trial Judge had a lot to say about this point.

At page 74 of the Record of Appeal the trial Court found: -

"...it is therefore the finding and holding of this Court that the allegation that Nambi got married to Ssemakula was an afterthought hatched by the Plaintiffs and Defendant after nearly 30 years ever since Nambi died and over 20 years since Ntabadde and Nabbosa obtained Court grant of Letters of Administration on the basis that Nambi was not married and had no issue..."

The Trial Judge in support of the above finding had previously held (pages 72 to 73 of the Record of Appeal): -

"... The Plaintiffs did not adduce conclusive evidence of a marriage certificate as provided under Section 33 of the Marriage Act. No birth certificate was produced by the Plaintiffs with regard to Katende Paul under the Births and Deaths Registration Act. It was an obligation on the

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part of the Plaintiffs to produce death certificates of Ssemakula and his alleged son Paul Katende unfortunately, none was exhibited in this Court..."

As to the evidence of the third Appellant Ssenkooto Edward (the person said to be the son of the late Nambi) who at the trial Court testified as PW2 the trial

Court had this to say 5

"... Ssenkooto Edward who did not have a National Identity Card testified that his father, Katende Paul died in a year he could not remember. PW2 also added that he saw Susana Nambi at Gomba, Katete but could not remember the year and that he never sued Ntabadde Mariam and

Amina Nabbosa or (sic) intermeddling in the Estate of Susana Nambi (if at all) ... it is the finding and holding of this Court that PW2 Ssenkooto Edward, was not a truthful and sincere witness who could not remember the year when his own father died and saw Ddamulira for the 1st time in Court and yet he had sued Ddamulira with his fellow Plaintiffs..."

I take note that I did not see or hear Ssenkooto Edward (PW2) testify. However, \$15\$ he clearly didn't appear to be a truthful witness as he had little or no history of his parents or grandparents. I would find it difficult therefore to fault the trial Judge as to his findings on Ssenkooto Edward.

Counsel for the Appellants fault the trial Court for not relying on the evidence of the elderly Lubega Bernard (PW3) as to the marriage of the late Nambi. \$20\$ However, the trial Court had this to say about that witness (page 73 of the Record of Appeal): -

"... PW3 Lubega Bernard during cross examination by the 1st Defendant's Advocate could not even remember when the late Susana Nambi got married and he did not attend the alleged marriage. PW3 did not even 16 | Page

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know the name of the husband of Nambi. And yet he was an elder aged 78 years who should have remembered each and every detail..."

Indeed, the gaps in the testimony of Lubega Bernard killed its probative value.

Counsel for the Appellants also faulted the trial Court for not relying on the evidence of the clan head Kakoma Paul. Once again the trial Judge had this to say about that witness (at page 73 of the Record of Appeal): -

> "...the 2nd Defendant Kakomo, who claimed to be a family member also did not know when and where Nambi got married. Paul Kakomo admitted in court that he did not see the alleged husband of Nambi and the alleged son Katende. It is therefore the finding and holding of this court that the Plaintiff and DW2 (Kakomo Paul) miserably failed to discharge the burden of proof with regard to the marriage of Nambi and production of Children as required under the provisions of the Evidence Act..."

The trial Judge also at page 82 of the Record of Appeal further observed: -

- "...it was further submitted that Ddamulira Abdu stressed that on 15 26/7/2017 Kakomo Paul was convicted by the High Court of criminal offences he committed in respect of the suit land and on 18/5/2018 the court passed sentence against him after he had been hiding for more than *a year..."*
- Clearly the lineup of witnesses for the Appellants at the trial Court is comprised \$20\$ of unreliable persons whose demeanor was wanting or testimony was unbelievable. I find myself unable to come to a different conclusion from the findings of the trial Judge.

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When the narrative of the late Nambi being married and having a child collapses as I find it has, then any allegation of fraud by the second Respondent together with Ntabadde Mariam and Amina Nabbosa also falls apart. A look at Exhibit PE8 the instrument of Transfer of the suit land dated 22nd December 1995 (though not very clear) suggests that both Ntabadde Mariam and Amina Nabbosa signed it. So it is not true that Amina Nabbosa did not sign any document of transfer.

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I accordingly disallow grounds 2, 3 and 4.

I shall handle the remaining grounds number one (The learned trial Judge erred in law and fact in holding that the Appellants did not have a bonafide interest in the Estate of the Late Susana Nambi) and ground number six , (The $\$10$ learned trial Judge erred in law and fact in holding that the Appellants petition for the Letters of Administration of the Estate of the Late Susana $\left\| \mathcal{L} \right\|$ Nambi be dismissed) together. The arguments of the parties in relation to these two grounds were in substance similar to those already outlined earlier in this Judgment. As to ground number one, I agree with the trial Judge's 15 findings (at page 74 of the Record of Appeal) that: -

"...on the balance of probabilities also during the hearing, PW4, Lutalo Douglas, PW5, Mpungu Ronald and the 2nd Defendant (DW2) admitted that they are not grandchildren of the late Nambi Susana and therefore they have no personal claims on the deceased's estate..."

Ground number one is accordingly dismissed.

The re-evaluation (Supra) supports this finding. As to ground number six, this in substance is the same as ground number four. Based on my finding on ground four, ground six also stands dismissed.

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Final Result

All grounds in this Appeal stand disallowed and the Appeal is accordingly dismissed.

All Orders of the Trial Court are sustained.

$\pmb{\text{Costs}}$

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Costs of the Appeal go to the first Respondent alone.

It is so Ordered. $\$10$

Dated at Kampala this 14th day of

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JUSTICE GEOFFREY KIRYABWIRE, JA

THE REPUBLIC OF UGANDA

THE COURT OF APPEAL OF UGANDA AT KAMPALA

CORAM: KIRYABWIRE; MUGENYI, JJA AND KASULE, AG. JA

CIVIL APPEAL NO. 327 OF 2019

BETWEEN

- 1. MPUNGU RONALD
- 2. SSERUNKUMA ROBERT
- 3. SSENKOOTU EDWARD
- 4. LUMU FRNCIS
- 5. LUTALO DOUGLAS

AND

- 1. DDAMULIRA ABDUL
- 2. KAKOMO PAUL
- 3. COMMISSIONER, LAND REGISTRATION

(Appeal from the Judgment of the High Court of Uganda at Mpigi (Musalu Musene, J) in Consolidated Civil Suits Nos. 73 of 2018; 42 & 60 of 2017, & 75 of 2016)

Civil Appeal No. 327 of 2019

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JUDGMENT OF MONICA K. MUGENYI, JA

I have had the benefit of reading in draft the Judgment of my brother, Hon. Justice Kiryabwire, JA. I agree with the findings and conclusions arrived at, and do similarly abide the decision that the Appeal be dismissed with costs to the First Respondent only.

Dated and delivered at Kampala this $\frac{q^4}{2}$ day of $\frac{q^4}{2}$
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Hon. Lady Justice Monica K. Mugenyi **JUSTICE OF APPEAL**

The Republic of Uganda

In the Court of Appeal of Uganda At Kampala

Civil Appeal No. 327 of 2019

(Appeal from the Judgment of the High Court at Mpiqi before the Hon. Mr. Justice Wilson Masalu Musene, dated 14th June, 2019, in Consolidated HCCS Nos. 73 of 2018, 60 of 2017, 42 of 2017 and 75 of 2016)

Coram: Hon. Mr Justice Geoffrey Kiryabwire, JA Hon. Lady Justice Monica Mugenyi, JA Hon. Mr. Remmy Kasule, Ag. JA

Judgment of Remmy Kasule, Ag. JA

I have had the opportunity of reading the lead Judgment by my brother Hon. Justice Geoffrey Kiryabwire, JA.

I agree with the reasoning and the conclusion the Hon. Justice has reached that the appeal be dismissed with costs of the appeal to the first Respondent only.

Dated at Kampala this 2021.

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Remmy Kasule Ag. Justice of Appeal

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