

UGANDA / JUDGMENT

# Mulindwa v Attorney General (Civil Suit 782 of 1985) [1985] UGHC 1 (11 November 1985) [1985] UGHC 1

## COURT

High Court of Uganda

## BEFORE

Benjamin Odoki, J

## CASE / FILE NUMBER

Civil Suit 782 of 1985

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Yekoyasi Mulindwa v. Attorney General

High Court (Odoki J.): November 11th, 1985

(Civil Suit No. "A" 782 of 1985)

Land Law - registered land - ownership - oertificate of title conclusive evidence that person mamed in it as proprietor possessed of the state and interest described therein.

\$Tort \rightarrow trespass \rightarrow measure of damages \rightarrow measure of damages\$ is loss suffered by plaintiff and not profit made by defendant as result of trespass - normal measures is market rental value of property occupied or used for period of wronful occupation or user.

Tort \$\rightarrow\$ trespass - property - where no evidence that entry on suit premises and colinued occupation lawful occupation constitutes trespass and registered proprietor of property entitled to mintain action in trespass even if not in possession of property.

This was an action for general damages for trespass, eviction order and mesne profits arising out the lawful occupation of the plaintiff's building by the defendant's servants.

The plaintiff was the registered proprietor of the suit premises which consisted of a house and land at Kololo in Kampala. The property was a double storeyed residential house with visitors quarters behind the house. The plaintiff did not occupy the premises immediately he purchased them in 1972 because he was forced into exile. When he returned in April 1979, he found the premises occupied by the Police. He wrote to the Force Building Officer of the Uganda Police Forde a letter requesting the police to gacate the premises and also pay rent for the period they have been in occupation. The police neither paid the rent nor vacated the house. He therefore

decided to bring this suit.

- Since a certificate of title was conclusive evidence HELD: \$1\_{\bullet}\$ that the person named in it as the proprietor was possessed of the estate and interest described therein, the plaintiff had proved that he was registered proprietor of the suit property with effect from the date when his name was entered on the certificate of title.
- 2. There was no evidence to prove that the police entry on the suit premises and continued occupation are lawful as claimed. It was not known under what circumstances they occupied the premises and who authorized the occupation. The occupation of the suit premises was therefore unlawful and constituted a trespass. The plaintiff as registered proprietor of the property was entitled to maintain an action in trespass even if he was not in possession of the property.

The measure of damages for trespass to property \$3\_{\bullet}\$ was the loss suffered by the plaintiff and not the profit made by the defendant as a result of the trespass. The normal measure of damages was the market rental value of the property occupied or used for the period of wrongful occupation or user.

Shs. 16,380,000/= awarded as general damages for trespass. <br>Plaintiff granted order of eviction. Shs. 210,000/= mesne profits from the date of judgment till payment in full.

### Casos Citod:

- Harshad Ltd. v. Globe Cinema Ltd. 1960/ E. A. 1046 \$\mathbf{I}\_{\bullet}\$
- Karsam v. Batt \$\angle\$ 19657 E. A. 789 \$2\_{\bullet}\$
- Moya Drift Farm Ltd. v. Theuri 19737 E. A. 114 3.
- \$4.\$ Olinda De Souza Figueredo v. Kassamali Manji /1962/ E. A. 756

21 October 14

\$5\_{\bullet}\$ Rwamuratiri v. Kamomo Miso. Cause No. 72 of 1977.

### Other materials considered:

McGregor on Damagos 20th Edn. Para 1060 p. 713.

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