

UGANDA / JUDGMENT

Nakayima and 3 Others v Kisinde and Another (HCT-15-LD-CS 57 of 2016)

[2022] UGHCLD 298 (19 May 2022)

[2022] UGHCLD 298

COURT

HC: Land Division (Uganda)

BEFORE

Ojok, J

CASE / FILE NUMBER

HCT-15-LD-CS 57 of 2016

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THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT MPIGI

HCT-15-LD-CS-0057 OF 2016

- 1. NOREEN NAKAYIMA MAYANJA
- 2. SSERWADDA EDWARD MAYANJA ===== PLAINTIFFS
- 3. MARGRET MABWA
- 4. GORRET NASSUNA

VERSUS

- 1. TEDDY KISINDE=====DEFENDANTS

10 2. COMMISSIONER LAND REGISTRATION

BEFORE: HON. JUSTICE OYUKO ANTHONY OJOK, JUDGE

Ruling

The plaintiffs jointly instituted this suit against the defendants seeking for orders that:

- (1) The land comprised in Gomba Block 127 Plot No. 1 at Kampefu Mpigi District, belongs to the deceased's estate.

- (2) That the Registration of Teddy Kisinde, the 1st defendant by the 2nd defendant as proprietor of the suit land and/or property without 20 instrument of transfer from the deceased and/or plaintiffs' predecessors was illegal null and void ab initio.
- (3) Order evicting the 2nd Defendant to cancel the 1st Defendant's name as proprietor of the certificate of title of the suit land after Mikairi Serwadda Mayanja (deceased) for being illegal, irregular and unlawful be granted.
- (4) An order for a permanent injunction restraining the defendants their agents, servants, and/or workmen and any other person claiming under them from interfering with the suit land and /or property.
- (5) General damages for trespass, inconveniences and embarrassment.
- 30 (6) Interest at the rate of 20% on items (f) and (g) from the date of filing the suit till payment in full.
- (7) Costs of the suit.

The defendants were duly served and the 1st Defendant filed written statement of defence denying the contents in the plaint while the 2nd defendant did not file their defence.

Representation:

M/s Sebanja Abubaker represented the Plaintiffs while 1st defendant was represented by Nabalwany Ruth and the 2nd defendant was not represented neither did they file a defence in reply to the claims by the Plaintiff.

Submissions:

Counsel Sebanja Abubaker for the Plaintiffs submitted that the 1st Plaintiff had 10 passed on and they were still looking for money to subject the will to a handwriting expert for an opinion as directed by the court in Misc. Application No. 52 of 2021.

Counsel Nabalwany Ruth for the 1st Defendant in reply submitted that on the 6/4/2021, Court dismissed this suit for want of prosecution and it was later reinstated upon filing Miscellaneous Application No. 52 of 2021.

On 21st March, 2022 by consent it was agreed that the application for reinstatement be allowed and it was accordingly allowed and the Plaintiffs were directed to subject the will to the handwriting expert for an opinion. The Plaintiffs have since failed to do so and are not sure as to when they will get the

20 funds for the same

She further submitted that this is a case of 2016 which is creating a backlog. She prayed that court dismisses the same if the Plaintiffs get the money they may file a fresh suit.

The 2nd defendant was not represented hence there were no submissions to that effect.

Analysis of court:

I have carefully listened to the submissions of both Counsel. The 2nd Plaintiff is said to own almost 1 square mile of land with some squatters and uses it for farming. This is a matter of 2016 which is clearly categorized as backlog. The 30 reasons advanced by the Counsel for the plaintiffs is that they are still looking for money to subject the will to a handwriting expert and this is not sufficient cause for the matter to keep pending indefinitely and lagging the system as per the case of Bwogi & sons Enterprises Ltd v. Kampala City Council and Kampala District Land Board Civil appeal No. 9 of 2017.

I accordingly invoke Section 98 of the Civil Procedure Act and hereby dismiss this case without costs. The plaintiffs may reinstate the matter, when they get the money so that the case does not reflect on our system as backlog. I so order.

> Oyuko Anthony Ojok Judge

> > 19/5/2022.

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Prepared on 13 October 2026 · Esheria