

**Ndawula v Tropical Bank & Another
(Miscellaneous Application 3031 of
2024) [2025] UGHCLD 47 (28 March 2025)**
[2025] UGHCLD 47

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- 1. This an application by Notice of Motion brought under section 33(now section 37 of the revised laws) of the Judicature Act, section 98 of the Civil Procedure Act and Order 52 rules 1 and 3 of the Civil Procedure Rules for orders that;
- i) A consequential order doth issue vesting the land comprised in LRV 4556 Folio 11 Block 13 Plot 1311 at Najjanankumbi in the names of the Applicant.

- ii) Directing the 1st respondent to deliver the certificate of title for land comprised in LRV 4556 Folio 11 Block 13 Plot 1311

at Najjananjumbi to the Applicant together with an instrument vacating the mortgage.

- iii) Costs of the application be provided for.

Applicant's evidence;

- 2. The application is supported by an affidavit deposed by the applicant which briefly states as follows;
- i) That the suit land is comprised in LRV 4556 Folio 11 Block 13 Plot 1311 at Najjanankumbi is registered in the names of the late Mary Nakayiza.
- ii) The late Mary Nakayiza had Mortgaged the suit land to the 1st respondent and the said certificate of title to the suit land entails a mortgage registered vide instrument number KCCA – 00064265.
- iii) Due to loan repayment default, the late Mary Nakayiza with the consent of the 1st respondent opted to sell the suit land to avoid foreclosure, the proceeds would be used to settle the outstanding loan.
- iv) The late approached me with an offer to sell the suit land. Following diligent inquiries with the 1st respondent to verify

the status of the land and I accepted her offer and agreed to purchase the property.

- v) Consequently, on the 1st of September 2020 a land purchase agreement was executed between the applicant as the purchaser and the late Mary Nakayiza as the vendor.
- vi) The 1st respondent as a mortgagee actively participated in negotiations and provided guidance on the outstanding loan amounts required to release its interests in the land.
- vii) The 1st respondent designated a bank account where I would make payments, however, despite its involvement, the 1st respondent refused to sign the land purchase agreement after it had been executed by myself and the late Nakayiza.
- viii) Pursuant to clause 1 of the land purchase agreement, the total price for the suit land was UGX 500,000,000 and the payment was to be made into the late Mary Nakayiza's bank account held with the 1st respondent.
- ix) That the applicant paid the full purchase price and took possession of the suit land by renovating it and had the same rented out.
- x) Unfortunately, Mary Nakayiza died in September 2022 before she executed transfer instruments in the applicant's favor.

- xi) That in August 2023, the applicant filed an application for a vesting order vide Miscellaneous Cause No. 332 of 2023 against the respondents.
- xii) That court in its ruling dated 27th October 2023, ruled that the applicant should first make the application before the 2nd respondent and if denied then court would grant the same.
- xiii) In compliance with the said ruling of court, the applicant made an application for a vesting order before the 2nd respondent on the 2nd November 2023.
- xiv) That the 2nd respondent responded to the said application by deferring the matter to court to have the said order issued.
- xv) That it's in the interest of justice to have this application granted.

Representation;

- 3. The applicant was represented by Counsel Nabakibi Ritah fo M/S Richard Kabazzi & Partners Advocates whereas the 2nd respondent was represented by Counsel Nakaziba Zurah. There was no representation from the 1st respondent despite being served with court process.
- 4. Only the applicant filed written submissions which I have considered in the determination of this application.

Issues for determination;***Whether the Applicant is entitled to the consequential orders sought?******Resolution and determination of the issue;***

- *5.* After perusal of the affidavit in support of this application and the submissions of counsel for the applicant, emphasis being made to the fact that none of the respondents responded to the application therefore the application and affidavit of the applicant in the case stands uncontested. *(See: Samwiri Massa Vs Rose Achen, 1978 HCB 297).*
- *6.* A Consequential order denotes an order following naturally in terms of consistency and giving effect to the main judgment. This is an order following from the decision of court.
- *7.* It is essentially one which makes the principal order effective and effectual or which necessarily as being incidental to the principal order in the matter. *(See; Davanti Union Limited vs Kipoi Nsubuga & 2 ors Misc Cause No. 193 of 2019).*

- *8.* In the instant application, the applicant filed Misc. Cause No. 0332 of 2023 against the respondents herein seeking for a vesting order from the 2nd respondent. However, court in its ruling held that the applicant was to first comply with the provisions on the registration of titles act and have the said vesting order application before the commissioner land registration within 60 days from the date of ruling, failure of which the court would proceed and grant the said vesting order.
- *9.* The applicant proceeded to apply for the said vesting order before the 2nd respondent as reflected under annexure C, the commissioner land registration replied to the said application and deferred the matter to court.
- *10.* It is on that basis that the applicant seeks for the consequential orders to give effect to the decision of court in Misc. Cause No. 0332 of 2023, the orders of court in the said cause were that *"I do*

order that the applicant follows the provisions of Section 167

of the Registration of Titles Act and have the matter before the commissioner land registration within 60 days of this ruling"

- 11. Failure of which this court would proceed and grant the said vesting order.
- 12. I do note that the 1st and 2nd respondents never adduced any evidence to the contrary despite being served with the application.
- 13. I am of the view that the orders sought in the instant application flow from the decision of court in Misc. Cause No. 0332 of 2023 and the applicant does not seek for a fresh and unclaimed or unproved relief.
- 14. For the interests of justice, this court is of the finding that a consequential order be issued vesting land comprised in LRV 455 Folio 11 Block 13 Plot 1311 at Najjanakumbi in the applicant.
- 15. Therefore, the instant application succeeds with the following orders;
- i) A consequential order is hereby issued vesting land comprised in LRV 4556 Folio 11 Block 13 Plot 1311 at Najjanakumbi in the applicant.
- ii) An order directing the 1st respondent to deliver the certificate of title to the land comprised in LRV 4556 Folio 11 Block 13 Plot 1311 at Najjanakumbi with an instrument vacating the said mortgage to the Applicant.
- iii) No order as to costs of the application.

I SO ORDER.

NALUZZE AISHA BATALA

Ag. JUDGE

28th/03/2025

Delivered electronically via ECCMIS on the 28th day of March 2025.

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Prepared on 14 October 2026 · Esheria