

UGANDA / JUDGMENT

Segawa v Nakabugo and Another (Miscellaneous Application 744 of 2024) [2025] UGHCFD 13 (3 April 2025) [2025] UGHCFD 13

COURT

HC: Family Division (Uganda)

BEFORE

Komuhangi, J

CASE / FILE NUMBER

Miscellaneous Application 744 of 2024

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THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA
(FAMILY DIVISION) MISCELLANEOUS APPLICATION NO. 0744 OF 2024 5 (ARISING
FROM CIVIL SUIT NO. 0098 OF 2017)

SEGAWA MOSES APPLICANT

VERSUS

- 1. NAKABUGO AIDAH
- 10 2. WASWA EDWARD
- 3. KAGISHA RONALD RESPONDENTS

BEFORE: HON. LADY JUSTICE ALICE KOMUHANGI KHAUKHA

RULING

15 Introduction

This Ruling is in respect of an Application brought by a Notice Motion for Orders that:

- 1. the Respondents be committed to civil prison for contempt of Court;
- 2. the Respondents be directed jointly or severally to pay the Applicant damages
- 20 and compensation to a tune of UGX 100,000,000 (Uganda Shillings One Hundred Million only) in order to purge the contempt;

- 3. an Order of sequestration be issued attaching the properties of the Respondents until they have purged themselves of the contempt of this Court's Orders; and
- 25 4. costs of the Application be provided for.

Appearance and Representation

The Applicant was represented by Counsel Alex Byaruhanga Asiimwe of M/S Volens Advocates while the Respondents were represented by Counsel Warren Byamukama of M/S Jingo, Ssempijja & Co. Advocates.

The Application

The grounds upon which this Application is premised are contained in the Affidavit in Support sworn by Segawa Moses (Applicant) and they briefly are, that this Court passed Judgment in Civil Suit No. 0098 of 2017 on 9th March 2023 and made Orders

- 10 which the Respondents have defied, to wit: failure to convene a family meeting to appoint new administrators; the Respondents denying the Applicant access to the suit land; the Respondents continuing to act as the Administrators of the estate of the late Yafesi Sentongo by selling and renting part of the estate property to third parties who have constructed permanent buildings and cultivated on the suit land; and the 15 Respondents failing to cooperate with the Applicant to move the Registrar of Titles
- to cancel the names of the Respondents from the Certificate of Title and re-instate the same in the name of Yafesi Sentongo.

In Reply, Kagisha Ronald (3rd Respondent) deponed an affidavit on behalf of all the 20 Respondents and responded that the Application is misconceived, brought in bad faith and is a waste of Court's time arguing that a day after Court delivered its Judgment which was 10th March 2023, the Respondents opened a file with the Office of the Administrator General and on 12th March 2023, the Respondents called for a meeting of all the beneficiaries of the estate of the late Yafesi Sentongo at the office

25 of the LC1 Chairperson of Nabukalu Village, Lukwanga Parish, Wakiso sub-county, Wakiso District but the Applicant refused to attend the same. That in that meeting, new administrators were appointed to wit: Waswa Edward, Nakabugo Aidah,

Kagisha Ronald and Nakaye Harriet. That on 22nd March 2023, the Respondent's lawyers wrote to the office of the Administrator General to rectify the Certificate of No Objection which had earlier been issued in the wrong names of "Yofesi" Sentongo. That the Respondents were advised by the Office of the Administrator 5 General to process another death certificate that has two names since the one they had, had three and that, that process was completed on 21st May 2024 after this Application had been filed. That the Respondents are now in the process of engaging the office of the Administrator General for purposes of having another family meeting which they

intend to attend together and get another Certificate of No
10 Objection.

In rejoinder, the Applicant stated that the Respondent's Affidavit in Reply is tainted with material falsehoods. That he has never been notified of any meeting of the beneficiaries of the estate of the late Yafesi Sentongo; that the Respondents who opened the file at the office of the Administrator General on 10 15 th March 2023 are still the same ones that were chosen in the meeting dated 12th March 2023 which shows that it was a premeditated scheme/syndicate by the Respondents to have themselves as Administrators way before the meeting held on 12th March 2023 and that the list of attendees of the said meeting are the children of the 1st and 2nd 20 Respondents who are not beneficiaries of the estate of the late Yafesi Sentongo. That the Respondents did not respond to paragraphs 6, 7, 8, 9, 10, 11, 12 and 13 which largely form the basis of the Application and are therefore admitted.

Issues

- 25 1. Whether the Respondents are in contempt of the Court Orders issued vide Civil Suit No. 0098 of 2017; and
- 2. What remedies are available to the parties?

Resolution of issues

Issue 1: *Whether the Respondents are in contempt of the Court Orders issued vide Civil Suit No. 0098 of 2017.*

Counsel for the Applicant while relying on the cases of *Uganda Super League*

5 *versus Attorney General, Constitutional Application No. 0073 of 2013* that was cited in the case of *Jack Nsangiranabo versus Col. Kaka Bagyenda and Attorney General, Miscellaneous Application No. 0671 of 2019; Ekau David versus Dr. Jane Ruth Aceng & Others, Miscellaneous Application No. 746 of 2018; Andre Paul Terence Ambar Appeal No. 46 of 1935 versus The Attorney General of* 10 *Trinidad and Tobago (Trinidad and Tobago) [1936] 1 All ER 704; Housing Finance Bank Ltd versus Edward Musisi, Miscellaneous Application No. 0158 of 2010 (CA)*; and *Hadkinson versus Hadkinson that was cited in the case of Stanbic Bank (U) Ltd versus Commissioner General Uganda Revenue Authority*, submitted that contempt of Court is conduct that defies the authority or dignity of 15 Court and the rationale of sanctions behind contempt of Court Orders is to preserve and safeguard the rule of law which is fundamental in the administration of Justice.

Counsel for the Applicant while reiterating the averments in the Applicant's Affidavit in Support of the Application also submitted that for contempt of Court to be found, three principles have to be established to wit: existence of a lawful Order; potential contemnor's knowledge of the Order and potential contemnor's failure to comply, that is, disobedience of the Order. Counsel contended that this Court delivered a Judgment on 9th March 2023 in civil Suit No. 0098 of 2017 where it made Orders but even when the Respondents are well aware of the said Orders, they chose to continue intermeddling with the estate of the late Yafesi Sentongo with impunity. That there is no justifiable excuse for the Respondents to continuously disobey the Orders of Court. That the Respondents' actions are calculated to frustrate

the efforts to have the estate of the late Yafesi Sentongo distributed to all its rightful beneficiaries.

In response, Counsel for the Respondents while reiterating the averments in the

5 Respondent's Affidavit in Reply submitted that the Respondents are not in contempt of Court Orders as they immediately embarked on enforcing the Court Orders the following day and the process is still on-going and almost getting close to an end.

In rejoinder, Counsel for the Applicant reiterated the averments in the Applicant's 10 Affidavit in rejoinder and also reiterated his prayers in his earlier submissions and beseeched the Court to allow this Application and orders for costs to be provided for.

Court's determination

- This Court delivered its Judgment on 9 15 th March 2023 in Civil Suit No. 0098 of 2017 where the suit partly succeeded and the following Orders were issued:
- *1. The Letters of Administration for the estate of the late Yafesi Sentongo purportedly held by Nakabugo Aidah, Namatovu Fulomera, Waswa Edward and Kagisha Ronald James (1st - 4 th defendants) vide Administration Cause* 20 *No. 392 of 2015 were obtained fraudulently. The Grant in fact does not exist.*
- *2. All the beneficiaries of the estate of the late Yafesi Sentongo shall convene a meeting to agree on who should be granted Letters of Administration for the estate of the late Yafesi Sentongo within two weeks from the date of this judgement and in any case not later than the 24th day of March 2023.*
- 25 *3. A permanent injunction hereby issues against Nakabugo Aidah, Namatovu Fulomera, Waswa Edward and Kagisha Ronald James (1st - 4 th defendants) to*

immediately cease acting as and holding out as the Administrators of the estate of the late YAFESI SENTONGO.

- *4. The registration in the names of Waswa Edward, Nakabugo Aidah, Kagisha Ronald James and Namatovu Folomera as Administrators of the estate of the* 5 *late Yafesi Sentongo on the Certificate of Title comprised in Busiro Block 287 Plot I, Land at Nabukalu shall be canceled and the name of Yafesi Sentongo be reinstated pending the appointment of the administrators. It therefore follows that the Certificates of Title for the smaller parcels of land which were transferred by the 1st -4 th defendants are also cancelled.*
- 10 *5. The new Administrators shall confirm the subdivisions and distributions made by the 1st - 4 th defendants to ensure that the 3rd parties who bought the land from the beneficial owners who were never parties to this suit shall not suffer loss but acquire proper and authentic Certificates of Title.*
- *6. No orders have been made for general and punitive damages.*
- 15 *7. Each party shall bear its own costs.*

Considering all the evidence in the pleadings and the submissions of Counsel for all the parties in this Application, I find that the Respondents actually started on the process of complying with the Court Orders by opening up a file at the office of the Administrator General and calling for a family meeting on 10th March 2023 and 12th 20 March 2023 respectively as per the documents marked "B" and "C" although its written in Luganda and no translation was made for the said document. However, I find that there is no evidence from the Respondents to prove that the Applicant was ever informed or invited for these meetings apart from the averment in the 25 Respondent's Affidavit in Reply that they invited the Applicant but he refused to attend the meetings. There was no letter attached, nor was there evidence of a phone call made or, at the very least, a WhatsApp message sent to the Applicant.

Additionally, there was no independent evidence of anyone stating that they had invited the Applicant to the said meetings.

The untranslated document marked "C" attached to the Respondent's Affidavit in Reply, which shows the number of beneficiaries who attended the meeting on 12th

- 5 March 2023, apart from breaching the rules of the Court's language, does not also indicate, especially on the part of the grandchildren, which beneficiary they represent. As such, it is difficult for this Court to be certain that all the beneficiaries of the estate of the late Yafesi Sentongo were represented. It was the evidence of the parties in Civil Suit No. 0098 of 2017 that the late Yafesi Sentongo left seventeen (17) children and only two (2) of them are alive, that is, the 1st and 2nd 10 Respondents in this Applicants. It is therefore highly unlikely that only twenty-four (24) grandchildren listed in the document marked "C" that was attached to the Respondent's Affidavit in Reply is representative of all the beneficiaries of the late
- 15

Yafesi Sentongo.

Without prejudice to the above findings, I find that the evidence contained in documents "B", "C", "D", "E", "F", "G", "H" and "I" attached to the Respondents' Affidavit in Reply indicates that the Respondents immediately acted on the Orders issued by the Court and the process is still on-going. There is sufficient and 20 systematic evidence that shows what the Respondents have been doing to actualize the Orders that were issued by Court only that it has taken such a long time. I am mindful that such delays usually happen especially when dealing with public offices since they always have a lot of workload to deal with and things like issuance of a new death certificate to effect the changes that are needed on the new Certificate of

25 No Objection can take longer than expected.

From the evidence presented to Court, I take note that by the time this Application was filed on 17th May 2024, the Respondents were still in the process of obtaining a new death certificate of the late Yafesi Sentongo as had been requested for by the office of the Administrator General before they could embark on any other processes 5 concerning the estate of the late Yafesi Sentongo. I therefore find that it is not true that the Respondents refused to cooperate with the Applicant to move the Registrar of Titles to cancel their names off the Certificate of Title of the suit land and replace it with the name of Yafesi Sentongo when the process at the office of the Administrator General was not yet complete. The Respondents indeed could not 10 comply with the Applicant's request because they were already incapacitated by the fact they had not yet got a Certificate of No Objection allowing them to become the new administrators of the estate of the late Yafesi Sentongo, (which the Applicant is even opposed to) to enable them proceed to the Registrar of Titles.

15 The Applicant in his Affidavits in Support and Rejoinder, and also in the submissions of his Counsel indicated that the Respondents have continued to hold out as the Administrators of the estate of the late Yafesi Sentongo by selling and renting the suit land to third parties who have constructed permanent buildings and cultivated on the same. Photographs of a garden and houses were attached to the 20 Applicant's Affidavit in Support of the Application and were marked "C" as proof of the Respondent's intermeddling. However, I am hesitant to make a finding on the said photographs because I am not certain where they were taken from and if indeed they are of the suit land. Nothing backs them up as proof of what is currently happening on the suit land.

I am cognisant of the fact that at the time Judgment was passed in Civil Suit No. 0098 of 2017, some of the beneficiaries had sold their shares of the suit land to third parties and one of the Orders made therein was that,

"*The new Administrators shall confirm the subdivisions and distributions made by*"

the \$1^{st}\$ - \$4^{th}\$ defendants to ensure that the \$3^{rd}\$ parties who bought the land from the \$\mathsf{S}\$ *beneficial owners who were never parties to this suit shall not suffer loss but acquire proper and authentic Certificates of Title.*"

In the circumstances, a possibility that the alleged photographs are gardens and houses being constructed by the third parties that the other beneficiaries had earlier \$10\$ sold to legally even before this Court passed its Judgment cannot be ruled out. If this is the case, then those third parties have a right to develop their land. There isn't sufficient evidence from the Applicant to prove that the current developments on the suit land have been orchestrated by the Respondents. Perhaps a recent sale agreement or an Affidavit from one of the third parties showing that they bought, 15 rented, constructed or did anything incidental or otherwise on the suit land after the 9th day of March 2023 when Judgment was passed would suffice in the circumstances but none of this was done. It would therefore be dangerous to conclude that the photographs attached to the Applicant's Affidavit in Support of the Application are proof of intermeddling by the Respondents. \$20\$

In light of the above, I find that there was no contempt of Court on the part of the Respondents because they immediately embarked on the task of enforcing the Orders issued by this Court after Judgment in Civil Suit No. 0098 of 2017 was delivered. What I find wanting in this scenario is the manner in which they called for the meeting held on 12th March 2023. I find it wanting because there is no

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evidence to prove that all the beneficiaries of the estate of the late Yafesi Sentongo including the Applicant were informed or invited for the said meeting.

This issue is therefore resolved in the negative. The Respondents are not in contempt 5 of Court.

Issue 2: *What remedies are available to the parties?*

The Applicant and/or his Counsel prayed that the Respondents are committed to Civil Prison, general damages of UGX 100,000,000 (Uganda Shillings One Hundred

10 Million), an Order for sequestration attaching the properties of the Respondents until they have purged themselves of the contempt, exemplary damages to serve as a warning and deterrence to potential contemnors, an injunction and a fine.

On the other hand, Counsel for Respondents prayed that the Court is pleased to find 15 that the Respondents are not in contempt of Court Orders at all.

Court's determination

Having resolved issue 1 above in the negative, this Application is hereby dismissed. However, without prejudice to the foregoing, I will hasten to add the following:

- 20 1. That the Orders issued in Civil Suit No. 0098 of 2017 are still binding on all the parties involved and should be executed as such;
- 2. That another family meeting involving **all** the beneficiaries of the estate of the late Yafesi Sentongo should be held at the Office of the Administrator General within **one (1) month** from the delivery of this Ruling, in any case not later than **5 25 th May 2025** and there should be proof of service upon each beneficiary to attend the meeting;
- 3. That new Administrators of the estate of the late Yafesi Sentongo shall be selected at the meeting held at the office of the Administrator General;
- 4. That the Administrator General shall issue a new Certificate of No Objection to the newly selected administrators of the estate of the late Yafesi Sentongo;
- 5 5. That the new administrators shall embark on enforcing and/or complying with these and the Orders issued in Civil Suit No. 0098 of 2017;
- 6. No order as to general and exemplary damages have been made; and
- 7. Each party shall bear its own costs.

I so order.

Dated at Kampala this 3rd day of April 2025.

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15 Alice Komuhangi Khaukha **JUDGE**

03/04/2025

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Prepared on 13 October 2026 · Esheria