THE REPUBLIC OF UGANDA

IN THE COURT OF APEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NUMBER 0097 OF 2012

(Arising from the Judgment and Orders of the High Court Holden at Masindi in Civil Appeal No.0027 of 2009 dated 12th December 2012 delivered by the Hon. Mr. Justice Ralph W. Ochan)

KADARA JACKSON==========APPELLANT

VS

ALITUHA VINCENT ==========RESPONDENT

CORAM

HON. MR. JUSTICE KENNETH KAKURU, J.A.

HON. MR. JUSTICE GEOFFREY KIRYABWIRE, J.A.

HON. MR. JUSTICE REMMY KASULE, Ag. J. A.

JUDGMENT OF HON. MR. JUSTICE GEOFFREY KIRYABWIRE, J.A.

Introduction

This is an Appeal from the Judgment of the High Court (Masindi) delivered on 12th December, 2012 by Hon. Mr. Justice Ralph Ochan (as he then was) whereby he found in favour of the Respondent. The Appellant was dissatisfied with that decision, hence this Appeal.

Background

This Appeal originates from the Hoima District Land Tribunal. The Appellant appealed to the High Court (Masindi) against the decision of the Hoima District Land tribunal delivered on 17th November 2006 in HDLT case No. 0048 of 2005. The Appellant's claim in the Hoima District Land Board was for an Order that the suit land belonged to him. The Hoima District Land Board found that he had not proved his case.

The Appellant's case at the land tribunal was that his father (the late Erabura) invited the Respondent's father (the late Rwakaikara) to settle in the suit land. The Respondent's father bought animals and as a measure to guard against the said animals from straying into the Appellant's father crops he erected a barbed wire fence. The barbed wire fence also acted as the boundary between the two. The Appellant claimed that the Respondent and his family shifted the boundary and encroached on the Appellant's land.

On the other hand, the Respondent denied the Appellant's claims and contended that he was a bonafide or lawful occupant on the suit land for 30 years unchallenged until the year 2003 when the dispute arose. He claimed that the late Rwakaikara (Respondent's father) and the late Erabura (Appellant's father) were brothers who were given land by the late Erasto Nyakana .The suit land had the boundaries clearly demarcated and each took possession of their respective land. That the late Rwakaikara started using the land he was given for cultivation and grazing animals and installed a barbed wire alongside the common boundary to prevent his animals from grazing into the other land.

The Respondent also lodged a counterclaim against the Appellant. He prayed that the court declares that the suit land belongs to the Respondent and prayed for a permanent injunction restraining the Appellant and his agents from using

the land. When this suit came before the Hoima District Land Tribunal, the Tribunal found that the Appellant had failed to prove his case. The Appellant then appealed to the High Court at Masindi against the Judgment of the Hoima District Land Tribunal. The court dismissed the Appeal, hence this Appeal lodged on the following grounds in a memorandum lodged in this court on 10th November, 2014.

GROUNDS OF APPEAL

1. **The Learned Judge erred in law when he failed to adequately re-evaluate Appellant's evidence on record and exercise inherent power on first appeal to pass Decree and Orders allowing Appellants claim and dismiss Respondent's unproved counterclaim.**
2. **The Learned Judge erred in law when he failed re-appraisal re-evaluation of evidence on record to set aside decisions (judgments) issuing unclaimed orders, un pleaded Orders granted by Hoima District Land Tribunal to Respondent against Appellant**
3. **The Learned Judge erred in law when he failed re-evaluation of evidence on record to find that Hoima District Land Tribunal's bias denied Appellant right to fair hearing.**
4. **The Learned Judge erred in law when he failed his duty to set-aside the two decisions passed by Hoima District Land Tribunal first with no existing legal parties known in law and second passed outside its lifetime.**

REPRESENTATIONS

The Appellant was represented by Learned Counsel Seth Rukundo while learned Counsel Babu Rashid represented the Respondent.

DUTY OF THE COURT

This is a second Appeal and this court is charged with the legal duty of appraising the inferences of fact drawn by the Trial Court as provided for under Rule 32(2)of the Judicature (Court of Appeal) Rules SI 13-10.The Rule provides that;

"On any Second Appeal from a decision of the High Court acting in the exercise of its appellate jurisdiction, the court shall have power to appraise the inferences of fact drawn by the trial court but shall not have discretion to hear additional evidence."

The Role of 2nd Appellate Court was explained by Supreme Court in the case of **Kifamunte Henry v Uganda Criminal Appeal No. 10 /1997**.At page 12 of the Judgment the court held;

"On Second Appeal, the court of Appeal is precluded from questioning the findings of fact of the trial court, provided that there was evidence to support those findings, though it may think it possible or even probable that it would not have itself come to the same conclusion, it can only interfere where it considers that there was no evidence to support the findings of fact, this being a question of law. ***R v Hassan bin Said (1942) 9 EACA 62.***"

I shall address the grounds in order of grounds 4, 1, 2, and 3.

Ground 4. "That the learned Judge erred in law when he failed his duty to set aside the two decisions passed by Hoima District Land Tribunal first

with no existing legal parties known in law and second passed outside its lifetime."

Appellant's Submissions

Counsel for the Appellant submitted that the Land Tribunal had no Jurisdiction to handle land matters by the time this case was heard.

He submitted that the term of the members of the Tribunal had expired by the time the Ruling of the Tribunal was made. He submitted that their term of office was to run for five years from 7th November 2001 to 7th November 2006 and yet the decision of the Tribunal was delivered on 19th November 2006,the Land dispute having been heard by the tribunal on 30th October 2006. He argued that there was no re-appointment of the members of the Tribunal.

He further submitted that according to Legal Notice No.20 of 2006 which commenced on 1st December 2006 all pending cases of the District Land Tribunal were to be handed over to Magistrates designated by the Chief Registrar. He submitted that the decree arising out of the decision of the Tribunal that was signed on 4th December 2006 was contrary to section 75(1) of the Land Act, Cap 227.

Secondly, counsel for the Appellant further submitted, that the proceedings of the Tribunal were also flawed since two of the Tribunal members were not present, yet the Tribunal was supposed to have three members present. He argued that according to Rule 36(1) and Rule 36(5) of the Land Tribunal Rules a decision of the Tribunal should be determined by a majority verdict.

Thirdly, counsel for the Appellant submitted that Learned Appellate Judge ought to have set aside the Judgment of the Land Tribunal because the said Tribunal had no jurisdiction to handle land matters at the material time.

Fourthly, counsel for the Appellant submitted that the parties in the cause were not named and were not known in law.

Respondents Submissions

Counsel for the Respondent in response to the Appellant's submissions above contended that the Tribunals were stopped from entertaining land disputes on 1st December, 2006 but that the matter in dispute was heard on 30th October 2006 when the Tribunal still had Jurisdiction to entertain the dispute.

He argued that according to the Land (Procedure) Rules 2002 the staff of District Land Tribunals was to remain in office and be supervised by a Magistrate's court until otherwise directed. He submitted that this gave the District Land Tribunals another lease of life to continue working.

Court's findings

In this ground, counsel for the Appellant disputes the Jurisdiction of the District Land Tribunal to handle land matters because the contracts of the members of the Tribunal had expired. In contrast, counsel for the Respondent submitted that, according to the Land Tribunal (Procedure) Rules, the staff of District Land Tribunals was to remain in office and be supervised by Magistrate Courts until otherwise directed.

The Learned Judge found that the Judgment complained about was heard and concluded well within the life of Land Tribunals in Uganda.

According to Legal Notice No. 20 of 2006 (Practice direction No. 1 of 2006), which was issued after the expiry of contracts of chairpersons and Members of District Land Tribunals, the said District Land Tribunals were to be presided over by Magistrates Grade 1 in accordance with section 95(7) of the Land Act. Secondly, the practice direction directed that all staff of District Land Tribunals to remain in office and be supervised by magistrate's courts until directed otherwise by the Secretary to the judiciary. Thirdly, that the Practice Direction was to commence operation from 1st December, 2006.

According to the record of Appeal, the Judgment of the Hoima District Land Tribunal was delivered on 17th November, 2006 while the Decree disposing of the matter was made on 4th December, 2006. This means that the Judgment was delivered during the tenure of the District Land Tribunals, even though the decree was passed after the tenure had expired. However, considering that the Decree was made only three days after the Practice Direction was issued it can be said that it was made within the life time of the tribunal. I agree with the Appellate Judge and counsel for the Respondent that the Tribunal's Judgment was heard and concluded within the lifetime of the Tribunal.

The Appellant also claims that the proceedings were flowed because they were only heard by one member instead of three members of the Tribunal. On page 49 of the Record of the Appeal it is shown that there was a full Coram of the Tribunal even though it was only Mrs. Betrice Kalisa who signed as a member. I find that this was the way the land tribunals conducted their business when certifying proceedings.

Regarding the claim that the parties in the dispute were not known, I find that the parties were known as they were Kadara Jackson vs. Alituha Vincent since

this is how they were titled in the tribunal pleadings. Counsel for the Appellant's contention seems to be that they ought to have sued as people holding Letters of Administration on behalf of their fathers' estates. However I find that since they had physical possession of the land and their claim was grounded in trespass they could sue in their own right.

Ground 4 therefore fails.

Ground 1. "That The learned Judge erred in law when he failed to adequately re-evaluate Appellant's evidence on record and exercised inherent power on first Appeal to pass Decree and Orders allowing Appellants claim and dismiss Respondent's unproved counterclaim."

Appellant's submissions

Counsel for the Appellant submitted that the Learned Judge erred when he found that the Tribunal did not make a Judgment in respect of the counterclaim. He argued that this finding offended Order 43 Rule 27 of the Civil Procedure Rules.

It was submitted that the Appellant moved the High Court Judge for a retrial because the matter was a boundary dispute which could be resolved with a retrial. However this was not considered by the Court.

He submitted that the way the Tribunal gave its finding on the counterclaim was contradictory. This was because the Tribunal first found that claim was dismissed with costs to the Respondent but then later found that the Judgment was entered in favour of the counterclaimant with an order allowing the counterclaim. Counsel for Appellant submitted that this could not have been possible since at commencement of the proceedings the Tribunal found that the

parties were representing themselves and did not have the capacity to argue the counterclaim.

Counsel for the Appellant submitted that the Tribunal gave Judgment in favour of the Respondent granting the counterclaim yet there was no evidence led to prove the counterclaim. He prayed that we find that there was no evidence adduced in favour of the counterclaim.

Respondent's submissions

Counsel for the Respondent submitted that the Learned Appellate Judge had carefully looked at the court record and found that the Tribunal did not tackle the counter claim in its Judgment. He argued that the Judge could not have gone further than that because that would mean that he would be resolving matters that the tribunal had not delved into.

Court's findings

Counsel for the Appellant's complaint in this ground is that the Learned Judge did not properly re-evaluate the evidence because he did not allow the Appellant's claim and dismissed the Respondent's unproved counterclaim. Conversely, counsel for the Respondent submits that the matters concerning the counterclaim were properly traversed by the Judge. The Appellate Judge found that it was clear that the question of counterclaim was not one of the issues forwarded for resolution.

The relevant law on the nature and format of counterclaims is Order 8 Civil Procedure Rules and in particular Order 8(2) which provides as follows;

A defendant in an action may set off, or set up by way of counterclaim against the claims of the plaintiff, any right or claim, whether the setoff or counterclaim sounds in damages or not, and the setoff or counterclaim shall have the same effect as a cross-action, so as to enable the court to pronounce a final judgment in the same action, both on the original and on the cross-claim.

It is then provided under Rule 11 that;

Reply to counterclaim

(1) Any person named in defence as a party to a counterclaim thereby made may, unless some other or further order is made by the court, deliver a reply within fifteen days after service upon him or her of the counterclaim.

(2)Where a reply to the counterclaim is filed under sub rule (1) of this rule, the plaintiff shall serve it upon the defendant within fifteen days after its filing.

(3)No other reply or rejoinder shall subsequent to sub rule (1) of this rule, be filed without leave of conduct, the application for which must be filed within fifteen days from the date of the last service.

Rule 12 of Order 8 of the Civil Procedure Rules also gives the court power to exclude a counterclaim from an action at its discretion, but that Application under that Rule may only be made at any time before reply. See **General Company Limited vs Patel [1958] EA702**

The counterclaim before the Tribunal was made against four parties namely; Kadara Jackson, Basigara Christopher, Baguma and Bagonza s/o Basigara. There was no evidence of service of the counterclaim on these Respondents on

the record of the Appeal. There are also no Replies made by the Respondents to the counterclaim on the Record of Appeal.

On page 33 of the Record of Appeal in the Judgment of the tribunal, the tribunal made the following observation regarding the counterclaim,

"it should be noted that at the commencement of the hearing the parties were representing themselves and therefore the objections contained in the counterclaim were not argued as the parties to this case proceeded as if there was no counterclaim by the Respondent."

This finding by the Tribunal can be interpreted to mean that the Tribunal members used their discretion to exclude the counterclaim from the proceedings.

Furthermore, while evaluating the evidence the Tribunal members relied on the testimonies of the witnesses to find that the Appellant was liable for trespass. Since the Appellant testified that *"he fenced off the suit land and destroyed what was on the suit land like cassava, millet, etc. in 2003"*

The Tribunal found this act of destroying plants amounted to acts of trespass since it occurred in 2003.

Later on in the Judgment of the Tribunal it made the following Order;

"

(b) *An order allowing the counterclaim..."*

It is my finding therefore that even though while making their Orders; the Tribunal made an Order allowing the counterclaim, during the evaluation of

evidence they did not rely on the counterclaim at all. The Appellate Court was therefore correct to find that the issue of the counterclaim was not one of the issues forwarded for resolution during the Tribunal hearing.

Ground 1 also fails.

Ground 2. "That the learned Judge erred in law when he failed to re-appraisal re-evaluation of evidence on record to set aside decisions (judgments) issuing unclaimed orders, un pleaded Orders, unproved Orders granted by Hoima District Land Tribunal to the Respondent against Appellant."

Appellant's submissions

Counsel for the Appellant submitted that the first Appellate court did not re-evaluate the evidence before it as required by law.

First, he submitted that even though the Respondent had prayed for an Order that the suit land estimated to be 40 acres belongs to the Respondent in his written statement of defence, the Respondent did not adduce evidence of ownership of the 40 acres.

Secondly, counsel for the Appellant submitted that the Orders granted by the Tribunal had orders which were neither pleaded nor prayed for by the Respondent in the counterclaim. Counsel for the Respondent also disputed the award of costs to the Respondent because the counterclaim had not been proved and it had no cause of action.

Thirdly, counsel for the Appellant submitted that the evidence of the Respondent was not consistent; nor did it prove that the Respondent was the

owner of the suit land; yet the Appellant showed that he was the beneficiary to the estate of late Erabura Yoramu and held Letters of Administration. He submitted that the evidence of Kasangaki Yosamu, DW2, and Bakikenda, DW3 was not consistent.

Fourthly, counsel for the Appellant submitted that the Respondent had not adduced any evidence as to the developments made on the land nor did he disclose the description of the land.

Respondent's submissions

Counsel for the Respondent submitted that the Appellants assertions were far-fetched and untenable. This was because the learned appellate Judge did not make any orders since his duty was either to allow the Appeal or dismiss the same. He further submitted that under Ground one of the Appeal the Judge found that there was no evidence of bias because the Appellant based those allegations on mere suspicions, and flimsy elusive assertions.

Court's findings

It appears to me that the Appellant takes issue with the manner in which the grounds of Appeal at the first appellate Court were handled. He submits that the Learned Appellate Judge did not re-appraise the evidence before him. On his part counsel for the Respondent submits that the duty of the Appellate court was to either allow or dismiss the Appeal which he did.

It is a well-settled principle that on a first Appeal, the parties are entitled to obtain from the Appeal court its own decision on issues of fact as well as of law. Although in a case of conflicting evidence the Appeal court has to make due

allowance for the fact that it has neither seen nor heard the witnesses, it must weigh the conflicting evidence and draw its own inference and conclusions.

In **Coghlan** vs. **Cumberland** (1898) 1 Ch. 704, the Court of Appeal (of England) put the matter as follows -

"Even where, as in this case, the Appeal turns on a question of fact, the Court of Appeal has to bear in mind that its duty is to rehear the case, and the court must reconsider the materials before the judge with such other materials as it may have decided to admit. The court must then make up its own mind, not disregarding the judgment appealed from, but carefully weighing and considering it; and not shrinking from overruling it if on full consideration the court comes to the conclusion that the judgment is wrong. When the question arises which witness is to be believed rather than another and that question turns on manner and demeanour, the Court of Appeal always is, and must be, guided by the impression made on the judge who saw the witnesses. But there may obviously be other circumstances, quite apart from manner and demeanour, which may show whether a statement is credible or not; and these circumstances may warrant the court in differing from the judge, even on a question of fact turning on the credibility of witnesses whom the court has not seen."

We note that even though the first Appellate Judge traversed all the grounds of Appeal that were put before him he did not give reasons for all his findings. In Judgment writing there is necessity to give reasons. Justice Sunsil Ambwani of the Allahabad High court in his paper "The Art of Judgment writing Art of Judgment writing" correctly says thus;

"The soul of Judgments are the reasons for arriving at the findings……there is no rigid Rule as to how a finding may be recorded. The Judge, however, should give his reasons for such belief and agreement."

As Cecil Carr once observed:

"……..Reasons ought to be given of course for legal decisions, otherwise students cannot learn the law, practitioners cannot find arguments, parties cannot feel that their cases had serious attention and courts of Appeal can have nothing to upset or confirm…"

That being said in the case of **Fr. Narsensio Begumisa & 3 ors v Eric Tiberaga SCCA 17 of 2004** (while applying the decision in Bogere Moses and anor v Uganda Criminal Appeal 1 of 1997 *the Supreme Court* elucidated on the duty of a first appellate and held:

"What causes concern to us about the Judgment; however is that it is not apparent that the court of appeal subjected the evidence as a whole to scrutiny that it ought to have done. And in particular it is not indicated anywhere in the Judgment that the material issues raised in the Appeal received the court's due consideration. While we would not attempt to prescribe any format in which a Judgment of court should be written, we think that when a material issue of objection is raised on appeal, the appellant is entitled to receive adjudication on such issues from the appellate court even if the adjudication is handed in summary form…"

I find that the Appellate Judge duly evaluated the evidence before him even though it would appear that the adjudication on most of the grounds on Appeal was done in a summary form.

Ground 2 also fails.

Ground 3 "That the learned Judge erred in law when he failed re-evaluation of evidence on record to find Hoima District Land Tribunal's bias denied Appellant right to a fair hearing."

Appellant's submissions

Counsel for the Appellant submitted that there were several instances in the proceedings of the Tribunal that demonstrated that the Tribunal was biased towards the Appellant though they were not considered by the Learned Judge.

First, counsel for the Appellant submitted that Tribunal members found that the Appellant was cross-examined even though the Tribunal members did not cross-examine him.

Secondly, counsel for the Appellant submitted that the chairman of the Tribunal showed he was biased when he wrote a letter to the family of late Erabu Yolamu telling them that their acts of destroying the barbed wire was illegal. He argued that this was contrary to the section 79 (2) of the Land Act that gives powers to the Secretary Land Tribunal to conduct such correspondences.

Thirdly, counsel for the Respondent submitted that the finding of the tribunal that the land ought to be restored to its original status quo with the Respondents being the ones to use the land was biased. Fourthly, counsel for the Appellant submitted that the Tribunal was biased because it granted eviction orders that were not prayed for in the counterclaim.

Fifthly, counsel for the Appellant submitted that the Tribunal erred in law when it did not visit the locus to ascertain the disputed land as provided for by the Land Tribunal Procedure Rules 2002. Sixthly, counsel for the Appellant submitted that the Tribunal relied on evidence that was not adduced before it.

Respondent's Submissions

Counsel for the Respondent submitted that the learned Appellate Judge considered the arguments on bias and analysed the law and principles regarding bias and even cited the case of **GM Combined vs A.K Detergents and others** Supreme Court Civil Appeal No.7 of 1998.

Secondly, counsel for the Appellant submitted that evidence of bias should be actualized and or particularized either in conduct of the Tribunal towards the Appellant or in the way the matter was handled. He criticized counsel for the Appellant for mixing up issues of bias with other things like evidence adduced, locus and size of land.

He argued that if the Tribunal in the assessment of evidence did not believe the version of the Appellant but believed that of the Respondent the same cannot be taken as bias.

Court's findings

Counsel for the Appellant submitted that the appellate Judge erred in law because he did not consider the fact that the Tribunal was biased against the Appellant. On the other hand, counsel for the Respondent submitted that evidence of bias should be actualized or particularized either in conduct of the Tribunal towards the Appellant or in the way the matter was handled. He argued that the issue of bias had not been proved by counsel for the Appellant.

The Appellate Judge found that there was no evidence of bias on the part of the Tribunal. He relied on the definition of bias to mean a real likelihood of an operative prejudice, whether conscious or unconscious. There must be reasonable evidence to satisfy as that there is a real likelihood of bias. He found

that; *"I do not think that the mere vague, suspicions of whimsical, capricious and no reasonable generated but certainly mere flimsy, elusive, morbid suspicions should not be a permitted ground of decision."*

The law governing proceedings before the Land Tribunals is section 78 of the Land Act. It provides;

Rules of procedure

(1) The District Land Tribunal shall apply rules of procedure made by the Chief Justice, who shall take into account the need to have rules of evidence with such modifications as are necessary to ensure the expeditious disposal of land disputes.

The test for bias was given in the case of **Professor Isaac Newton Ojok vs Uganda SCCA No. 33 of 1999** to be whether a reasonable, objective and informed person, acting on the correct facts would reasonably apprehend that the Judge has not or will not bring an impartial mind to bear on the adjudication of the case.

This test has been adopted and interpreted recently in Supreme Court Miscellaneous Application No. 3 of 2021, **In Re an Application for recusal of Hon. Justice Alfonse Chigamoy Owiny Dollo, CJ** as follows;

"the mind referred to herein is one that is open to persuasion by the evidence and submissions of counsel. The reasonableness of an apprehension must be assessed in the light of the oath of office taken by Judge to administer Justice without fear or favour, affection or ill will. This is the duty to render justice without prejudice."

Lord Denning also paraphrased the same Principle in **Metropolitan Properties vs Lannon [1969] 1 QB 577,** where at page 599 he paraphrases the authorities on this subject in the following words;

> *"in considering whether there was a real likelihood of bias, the court does not look at the mind of the Justice himself or at the mind of the chairman of the tribunal or whoever it may be, who sits in a judicial capacity. It does not look as to see if there was a real likelihood that he would or did, in fact, favour one side at the expense of the other. The court looks at the impression which would be given to other people. Even if he was as impartial as could be, nevertheless if right-minded persons would think that in the circumstances, there must appear to be a real likelihood of bias. Surmise or conjecture is not enough. There must be circumstances from which a reasonable man would, or did, favour one side unfairly at the expense of another. The court will not inquire whether he did, in fact, favour one side unfairly. Suffice it that reasonable people might think he did. The reason is plain enough. Justice must be rooted in confidence: and confidence is destroyed when right-minded people go away thinking: The judge was biased.*

In these facts, I find that particular instances particularized by counsel for the Appellant do not in any way show that the Tribunal was biased against the Appellant in favour of the Respondent. Particularly, the act of the chairman of the Tribunal writing a letter to the Appellant to stop destroying crops of the Respondent does not show bias since a reasonable man would have also asked the Appellant to stop those acts of destroying another person's crops. Furthermore, the fact that it was the chairman who wrote the letter and not the

secretary does not show that he was biased since the Tribunal's rules of Procedure permitted them to apply them with such modifications as to permit the ends of Justice to be done. Secondly, the act of not visiting the locus, while not desirable, would be detrimental to both the Appellant and the Respondent.

Ground 3 also fails.

Final Result

This Appeal therefore fails. I have found no reason to interfere with the Judgment of the High court from where this Appeal arises. I hereby uphold it and confirm the Orders made therein.

All the grounds of Appeal having failed, this Appeal is dismissed with costs of the Appeal to be borne by the Appellant.

I so Order.

Dated at Kampala this 12th **day of** Oct **2021.**

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HON. MR. JUSTICE GEOFFREY KIRYABWIRE

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NO. 0097 OF 2012

KADARA JACKSON ..... APPELLANT

VERSUS

ALITUHA VINCENT ..... RESPONDENT

(An appeal from the Judgment and orders of the High Court of Uganda Holden at Masindi by Hon. Mr. Justice Ralph W. Ochan, J in High Court Civil Appeal No. 0027 of 2009, dated 12th December, 2012)

CORAM: Hon. Mr. Justice Kenneth Kakuru, JA
Hon. Mr. Justice Geoffrey Kiryabwire, JA
Hon. Mr. Justice Remmy Kasule, Ag. JA

JUDGMENT OF JUSTICE KENNETH KAKURU, JA

I have had the benefit of reading in draft the judgement of my learned brother, Hon. Geoffrey Kiryabwire, JA. I agree with him that, this appeal has no merit and ought to be dismissed for the reasons he has set out in his judgment. I also agree with the orders he has proposed.

As Hon. Remmy Kasule, Ag. JA also agrees, this appeal stands dismissed with costs.

We so order.

Dated at Kampala this ..... 12th ..... day of ..... Oct ..... 2021.

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Kenneth Kakuru

JUSTICE OF APPEAL

The Republic of Uganda

In the Court of Appeal of Uganda at Kampala

Civil Appeal No. 0097 of 2012

(Arising from the Judgment and orders of the High Court holden at Masindi in Civil Appeal No. 0027 of 2009 dated 12th December, 2012 delivered by the Hon. Mr. Justice Ralph W. Ochan)

Kadara Jackson :::Appellant

VERSUS

Alituha Vincent:::Respondent

Coram:

Hon. Mr. Justice Kenneth Kakuru, JA

Hon. Mr. Justice Geoffrey Kiryabwire, JA

Hon. Mr. Justice Remmy Kasule, Ag.JA

Judgment of Hon. Mr. Justice Remmy Kasule, Ag.JA.

I have had the advantage of considering in detail the lead Judgment of Hon. Mr. Justice Geoffrey Kiryabwire, JA in this appeal.

I agree with his analysis of the issues and the conclusions he has reached. I support his decision that the appeal be dismissed with costs of the appeal to be borne by the appellant. I have nothing useful to add.

Dated at Kampala this......12th......day of......Oct.......2021

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Hon. Mr. Justice Remmy Kasule, Ag.JA