

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
CIVIL APPLICATION No. 146 OF 2021
(Arising from Civil Application No. 145 of 2021)
(Arising from Civil Appeal Nos 161 & 162 of 2020)

1. KAMPALA FINANCIAL SERVICES LTD
2. ANKOLE FARMERS AND TRADERS
SAVINGS CREDIT LTD

APPLICANTS

VERSUS

HUSSEIN MUHAMED..... RESPONDENT

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

RULING

INTRODUCTION.

This is an Application (*Ex-Parte*) brought under Rules 21 (2); 43; 48; and 50 (2) of the Judicature (Court of Appeal Rules) Directions (hereinafter referred to as the “Rules of this Court”) and the Chief Justice’s Circular dated 21st June 2021.

The Application seeks orders that:

- a) Leave be granted to the Applicants by this Honourable Court to hear and determine Civil Application No. 145 of 2021 arising from Civil Appeals No. 161 and 162 of 2020 during the Covid-19 lockdown.
- b) Costs of and incidental to the Application abide the results of the Appeals.

The Application is supported by the affidavit of Julius Muhurizi the Managing Director of the first Applicant Company. The Applicants due to the second wave of Covid-19 in Uganda were directed to file written submissions.

Brief Factual background.

The factual background as submitted by Counsel for the Applicants is that the Applicants having been dissatisfied with the Judgment/Decree of Honourable Justice Henry I Kawesa delivered on 5th February 2002 in HCCS No.178 of 2009 filed at the Court of Appeal Civil Appeal Nos.161 & 162 of 2020 respectively which matters are pending hearing.

The Applicants in order to safe guard their rights of Appeal, also filed Misc. Application No.1871 Of 2020 before the trial Court for Stay of Execution but the same was dismissed on 30th April 2021.

The Applicants then in accordance with Rule 42 (2) and 6 (2) (b) of this Honourable court's Rules, filed before the Court of Appeal Civil Application No.145 of 2021 and 146 of 2021 for stay/interim stay

and an injunction/interim injunction against the Respondent from transferring or disposing of the suit land comprised in plot 4 Vol. 14 7 Folio 10 situated along Rubaga Road within Kampala Capital City until determination of Civil Appeals Nos.161 and 162 of 2020 pending hearing before the court of Appeal.

It is also averred and argued that the Respondent has filed an Application for Execution. It is further averred and argued that the Respondent without following the due process of the law as spelt out in section 38 of the Civil Procedure Act and Order 22 Rule 7 of the Civil Procedure Rules (SI 71-1), caused the Registrar of Land Registration to cancel the first Applicant's proprietorship and the second Applicant's mortgage and restored the Respondent's ownership onto the suit land's title certificate.

RESOLUTION.

I have addressed myself to the Motion, the supporting Affidavit and the submissions of Counsel. At the time this matter was brought to my attention for Ruling, the Covid-19 lockdown had been partially lifted and regular Court Activities had resumed.

This means that this Application has been over taken by events and serves no legal and practical purpose.

The foregoing notwithstanding, I have perused the whole file and noted that the main Application is ready for hearing and that there are written submissions already on file by both parties.

Rule 2 (2) of the Rules of this Court provides:



"...Nothing in these Rules shall be taken to limit or otherwise affect the inherent power of the court, or the High Court, to make such orders as may be necessary for attaining the ends of justice or to prevent abuse of the process of any such court, and that power shall extend to setting aside judgments which have been proved null and void after they have been passed, and shall be exercised to prevent abuse of the process of any court caused by delay..."

I find that this is a good matter notwithstanding my earlier finding for me to exercise the inherent power of the Court in order to attain the ends of Justice to order the following:

1. That Civil Application No. 145 of 2021 arising from Civil Appeals No. 161 and 162 of 2020 be heard and that the Registrar of this Court forthwith fix them for hearing.
2. I make no Order as to costs.

I so Order.

Dated at Kampala this 20th day of Dec 2021



JUSTICE GEOFFREY KIRYABWIRE, J.A.