THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
CIVIL APPEAL NO. 0049 OF 2014

ALIGANYIRA YAKOBO KYOMYA::::::::::::::::::::::::::::::::APPELLANT

VERSUS

THE TRUSTEES OF HOIMA CATHOLIC DIOCESE::::::::RESPONDENT

(Appeal from the decision of the High Court of Uganda at Masindi before Ochan, J. dated the 12th April, 2013 in Civil Appeal No. 011 of 2010 sitting on appeal from the decision of the Chief Magistrate's Court of Hoima before Obbo Londo, G1 in Civil Suit No. 34 of 2003)

CORAM: HON. LADY JUSTICE ELIZABETH MUSOKE, JA
HON. LADY JUSTICE CATHERINE BAMUGEMEREIRE, JA
HON. MR. JUSTICE STEPHEN MUSOTA, JA

JUDGMENT OF ELIZABETH MUSOKE, JA

This second appeal is from the decision of the High Court (Ochan, J.) dismissing an appeal filed by the appellant against the decision of Obbo Londo, the trial Magistrate. The learned trial Magistrate had dismissed a suit filed by the appellant and had also allowed a counter-claim filed by the respondent.

Background

At the centre of the dispute between the parties is ownership of a piece of land situated in Kyentale Village in Hoima District (suit land). At the time of filing the suit in the trial Court, the appellant held a certificate of title for a larger piece of land which encompassed the suit land, and on the suit land was built a catholic church under the management of the respondent.

The appellant's suit in the trial Court was for, among others, a declaration that the respondent had, in building the church on the suit land which belonged to him, committed an act of trespass. The appellant therefore sought an order to evict the church from the suit land.

The appellant claimed that the suit land was family land which had been previously owned and occupied by his father and grandfather, from at least

before the 1960s. He had also lived on the suit land since the 1960s and despite moving away from the suit land to settle in Bundibugyo, he maintained control over the land at all times. The appellant claimed that in 1999, he was surprised to find a church constructed on the suit land although without his consent. The appellant further stated that he had commenced on the process of acquiring a certificate of title for his family land and on 7th July, 2003, he got registered as the proprietor thereof.

The respondent opposed the appellant's suit and denied that the suit land was part of the appellant's family land. They asserted that the suit land was acquired in the 1950 as a gift from Balamu Mukasa and one Tabaro, for purpose of constructing a church. The construction of the church commenced in 1976 and was completed after 10 years in 1986, although the church was inaugurated in 1999, by then Hoima Diocese Bishop Byabazaire. The case for the respondent was that the church enjoyed possession of the suit land undisturbed from 1976 and therefore qualified as a bonafide occupant under the Land Act, Cap. 227. They therefore prayed for dismissal of the appellant's suit. Further, the respondent counter-claimed against the appellant for trespassing on church land by depositing building materials thereon and commencing construction of a building on the suit land.

Upon consideration of the evidence adduced at the trial, the learned trial Magistrate accepted the respondent's case and found that the suit land was acquired by the church in 1950 and that construction of the church commenced earlier than 1999, contrary to the appellant's claims. He therefore found that the church was not a trespasser on the suit land and dismissed the appellant's suit. The learned trial Magistrate also found that the appellant's certificate of title over the suit land was obtained fraudulently and he ordered for its cancellation. The learned trial Magistrate Grade One also allowed the respondent's counterclaim with costs.

The appellant's appeal to the High Court against the decision of the learned Magistrate Grade One was dismissed with costs. The appellant now appeals to this Court against the decision of the High Court, on the following grounds:

"1. **The learned Judge erred in law and fact when he failed while presiding over the first appellate Court to re-evaluate the evidence on record thus leading him to reach a wrong judgment.**

2. **The learned Judge erred in law and fact when he held that the trial Magistrate had evaluated the evidence on record.**

3. **The learned Judge erred in law and fact when he failed to properly evaluate the evidence and apply the law on findings of the trial Magistrate as regards to the counterclaim thereby reaching a wrong conclusion.**

4. **The learned Judge erred in law and fact when he held that visiting locus was not essential to determination of the issues in controversy thereby wrongly upholding the trial Magistrate's findings.**

5. **The learned Judge erred in law and fact when he ordered for cancellation of the appellant's certificate of title."**

The appellant prays this Court to make the following:

"1) **An order setting aside the judgment and orders of the High Court.**

2) **A declaration that the appellant is the lawful owner of the suit land and the respondents are trespassers.**

3) **An order awarding costs of the appeal and of the proceedings in the lower Courts to the appellant."**

The respondent opposed the appeal.

Representation

At the hearing, Mr. Wycliffe Tumwesigye, learned counsel appeared for the appellant. There was no representation for the respondent.

During the hearing, the Court ordered counsel for the appellant to file submissions and to serve a copy of their submissions on the respondent, which was done. The written submissions for either side are on record and have been considered in this judgment.

Appellant's submissions

Counsel for the appellant argued grounds 1 and 2 jointly, and the rest of grounds 3, 4 and 5 separately.

Grounds 1 and 2

It was submitted that the learned first appellate Judge failed to discharge the duty imposed on a first appellate Court, as stated in the authority of **Kifamunte Henry vs. Uganda, Supreme Court Criminal Appeal No. 10 of 1997**, to reappraise the evidence on record and come up with its own conclusions. The learned first appellate Judge merely agreed with the findings of the trial Magistrate without carrying out any re-evaluation, and this led to the Judge reaching the same erroneous conclusions as the trial Magistrate, namely; 1) that the respondent was a bonafide occupant on the appellant's land; and 2) that the appellant had acquired his title through fraud, which justified the consequential order for cancellation of the appellant's title.

Counsel contended that the respondent's evidence did not support the findings that the lower Courts reached and was inconsistent on several material particulars. For example, the respondent's witnesses were unsure of the exact size of the suit land. DW3 testified that the suit land was approximately 4 to 5 acres, DW4 that it was 4 acres, DW5 that it was approximately 10 acres, and DW6 that it was 5 to 6 acres. Counsel contended that the respondent was expected to know the precise size of the suit land, otherwise, finding that the respondent was the owner of land of an unascertained land was erroneous and amounted to the trial Court handing the respondent licence to grab more of the appellant's land.

It was further submitted that the respondent's evidence was unsatisfactory because while it was alleged that the suit land was given to a catholic priest, the witnesses did not prove the purpose for which the land had been given to that priest, whether for construction of a church or a school. In counsel's view, the respondent ought to have called evidence of a person working with Hoima Catholic Diocese to clarify on the evidence given by other respondent witnesses.

Counsel further submitted that parts of the respondent's evidence were incredible. It was inconceivable that the priest to whom the suit land had been given in 1950 had first constructed a school and not a church. Further,

that considering that Balamu Mukasa, who allegedly donated the suit land in 1950 professed the Anglican religion, it was improbable that he could donate land for constructing a Catholic church. Counsel claimed that such an act was unlikely to have happened in the 1950s.

It was further submitted that the appellant's case did not establish which of the church or school owned the suit land, and that it was likely that decreeing the suit land to the church would lead to the church illegally owning the suit land. The evidence of PW2, a son to Mukasa who allegedly donated the land, stated that the suit land was given for construction of a school and not a church.

Counsel also contended that the claim that the suit land had been given as a gift could only be proven by evidence of a gift deed but none was adduced by the respondent. He relied on the textbook – **Mellows' Law of Succession, 5th Edition**, for a statement that a gift of land intervivos must be by deed, for this submission, and contended that the learned first appellate Judge had erred not to apply this principle which should have led to him finding that the alleged gift of land to the respondent was void.

Counsel invited this Court to carry out its own re-evaluation of the evidence and make its own findings and conclusions, different from those of the two lower Courts.

Ground 3

Counsel submitted that the learned first appellate Judge erred by not setting aside the judgment of the trial Court in the counter-claim despite the trial Court having adopted an irregular procedure in handling that counter-claim. The trial Court entered judgment in favour of the respondent in the counterclaim at the same time it decided the appellant's claim yet it ought to have decided and ruled on the counter-claim separately. Counsel contended that under **Order 9 Rule 6** of the **Civil Procedure Rules, S.I 71-1**, if a party does not file a reply to a pleading, the Court is obliged to set down the suit for hearing. He also contended that the procedure of entering default judgments in contentious matters, as was done in the present case is unacceptable in Ugandan procedural law. In the present case,

the procedure adopted by the trial Magistrate in rendering default judgment in the counterclaim was erroneous and the learned first appellate Judge was wrong to uphold the judgment in the counter-claim.

Ground 4

Counsel submitted that the learned first appellate Judge erred in finding, in agreement with the learned trial Magistrate, that it was unnecessary to conduct a *locus in quo* visit in the present case. The learned first appellate Judge agreed with the learned trial Magistrate that the locus visit in the present case was unnecessary because there was no boundary dispute between the parties. However, in counsel's view, there were other issues for investigation justifying a locus visit besides the boundary issue, namely; a) when was the church built; b) how much land was the church occupying given that there was no clear testimony on the size of the suit land; c) what was the relationship between the school and the church; d) how did the school come into existence. These questions would have been answered by testimony from the community at the locus visit, had the same been conducted, which would have helped the trial Court reach a fairer determination of the dispute.

Ground 5

Counsel faulted the learned first appellate Judge for making a consequential order for cancellation of the appellant's certificate of title submitting that it was an inappropriate order in the circumstances of the case. The Courts below had entered judgment for the respondent in respect of a small piece of land included on the appellant's certificate of title for a larger piece of land. Therefore, the appropriate order ought to have been to order for correction of the appellant's certificate of title to exclude the suit land. Counsel contended that because processing of land titles is a costly exercise, an order for cancellation is only proper if the successful claim is for the entire land on the title and not like the present case where the claim was for only part of the land on the title. He urged this Court to set aside the consequential order for cancellation of the suit land.

It was further submitted that in any case, there was no evidence of fraud adduced against the appellant, and that on the contrary, the appellant had adduced evidence showing that he complied with the requisite procedure for obtaining a land title, and during the survey of the relevant land, the appellant's neighbours had all been notified.

In conclusion, counsel prayed that this Court finds in favour of the appellant on all grounds of appeal.

Respondent's submissions

In reply, counsel for the respondent began by challenging the competence of the appeal. First, he submitted that the grounds of appeal contravene **Section 72 and 74 of the Civil Procedure Act, Cap. 71** in that while those provisions stipulate that a second appeal must be concerned only with points of law and not those of fact or mixed law and fact, the grounds of the present appeal require this Court to reappraise evidence and are therefore concerned with points of fact. Counsel submitted that as decided in the authority of **Kifamunte Henry vs. Uganda, Supreme Court Criminal Appeal No. 10 of 1997 (unreported),** reappraising evidence is the duty of the first appellate Court, a duty the High Court duly carried out. Secondly, it was submitted that the grounds of the present appeal also offend the provisions of **Rule 76 (3) and Rule 86 of the Judicature (Court of Appeal Rules) Directions S.I 13-10**, which provide to the effect that grounds of appeal must point out the specific points in the judgment appealed from that are alleged to have been wrongly decided. Counsel contended that the grounds of the present appeal fail to specify the specific points that were wrongly decided. For the above reasons, counsel submitted that the appeal is rendered incompetent and he urged this Court to have it struck out.

In relation to the merits of the appeal, counsel submitted as follows.

Grounds 1 and 2

Counsel argued grounds 1 and 2 jointly. He submitted that contrary to the appellant's submissions, the learned trial Judge properly re-evaluated the evidence on record, and did not unreasonably agree with the findings of the

learned trial Magistrate. The learned trial Judge carefully perused the Court record and the judgment of the trial Court. Counsel urged this Court to find that the learned first appellate Judge fulfilled his legal obligation to give the entire evidence as a whole, fresh and exhaustive scrutiny, and came to his own conclusions. In counsel's view, it was a matter of style how the learned trial Judge went about his job and there is no standard format for writing a judgment.

It was further submitted that the learned first appellate Judge properly re-evaluated the evidence, specifically the evidence of DW1 Kambejja Felix, DW2 John Nyerewola, DW3 Kaheru Boniface, DW4 Kahwa Boniface and DW5 Kato Peter which established that the respondent was a bonafide occupant on the suit land.

With regard to the consequential order for cancellation of the appellant's title, counsel submitted that the learned first appellate Judge was justified in making that order. It had been established that the respondent was occupying the suit land at the time the appellant obtained his leasehold title, and had been doing so since the 1950s. Counsel submitted that in those circumstances, the appellant's certificate of title was obtained by fraud and illegality, and the learned trial Judge's declaration to that effect was justified. Further that having found evidence of fraud and illegality in the process that the appellant's title was obtained, the learned trial Judge was right to make a consequential order for cancellation of the appellant's title.

It was further submitted that there were no contradictions in the respondent's evidence as suggested in the appellant's submissions. The alleged contradictions on the size of the suit land can be explained because the respondent's witnesses were all lay men who were incapable of knowing the actual size/acreage of the suit land.

In other respects, the appellant's submissions were misguided in so far as they alluded to matters not raised in the lower Court. For instance, the appellant submitted that the respondent should have called a person from Hoima Diocese as a witness to clarify whether the suit land was owned by the church or the school, but in counsel's view, this point was irrelevant as

it had not been raised in the Court below. Moreover, the appellant does not have locus standi to raise questions on a potential dispute between the church and the school.

Counsel submitted that grounds 1 and 2 should fail.

Ground 3

Counsel supported the learned first appellate Judge's handling of the respondent's counter claim, submitting that the decision was supported by the evidence on record. He contended that the learned trial Magistrate's decision on the counter claim was based on the issues framed for trial, and had been arrived it in the absence of a defence by the appellant to the counterclaim. Counsel pointed out that the respondent's counsel in the trial Court had in default of filing the defence to the counter claim moved the trial Court to determine the counter claim in the respondent's favour. In those circumstances, the procedure adopted in determining the counterclaim was influenced by the appellant's highlighted default.

It was submitted that ground 3 ought to also fail.

Ground 4

It was submitted that the issues for determination in the present case did not require visiting of the locus in quo and the learned first appellate Judge was right to find that there was sufficient evidence to guide the learned trial Magistrate in deciding the matter without visiting the locus. In counsel's view, the dispute was primarily about the status and legal occupancy of the suit land, and the evidence on record proved that the respondent had been given the suit land in the 1950s. He urged this Court to disallow this ground.

Ground 5

Counsel supported the learned first appellate Judge's decision to make a consequential order cancelling the appellant's certificate of title, submitting that the order was justified because of the findings that the learned Judge had reached and was permissible by virtue of the inherent powers of the learned trial Judge to save the respondent from filing another suit for cancellation of the appellant's title.

It was submitted that ground 5, too should fail.

Resolution of the Appeal

I have carefully studied the record, considered the submissions for both parties and the law and authorities cited in support thereof. I have also considered other relevant law and authorities not cited.

I am alive to the duty of this Court when determining a second appeal like the present appeal. On such appeals, this Court has to decide whether the first appellate Court properly approached its task of reappraising the evidence of the case and coming to its own conclusions on all matters of law and fact. As a second appellate Court, that save for exceptional cases, this Court is not required to re-evaluate the evidence like the first appellate Court. **See: Kifamunte Henry vs. Uganda, Supreme Court Criminal Appeal No. 10 of 1997 (unreported).**

I will remain alive to the above duty as I resolve the grounds of appeal. I will consider each ground of appeal separately, but before doing so, I will consider the preliminary objections to the appeal.

In his submissions, counsel for the respondent submitted that the present appeal was incompetent and ought to be struck out for two reasons, namely; 1) that the appeal concerns points of mixed law and fact contrary to the provisions of **Sections 72 and 74** of the **Civil Procedure Act, Cap. 71** which restrict the matters appealable on second appeal to points of law only; and 2) that some of the grounds of the appeal fail to specify the points that were wrongly decided as required under **Rule 76 (3) and Rule 86 of the Judicature (Court of Appeal Rules) Directions S.I 13-10**.

In reply, counsel for the respondent began by challenging the competence of the appeal. First, he submitted that the grounds of appeal contravene **Section 72 and Section 74 of the Civil Procedure Act, Cap. 71** in that while those provisions stipulate that a second appeal must be concerned only with points of law and not those of fact or mixed law and facts, the grounds of the present appeal require this Court to reappraise evidence and are therefore concerned with points of fact. Counsel submitted that as decided in the authority of **Kifamunte Henry vs. Uganda, Supreme Court**

Criminal Appeal No. 10 of 1997 (unreported), reappraising evidence is the duty of the first appellate Court, a duty the High Court duly satisfied.

Secondly, it was submitted that the grounds of the present appeal also offend the provisions of **Rule 76 (3) and Rule 86 of the Judicature (Court of Appeal Rules) Directions S.I 13-10**, which provide to the effect that grounds of appeal must point out the specific points the judgment appealed from that are alleged to have been wrongly decided. Counsel contended that the grounds of the present appeal fail to specify the specific points that were wrongly decided. For the above reasons, counsel submitted that the appeal is rendered incompetent and he urged this Court to have it struck out.

The relevant provisions of **Sections 72** and **74** of the **Civil Procedure Act, Cap. 71** are reproduced below:

> **"72. Second appeal.**
>
> **(1) Except where otherwise expressly provided in this Act or by any other law for the time being in force, an appeal shall lie to the Court of Appeal from every decree passed in appeal by the High Court, on any of the following grounds, namely that—**
>
> **(a) the decision is contrary to law or to some usage having the force of law;**
>
> **(b) the decision has failed to determine some material issue of law or usage having the force of law;**
>
> **(c) a substantial error or defect in the procedure provided by this Act or by any other law for the time being in force, has occurred which may possibly have produced error or defect in the decision of the case upon the merits.**
>
> **(2) ...**
>
> **...**
>
> **74. Second appeal on no other grounds.**
>
> **Subject to section 73, no appeal to the Court of Appeal shall lie except on the grounds mentioned in section 72."**

I would make the following observations. On the face of it, all the grounds of appeal as framed allege that the learned first appellate Judge made

certain errors of mixed law and fact. However, grounds 3, 4 and 5 when closely examined, raise the following points of law: whether the procedure adopted in disposing of respondent's counter-claim was improper (ground 3); whether there was need to conduct a locus visit (ground 4); and whether the consequential order for cancellation of the appellant's title was legally justified (ground 5). Grounds 1 and 2 relate to whether the first appellate Court properly carried out its duty to re-evaluate the evidence. Therefore, in the interests of justice, I will overlook the technical errors in the drafting of the appellant's memorandum and consider the above highlighted points.

Grounds 1 and 2

The two grounds are concerned with whether the learned trial Judge adequately carried out the duty of evaluating the evidence on record. As stated earlier, ordinarily, a second appellate Court is not expected to reappraise the evidence and can only do so in exceptional circumstances. Moreover, a second appellate Court will not usually question concurrent findings of fact. In the **Kifamunte case (supra**), it was stated:

> **"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 probably, 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 finding of fact, this being a question of law: R. vs. Hassan bin Said (1942) 9 E.A.C.A. 62."**

It must be stated that the two lower Courts found that the respondent was a bonafide occupant having obtained the suit land as a gift in 1950s and commenced construction of a church thereon in 1976. The lower Courts also found that the appellant was a trespasser on the suit land as he had taken construction materials to the suit land, after acquiring a certificate of title for the suit land in 2002. In my view, there is evidence on record to support those findings of fact. DW1 Kambeja Felix a senior citizen aged 75 years, testified that he lived in the area where the suit land was located and was aware that the suit land was donated in the 1950s by Tabaro and Balamu Mukasa for purposes of constructing a church. The construction of the

church began in 1976 and ended in 1986, although the official opening of the church was presided over by a Bishop in 1999. DW2 John Nyendwoha gave similar evidence, and he stated that he was the Church treasurer, which implied that he was conversant with the matters concerning ownership of the suit land. DW3 Kaheru Boniface, the respondent's lands officer, testified about documents that proved that the suit land was donated in the 1950s for purposes of building a church and a school, and that the construction of the church began in the 1950s. The evidence proved that the respondent was a bonafide occupant on the suit land within the meaning of **Section 29 (2) (a) of the Land Act, Cap. 227** as "a person who before the coming into force of the Constitution had occupied and utilized or developed any land unchallenged by the registered owner or agent of the registered owner for twelve years or more." The respondent occupied and utilized the suit land since 1976, a period of about 19 years before coming into force of the 1995 Constitution. In my view, the evidence on record justified the concurrent findings of fact of the two lower Courts. I would decline to interfere with those findings.

I must note that as he reappraised the evidence in his judgment at page 121 of the record, the learned trial Judge made only brief mention of the evidence he relied on to reach the finding that the respondent was a bonafide occupant on the suit land. The learned first appellate Judge stated that the evidence of DW1, DW2, DW3, DW4 and DW5 had persuaded him to find in favour of the respondent. The approach adopted by the learned first appellate Judge has drawn criticism from counsel for the appellant who is of the view that the approach showed that the learned trial Judge did not re-evaluate the evidence. In the **Kifamunte case (supra)**, the Court observed:

> **"... the length or brevity of a judgment is not evidence of the quality of that judgment. There is no standard form of judgment of a Court of Appeal. It has been held that a first appellate Court does not have to write a judgment in a form appropriate to a Court of first instance. It is enough, in questions of fact, if, after the first appellate Court having itself considered and evaluated the evidence and having tested the conclusions of the trial Court drawn from the demeanour of witnesses**

against the whole of their evidence, it is satisfied that there was evidence upon which the trial Court could properly and reasonably find as it did. That the appellate Court's conclusions are merely expressed in such terms, in itself, is no indication that it has failed to make a critical evaluation of the evidence."

Therefore, merely because the learned first appellate Judge only briefly mentioned the evidence he relied on to base his findings is not conclusive to find that he failed to reappraise the evidence. In my view, the fact that he mentioned the highlighted evidence shows that that evidence weighed on the learned first appellate Judge's mind as he re-evaluated the evidence, and having studied that evidence, I find that it rightly formed the basis of the learned Judge's conclusions. Therefore, I would maintain the findings of fact reached by the lower Court. Grounds 1 and 2 must fail.

Ground 3

On ground 3, counsel for the appellant submitted that the procedure followed in disposing of the respondent's counter-claim was irregular. Counsel based his submission on the provisions of **Order 9 Rule 6** of the **CPR, S.I 71-1**, but this must have been in error, as Rule 6 concerns judgment upon a liquidated claim. The point counsel intended to make was that although the appellant did not file a defence to the respondent's counter-claim, the learned trial Magistrate ought to have conducted a trial separate from that of the main suit, before deciding on the counter-claim. In my view, however, it was unnecessary to conduct a separate trial considering that the findings in the main trial were sufficient to dispose of the counter-claim. It had been established that the respondent was a bonafide occupant on the suit land during the trial, and this meant that the appellant trespassed on the respondent's land when he took building materials to begin construction thereon. Thus, no miscarriage of justice was occasioned by the failure of the trial Magistrate to conduct a separate trial for the counter-claim.

Ground 3 of the appeal, too, must fail.

Ground 4

As for ground 4, it is alleged that the learned first appellate Judge erred in agreeing with the learned trial Magistrate that it was unnecessary to conduct a locus visit in the present case. In the view of counsel for the appellant, there were several questions that could only be resolved by a locus visit. In reply, counsel for the respondent submitted that the main question was whether the respondent was a bonafide occupant on the suit land, and answering that question did not require a visit to the locus. I would accept the respondent's submission. In my view, answering the said question only required cogent evidence to prove the history of the respondent's occupation and utilization of the suit land, and this evidence was provided by the respondent's witnesses during the trial. It was unnecessary to conduct a locus visit in addition to that evidence.

Ground 4 of the appeal must also fail.

Ground 5

Ground 5 challenges the consequential order made by the first appellate Judge for cancellation of the appellant's certificate of title. The learned Judge based his decision for cancellation of the appellant's title on the fact that the appellant had been found to have acted fraudulently when he obtained that title. Counsel for the appellant acknowledged that the High Court has discretion to make such orders but submitted that it was not appropriate to make that order in the present case. In counsel's view, considering that the respondent's land was only a small portion of a wider piece of land covered by the appellant's title, the appropriate order should have been to order the appellant to deliver up the title to have the respondent's land excluded. This would have saved the appellant from incurring costs of processing a fresh title. On the other hand, counsel for the respondent submitted that the consequential order was justified.

In my view, the consequential order made by the learned trial Judge was not unreasonable. The appellant fraudulently processed a certificate of title to include land belonging to the respondent, and thus the only way to reverse

the appellant's fraud was to order for cancellation of title as the learned first appellate Judge did.

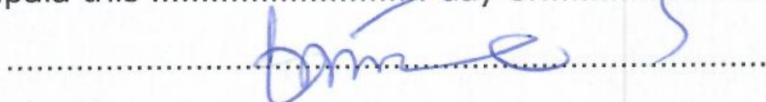
I would disallow ground 5 of the appeal.

Therefore, all grounds of the appeal having failed, I would find no merit in the appeal and would dismiss it with costs to the respondent.

As Bamugemereire and Musota, JJA both agree, the Court unanimously dismisses the appeal with costs to the respondent.

We so order.

Dated at Kampala this ....20th........ day of.......May..............2022.



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Elizabeth Musoke

Justice of Appeal

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NO 049 OF 2014

CORAM: HON. LADY JUSTICE ELIZABETH MUSOKE, JA
HON. LADY JUSTICE CATHERINE BAMUGEMEREIRE, JA
HON. MR. JUSTICE STEPHEN MUSOTA, JA

ALIGANYIRA YAKOBO KYOMYA::::::::::::::::::::::::::::: APPELLANT

VERSUS

THE TRUSTEES OF HOIMA
CATHOLIC DIOCESE::: RESPONDENT

(Appeal arising from the decision of OCHAN J, dated 12th April 2013, sitting at Masindi High Court in Civil Appeal No. 011 of 2010 arising from Civil Suit No. 34 of 2003 in the Chief Magistrates Court of Hoima).

JUDGMENT OF CATHERINE BAMUGEMEREIRE, JA

I have had the privilege of reading the draft opinion of my sister Elizabeth Musoke, JA. I agree with the reasoning, decision and orders made.

20th May 2022

Catherine Bamugemereire
Justice of Appeal

THE REPUBLIC OF UGANDA

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5 *Appeal No. 011 of 2010)*

ALIGANYIRA YAKOBO KYOMYA ::::::::::::::::::::::::: APPELLANT

VERSUS

THE TRUSTEES OF HOIMA CATHOLIC DIOCESE :::::::: RESPONDENT

CORAM: HON. JUSTICE ELIZABETH MUSOKE, JA
10 **HON. JUSTICE CATHERINE BAMUGEMEREIRE, JA**
HON. JUSTICE STEPHEN MUSOTA, JA

JUDGMENT OF HON. JUSTICE STEPHEN MUSOTA, JA

I have had the benefit of reading in draft the judgment by my sister
15 Hon. Justice Elizabeth Musoke, JA.

I agree with her analysis, conclusions and the orders she has proposed.

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Dated this 20th day of May 2022.

Stephen Musota

JUSTICE OF APPEAL

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