

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
COMMERCIAL COURT DIVISION

HCT-00-CC-OS-0011OF 2006

THE COOP BANK LTD APPLICANT/PLAINTIFF

VERSUS

RUKOKOMA MIXED FARMERS COP SOCIETY LTD. ... RESPONDENT/DEFENDANT

BEFORE: HON. MR. JUSTICE LAMECK N. MUKASA

RULING:

This application was taken out by way of an Originating Summons Under Sections 7 and 8 of the Mortgage Act, Cap 229 and Order 34 rules 3A and 7 (now 0.37 rule 4 and 8) Civil Procedure Rules whereby M/S Cooperative Bank (in Liquidation) claims an interest in a piece of land situate and known as LRV 2461 Folio 7 Plot 37 Mutooma County Block 27 as security under an equitable mortgage created and registered by way of caveat vide Instrument No. 398752 on the 18th May 2000.

The application is supported by an affidavit deposed to by Ben Ssekabira, the Bank of Uganda Coordinator of the Cooperative Bank (in Liquidation). It is stated therein that the Respondent M/S Rukokoma Mixed Farmers Cooperative Society Ltd while a customer of the applicant obtained a loan facility of Shs10,000,000 from the Applicant Bank for which the Respondent deposited its Certificate of Title for the above described land. The Applicant caveated the land under instrument No. 308752. Annexed as photocopies the loan agreement, the certificate of Title, the Caveat, Certificate of Balances and Demand Letter for payment of the balance. It is

further averred that the Respondent has refused, failed and or neglected to pay the principal sum and interest under the loan. By 31st January 2005 the Respondent's indebtedness stood at Shs22,099.452/=.

The Applicant is seeking for Originating Summons to crime against the Respondent for orders that:-

1. An Order for foreclosure be made.
2. An order that the mortgaged land be offered from sale by the mortgagee consequent upon the order of foreclosure.
3. Order for further and other relief this court may deem fit, first and reasonable.
4. Cost of the suit.

I have considered the facts raised in the application and affidavit in support and the annextures thereto and I have found that they raise a proper case to be dealt with by way of an Originating Summons. I accordingly order that Originating Summons do issue to be served on the Respondent for hearing on a date to be fixed by the Registrar. I so order.

Hon Mr. Lameck N. Mukasa

Judge

22nd September 2006