

THE REPUBLIC OF UGANDA

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

HCT-00-CC-OS-0013-2006

GREENLAND APPLICANT/MORTGAGEE

VERSUS

**SALIM MUSOKE MUSISI RESPONDENT
OPINY ISAYA**

BEFORE: THE HON. JUSTICE LAMECK N. MUKASA

RULING

This application is brought by way of an Originating Summons under sections 7 and 8 of the Mortgage Act (Cap. 229) and Order 34 rules 3A (now Order 37 rule 4) of the Civil Procedure Rules whereby M/S Greenland Bank Ltd. (in liquidation) claims an interest in the land comprised in Kyagwe Block 110 Plot 1005 Seeta as an equitable mortgagee by way of deposit of the duplicate certificate of title and lodgment of a caveat thereon under Instrument No. MK 068129 of 20th May 2003.

The plaintiff intends to seek orders for:

1. Foreclosure of the mortgagor's right to redeem the mortgaged property.
2. Mortgagee/Plaintiff to be permitted to sell all the mortgaged land upon foreclosure in accordance with the law.
3. Costs of the suit.

The application is supported by an affidavit dated 31st March 2006 and a supplementary affidavit dated 24th May 2006 both deposed to by Ben Sekabira the Bank of Uganda coordinator Cooperative Bank (in liquidation). The evidence therein shows that the defendant obtained overdraft facilities from the plaintiff which he has failed to pay within the agreed time and by 11th March 2004 the debt stood at shs9,750,964/= . As security the defendant had deposited the title in respect of the described land pursuant to a power of

attorney executed by the registered proprietor thereof one James Opiny Isaya. I find the facts raised in the application and the affidavits in support sufficient to warrant Originating Summons to issue and I so order. The said James Opiny Isaya as the registered proprietor of the land is interested in its redemption. It is accordingly ordered that a copy of the Originating Summons, to be fixed for hearing by the registry, should also be served on him. I so order.

Hon, Mr. Lameck N. Mukasa

Judge

20th October 2006