

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

HCT-00-CC-OS-0020 OF 2006

THE COOP BANK LTD .....APPLICANT/PLAINTIFF

VERSUS

MWASE HERON ..... RESPONDENT/DEFENDANT

**Legislation referred to:**

1. *Mortgage Act, Cap 229*
2. *Civil Procedure Rules*

BEFORE: HON. MR. JUSTICE LAMECK N. MUKASA

**RULING:**

This application is brought by Originating Summons under sections 7 and 8 of the Mortgage Act, Cap 229 and Order 34 rule 3A and 7 (now Order 37 rule 4 and 8) of the Civil Procedure Rules by the Cooperative Bank Ltd (in liquidation) seeking for order that:

1. An order for fore closure of the defendant's equity of redemption of the mortgage property.
2. An order that the mortgaged property be offered for sale and sold by the mortgagee.
3. Further and other relief Court may deem fit, just and reasonable.
4. Costs of the suit.

The application is supported by an affidavit sworn by Ben Ssekabira the Bank of Uganda Coordinator of the Cooperative Bank Ltd (in liquidation). The facts as I have gathered from the said affidavit are that on 7<sup>th</sup> August 1995 the Applicant Bank advanced the Respondent Credit facilities by way of overdraft on security of land comprised in LRV 944 Block 190 Plot 209 Nabweli Mukono. As of 30<sup>th</sup> November 2005 the Respondent's indebtedness of both the principal and interest stood at Shs21, 365,397 and continues to attract interest at the rate of 21% until the entire debt is fully realized. The Respondent has failed to pay and the Applicant contends that it is entitled to realise and enforce the security under the mortgage by fore-closure and sale of the property to recover the monies due.

I have carefully considered the above facts and I find that this is an appropriate case where Originating Summons should be issued and I accordingly so order. Let the Originating Summons issue for hearing on a date to be fixed by the Registry.

Hon. Mr. Lameck N. Mukasa

Judge

22<sup>nd</sup> September 2006