

THE REPUBLIC OF UGANDA

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

HCT-00-CC-MA-671/2009

OKELLO ORYEM ALFRED & 2 OTHERS :::::::::::::::::::: APPLICANTS

VS

AKRIGHT PROJECTS LTD & ANOTHER:::::::::::::::::: RESPONDENTS

RULING

This is an application brought by objector by way of Motion under Order 22 Rule 55, 56 & 57, Order 52 rule 1, 2 & 3 CPR, SS.44 & 98 CPA for attachment of properties named in the warrant of attachment in Civil Suit No. 140 of 2008 being properties belonging to Okello Oryem Alfred and namely Block 276 Plot 656, 657, 658 and 662.

Angeyo Jennifer namely Block 256 Plots 659 and 660, and Omal David Livingstone namely Block 276 Plot 661.

The basis of objection application is that these properties are not liable for attachment because they were acquired prior to attachment by the objectors who are not the judgment debtors.

The evidence was given to the court with respect to the purchase of these Plots by learned Counsel Okello Oryem Alfred. I will deal with each purchase as follows:

Plots by Okello Oryem Alfred

As regards plot 656 & 657 the learned Counsel provided original title deed and incomplete transfers from the judgment debtor which are undated.

Mr. Okello maintains that these properties were fully paid and transferred to him as evidenced by possession of title deeds. These titles are marked Exhibit A1 and A 2.

No sale agreements have been produced in support of the transfer. The first Defendant maintains that the properties have not been attached and that in or around October 2008 the properties by a consent decree with another party, obtained release of all the caveats on the property.

The Objector does not state why the transfer was not completed or registered and whether he was bonafide purchaser for value. The Objector cannot intervene where there is no attachment.

The Objector holds the title deeds and he has equitable interest in the property which he did not choose to register to protect his interest.

As regards Plot 658 and 662 there is evidence of sale agreements dated 12.01.07 which were not completed by transfer or registration. The sale contract took place after the titles were delivered to a third party.

These properties are not attached. The Objector should have registered a caution or estate contract or carried out proper searches at the land Registry to establish the correct owners. Their legal representatives were not prudent in conducting all the necessary enquires to show that the purchaser was a bonafide purchaser at arm's length and for value. Any action for loss should have been against the Lawyers who acted on the purchase of the properties.

The next items relate to Block 267, Plot 659 and 660 held by Angeyo Jennifer. Two sale agreements B1 and C1, have been produced purported to be in relation to Plot 659 and 660 although the contract refers to them as plot 377, 378 and 376. The contract was signed on 22 July 2006 and had cut off point on 22nd July 2007 by which date the transfer was not completed as the installments under the contract were not paid in full. There was therefore no binding contract to transfer to the Purchaser and she was not the bonafide purchaser. This objector therefore has no interest in the properties.

The property Block 276 Plot 661 was sold to Omal David.

The sale agreement dated 29.08.06 was with 2 people and relate to Plot 332 and 333. The parties had 12 months to conclude the contract by 29.08.02. There is no evidence of invoices paid in relation to Plot 661. The contract was not concluded even if it relates to the objector or Plot 661.

The whole explanation sounds convoluted. The Objectors clearly have no interest in these Plots except whereby they hold title deeds. Their application for attachment to be lifted under order 22 Rule 55, 56 & 57 is misconceived as none of the properties were attached. The application is dismissed with costs.

Anup Singh Choudry

J u d g e

05/03/09