

**THE REPUBLIC OF UGANDA**

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

**HCT-00-CC-CS-64/2008**

**PETER MURAMIRA.....PLAINTIFF**

**VS**

**BRIAN KAGGWA.....DEFENDANT**

**BEFORE: HONOURABLE MR. JUSTICE ANUP SINGH CHOUDRY**

**R U L I N G**

This is a plaint or action brought by the Plaintiff in relation to a sale agreement dated 1<sup>st</sup> August 2007 when the property known as Plot 17B Jombe Road Luzira was sold by the Defendant Brian Kaggwa in the sum of 240 million shillings with payment of deposit of 50 million shillings on the execution of the contract and the balance of 190 million shillings was to be paid within 4 weeks from the execution of the Agreement.

The Plaintiff had paid the said deposit of 50 million shillings and evidence has also been produced by way of a telegraphic transfer of funds from the United Kingdom the previous year with respect to the payment of this deposit. However, the Purchasers were ready, able and willing to effect the completion by payment of the balance of 190 million shillings but it so happened that their Lawyers could not obtain the discharge of mortgage that was secured on the property; as a result the matter did not proceed to completion and the Defendants were seeking refund of the deposits paid to the Purchaser. Hence this claim which is before the court today for recovery of deposit.

The Plaintiff's Counsel Mr. Kenneth Kakuru informed the court that discharge of the mortgage was issued but that was issued after the Defendants resold the property to another Purchaser Davantee Union Ltd by way of Agreement dated 3<sup>rd</sup> December 2007.

Mr. Augustine Kibuuka Musoke the learned Counsel for the Defendants/Seller confirmed that it is correct that the discharge arrived or was secured after sale to the 2<sup>nd</sup> Purchaser. As such the Plaintiff was clearly entitled to get reimbursement of the deposit paid and there was no reason to hold it; in those circumstances judgment is given in favour of the Plaintiff and it is ordered that the Defendants do pay the Plaintiff the sum of 50 million shillings being the deposit paid and held to date.

Also that the Defendants do pay interest on the sum of 50 million shillings from the date of 1<sup>st</sup> August 2007 being the date when the contract was signed at the rate of 25% Plaintiff's costs in any event.

**Anup Singh Choudry**

**J u d g e**

**04/02/2009**