

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

**MISCELLANEOUS APPLICATION No. 0772 OF 2022**

**(Arising from Civil Suit Nos. 0743 of 2015 and 0078 of 2016)**

**MIAO HUA XIAN** ..... **APPLICANT**

**VERSUS**

**1. DFCU BANK** }

**2. NAMAGANDA LIMITED** } ..... **RESPONDENTS**

**Before: Hon Justice Stephen Mubiru.**

**RULING**

a. Background.

Sometime during the month of July, 2013 the applicant borrowed from the 1<sup>st</sup> respondent's predecessor in title, Crane Bank Limited, a sum of US \$ 800,000 at the rate of 12% per annum and shs. 1,500,000,000/= at the rate of 24% per annum. As security of that borrowing, the applicant pledged security of his land comprised in LRV 2744 Folio 25 Plot 47 Nabugabo Road in Kampala. It was agreed that in the event of default, the applicant was to pay penal interest at the rate of 50% per annum on the US dollar loan and 36% per annum on the shillings loan. On or about 30<sup>th</sup> July, 2014 the 1<sup>st</sup> respondent advanced a further loan of shs 70,000,000/= to the applicant, secured by multiple third party mortgages. Following disagreements between the applicant and the 1<sup>st</sup> respondent, the latter initiated the process of foreclosure on all the credit facilities, which resulted in the sale of one of the properties to the 2<sup>nd</sup> respondent.

The applicant then sued the respondents jointly and severally seeking declarations that the 1<sup>st</sup> respondent was in breach of its statutory duty owed to the applicant when it; failed to act honestly and in good faith, failed to disclose to the applicant material information relating to a mortgage, served the applicant with a default notice, issued the applicant with a notice of intention to sell, and when it advertised the applicant's property for sale. Consequently the applicant sought a declaration that the sale of his property comprised in LRV 2744 Folio 25 Plot 47 Nabugabo Road in Kampala was fraudulent, hence issue an order cancelling that sale and restoration of his name

on the title as the registered proprietor thereof by directing cancellation of the 2<sup>nd</sup> respondent's name from the title. He also sought an award of general damages, interests and costs.

5 In a judgment delivered on 7<sup>th</sup> April, 2022 the court found that although the 1<sup>st</sup> respondent breached its duty to the applicant when it advanced unsolicited loan in respect of accounts opened in the applicant's name without corresponding account opening documents, at the time of sale of the property, the applicant was indebted to the 1<sup>st</sup> respondent in the sum of shs. 6,803,764,008/= The court further found that the penal interest stipulated in the contract to be excessive thereby reducing it from 36% to 24% per annum. The 1<sup>st</sup> respondent duly issued the applicant with a demand notice,  
10 a notice to rectify the default, and the notice of sale. The property was then advertised for sale. The applicant secured a conditional grant of a temporary injunction preventing that sale, but she failed to fulfil the condition, where upon the property was sold to the 2<sup>nd</sup> respondent.

The property having been sold off at a price higher than its ascertained market value as contained  
15 in the pre-sale valuation report, the applicant's contention that it was sold at undervalue is unfounded. It was a proper sale by public auction. The 2<sup>nd</sup> respondent was a bona fide purchaser of the property. The 2<sup>nd</sup> respondent was not involved in any acts of impropriety constituting fraud. Following the sale, the 1<sup>st</sup> respondent had no lawful justification to hold in its custody the rest of the applicant's title deeds that had been used as additional collateral to secure the borrowing.  
20 Having found that the 1<sup>st</sup> respondent acted unlawfully and in breach of their duty when it irregularly extended some of the loans to the applicant, the applicant was awarded shs. 50,000,000/= in general damages. It directed the 1<sup>st</sup> respondent to return to the applicant the three other title deeds still in its custody that had been used as additional collateral to secure the borrowing. The applicant was directed to cede to the 2<sup>nd</sup> respondent, vacant possession of the  
25 property comprised in LRV 2744 Folio 25 Plot 47 Nabugabo Road in Kampala, together with the rent collected and due from the said property from the day of purchase until delivery of vacant possession. The applicant was directed to pay the 2<sup>nd</sup> respondent's costs of the suit while the applicant and the 1<sup>st</sup> respondent were each to meet their respective costs.

b. The application;

This application by Notice of motion is made under the provisions of section 33 of *The Judicature Act*, sections 98 and 99 of *The Civil Procedure Act*, and Order 43 rules 14 (1), (3) and (5); and  
5 Order 52 rules 1, 2 and 3 of *The Civil Procedure Rules* seeking an order of stay of execution of that decree, pending an appeal to the Court of Appeal. It is the applicant's case that she has already filed a notice of appeal and obtained a certified record of proceedings in preparation for filing the memorandum of appeal. Before the court of appeal, she intends to argue that once the illegal credit is discounted from the outstanding debt as found by the court, it will be determined that she  
10 discharged the debt in full. She further seeks to challenge the trial court's finding regarding the property of the sale of the mortgaged property to the 2<sup>nd</sup> respondent, among other grounds. In the meantime, the respondents have already taken steps toward execution of the decree, which if fulfilled will occasion her substantial loss, yet her appeal has a high likelihood of success. One of the orders made by the court was to cede vacant possession to the 2<sup>nd</sup> respondent. The appeal will  
15 be rendered nugatory in the event that execution proceeds before the appeal is heard and disposed of, yet the mortgaged property sold to the 2<sup>nd</sup> respondent is her only source of income. She operates a general merchandise business on the property, located in the central business district of Kampala, which will be irreplaceable once she loses it. She, in the meantime, is ready and willing to furnish security for due performance of the decree.

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c. Affidavits in reply;

In its affidavit in reply sworn by one of its legal officers, the 1<sup>st</sup> respondent contends that despite having been directed by court to cede possession of the property to the 2<sup>nd</sup> respondent, the applicant  
25 is adamant to-date. She was accordingly found to be in contempt of court. The applicant only undertakes business of general merchandise from the property sold to the 2<sup>nd</sup> respondent, whose possession therefore is not of critical importance to her business; she only needs to rent space elsewhere. The property has since 17<sup>th</sup> February, 2016 been registered to the 2<sup>nd</sup> respondent who is entitled to the undeterred enjoyment of its proprietary rights. The 1<sup>st</sup> respondent is not a  
30 judgment creditor and therefore is incapable of enforcing any of the orders issued by court in the judgment. The applicant ought to deposit shs. 200,000,000/= as security for costs.

In its affidavit in reply sworn by one of its directors, the 2<sup>nd</sup> respondent contends that in order to facilitate purchase of the property comprised in LRV 2744 Folio 25 Plot 47 Nabugabo Road in Kampala, the 2<sup>nd</sup> respondent had to take out two mortgages from two different banks in the total sum of shs. 8,600,000,000/= at a rate of interest of 21 % per annum and 26% per annum respectively. The 2<sup>nd</sup> respondent has since then repaid the mortgages in full using money generated from its other sources. The applicant has previously secured a conditional temporary injunction but failed to meet the condition, resulting in the lapse of that order. She was also the subject of an order of contempt of court that required her to pay a fine of shs. 25,000,000/= and to deposit the rental income of shs. 46,250,000/= per month in court, none of which she has complied with. The application is therefore made in bad faith by a person not willing to obey court orders. She is now indebted to the 2<sup>nd</sup> respondent in the sum of shs. 3,515,000,000/= The appeal has no chance of succeeding against the 2<sup>nd</sup> respondent who was found to be a bona fide purchaser for value by the trial court. The property has since 17<sup>th</sup> February, 2016 been registered in the name of the 2<sup>nd</sup> respondent. The execution proceedings initiated by the 2<sup>nd</sup> respondent do not involve eviction of the applicant but are directed only at recovery of the monetary award. Satisfaction of the monetary award will not affect the matter pending on appeal. In the event that the applicant loses the appeal, she does not have the capacity to compensate the 2<sup>nd</sup> respondent. Mere undertaking on her part to furnish security for due performance will not suffice,

20d. Affidavit in rejoinder;

The applicant contends that the order to deposit rent in court was directed at the tenants and not the applicant. She complied with the order by depositing in court the rent she collects and used some of it for renovations. She fully accounted for the rent she had collected and deposited it in court. She paid the fine imposed by court for the contempt of court. The finding that the 2<sup>nd</sup> respondent is a bona fide purchaser for value of the property is among those to be challenged on appeal. In execution of the decree, the 2<sup>nd</sup> respondent has applied to attach her residential property comprised in LRV 2339 Plot 19 Mackenzie Valley, Kololo which, title is still in custody of the 1<sup>st</sup> respondent and if sold off, it will occasion her irreparable loss.

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e. Submissions of counsel for the applicants.

M/s Mukiibi and Kyeyune Advocates appearing jointly with M/s Bigirwaruhanga and Atim Advocates on behalf of the applicant submitted that they duly filed a memorandum of appeal in the Court of Appeal on 23<sup>rd</sup> June, 2022. One of the grounds of appeal is that the trial court order penal interest for default yet there was no provision for penal interest in the mortgage agreement. The foreclosure proceedings were premature and therefore on appeal, they seek to challenge the sale. They intend to challenge the sale subsequent to foreclosure. They also seek to challenge the quantum awarded. One of the properties in issue is registered in the name of the applicant while the other is in the name of the 2<sup>nd</sup> respondent. The property sought to be attached is located in Kololo and is both commercial and residential. The applicant occupies part of the property. Property comprised in LRV 2339 Folio 19 Plot 53 has been attached but it is not subject to the mortgage; it is her residence. The respondents have titles which belong to the applicant and they are therefore properly secured. One of the properties is valued at 1.5 billion shillings. The 2<sup>nd</sup> respondent has no known properties registered in its names save what they seek to attach. The 1<sup>st</sup> respondent does not have property registered in its name too. If the applicant is successful on appeal, it will be an onerous obligation to recover from them. The titles they hold are sufficient to cover due performance. She deposited the amount in court as directed.

20f. Submissions of counsel for the 2<sup>nd</sup> respondent.

M/s Tumusiime, Kabega and Co. Advocates on behalf of the 2<sup>nd</sup> respondent submitted that the decree favours both the applicant and the 2<sup>nd</sup> respondent. The applicant was awarded a sum in damages. The bank was ordered to return three titles to the applicant. The penal interest was reduced from 36% to 24%. Property at Nabuganbo road was to be vacated. The sale took place six years ago and the applicant refused to vacate. She obtained an injunction on condition of payment of rent. She has never paid the money ordered into court. The appeal does not raise serious issues. There is no averment about the residence in her affidavit supporting the application. The purchaser is registered proprietor whose money was used to clear the applicant's loan.

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g. Submissions of counsel for the 1<sup>st</sup> respondent;

M/s MMAKS Advocates on behalf of the 1<sup>st</sup> respondent submitted that they oppose the application. They associated themselves with the submissions of the 2<sup>nd</sup> respondent. Grounds one and two of the appeal relate to the amount found owing, the shs. 6.8 billion. Ground one is a general ground of appeal and lack of evidence to support that finding is not part of it. The second ground relates to interest. Reduction in interest is not based on error. There are no orders at all capable of execution by the 1<sup>st</sup> respondent. To the contrary the 1<sup>st</sup> respondent is required to comply. There is an interim order pending this application. The 1<sup>st</sup> respondent is ready and willing to comply.

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The decision.

According to Order 43 rule 4 (3) of *The Civil Procedure Rules*, an application of this nature must be made after notice of appeal has been filed and the applicant should be prepared to meet the conditions set out in that Order including; - furnishing proof of the fact that substantial loss may result to the applicant unless the stay of execution is granted; that the application has been made without unreasonable delay; and that the applicant has given security for due performance of the decree or order as may ultimately be binding upon him (see *Lawrence Musiitwa Kyazze v. Eunice Businge, S. C. Civil Application No 18 of 1990*).

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The Court of Appeal in *Kyambogo University v. Prof. Isaiah Omolo Ndiege, C. A. Misc. Civil Application No 341 of 2013* expanded the considerations to include: - there is serious or imminent threat of execution of the decree or order and if the application is not granted, the appeal would be rendered nugatory; that the appeal is not frivolous and has a likelihood of success; that refusal to grant the stay would inflict more hardship than it would avoid.

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i. A notice of appeal has been filed.

The applicant have satisfied this requirement. The applicant not only filed a notice of appeal on memorandum of appeal on 12<sup>th</sup> April, 2022, but also filed a memorandum of appeal on 23<sup>rd</sup> June, 2022.

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ii. The appeal is not frivolous and has a likelihood of success;

An appeal by itself does not operate as a stay of proceedings under a decree or order appealed from  
5 nor should execution of a decree be stayed by reason only of an appeal having been preferred from  
the decree (see Order 43 rule 4 of *The Civil Procedure Rules* and Rule 6 (2) of *The Judicature  
(Court of Appeal Rules) Directions*). In other words, the ordinary rule is that an execution of the  
decree need not be stayed pending an appeal unless the appellant shows good cause.

10 The court must be satisfied that the prospects of the appeal succeeding are not remote but that there  
is a realistic chance of succeeding. More is required to be established than that there is a mere  
possibility of success. That the case is arguable on appeal or that the case cannot be categorised as  
hopeless. There should be a sound, rational basis, founded on the facts and the law, and a measure  
of certainty justifying the conclusion that the appellate court will differ from the court whose  
15 judgment has been appealed against; that the appellate court could reasonably arrive at a  
conclusion different from that of the trial court.

The appeal will be considered frivolous if *prima facie* the grounds intended to be raised are without  
any reasonable basis in law or equity and cannot be supported by a good faith argument. If there  
20 is a strong showing that the appeal has no merit, that is strong evidence that it was filed for delay  
or not in good faith. Additional evidence indicating a frivolous appeal is the applicant's conduct  
of prior litigation which may show that the appeal is merely part of a series of suits, applications  
and appeals over the same subject matter in which the applicant has engaged with no success or  
no chance of success. The prior litigation or procedural history can be used to establish the lack of  
25 merit in the present appeal or the bad faith of the applicant in filing the present appeal.

The applicant has not provided court with a copy of the memorandum of appeal already filed but  
both parties have in their submissions given the court an insight into the nature of grounds raised.  
The thrust of the appeal focuses on the validity of the 1<sup>st</sup> respondent's sale of property comprised  
30 in LRV 2744 Folio 25 Plot 47 Nabugabo Road in Kampala. The applicant seeks to argue that the  
trial court erred when it found that the applicant was indebted to the 1<sup>st</sup> respondent in the sum of

shs. 6,803,764,008/= at the time of that sale. The applicant also seeks to challenge the finding that the 2<sup>nd</sup> respondent was a bona fide purchaser for value of that property as well as the finding that the applicant was liable to penal interest. Having perused the judgment and considered the proposed grounds of appeal, I have formed the opinion that the appeal is only against part of the judgment and there is a reasonable basis in law and equity to support the grounds raised. They can be supported by good faith argument. As a result, the Court of Appeal could reasonably arrive at a conclusion different from that of the trial court. The appeal therefore is not frivolous

iii. The appeal would be rendered nugatory;

Nugatory means “of no force or effect; useless; invalid.” In this context, the term “nugatory” has to be given its full meaning. It does not only mean worthless, futile or invalid, it also means trifling. Whether or not an Appeal will be rendered nugatory if a stay is not granted depends on whether or not what is sought to be stayed if allowed to happen will be reversible, or if it is not reversible, whether damages will reasonably compensate the party aggrieved, or it is in the public interest to grant a stay. This may include all cases where it is necessary to preserve the status quo pending appeal, so that the rights involved in the appeal may not be lost or reduced by reason of an intervening execution of the judgment.

Satisfaction of a money decree does not ordinarily pose the danger of rendering a pending appeal nugatory, where the respondent is not impecunious, as the remedy of restitution is available to the applicant in the event the appeal is allowed. It is the applicant’s contention that the 2<sup>nd</sup> respondent is impecunious in so far as it had to borrow to purchase the property and it has no other known assets apart from that property. Despite that challenge, the 2<sup>nd</sup> respondent has not furnished court with any reliable evidence on basis of which a finding of financial standing may be made. The applicant in the circumstances has to take the benefit of the doubt thereby raising the presumption that payment made to the 2<sup>nd</sup> respondent in execution of the decree may not be reversible in the event of the applicant succeeding on appeal, yet it has not been shown that damages will reasonably compensate the applicant, or that it is not in the public interest to grant a stay.



iv. The application has been made without unreasonable delay.

Applications for a stay of execution ought to be made within a reasonable time. Whether delay is unreasonable will depend on the peculiar facts of each case. Delay must be assessed according to the circumstances of each case. The reckoning of time to determine if a delay is unreasonable begins at the time the decree or order is sealed and becomes enforceable.

In the instant case, the judgment was rendered on 7<sup>th</sup> April, 2022, and the decree was duly extracted and sealed. The application was filed slightly over two months later on 21<sup>st</sup> June, 2022. I therefore do not find any unreasonable delay in the filing this application. It is also apparent that the applicant has proceeded with the preliminary steps required for the appeal, with considerable speed.

v. There is serious or imminent threat of execution of the decree or order and if the application is not granted.

Imminent threat means a condition that is reasonably certain to place the applicant's interests in direct peril and is immediate and impending and not merely remote, uncertain, or contingent. An order of stay will issue only if there is actual or presently threatened execution. There must be a direct and immediate danger of execution of the decree. There should be unequivocal evidence showing that unconditional steps as to convey a gravity of purpose and imminent prospect of execution of the decree, have been taken by the respondent. Steps that demonstrate a serious expression of an intent include; extracting the decree, presenting and having a bill of costs taxed, applying for issuance of a warrant of execution and issuing a notice to show cause why execution should not issue.

It is common ground that the 1<sup>st</sup> respondent has applied for the attachment and sale of the applicant's property comprised in LRV 2339 Plot 19 Mackenzie Valley, Kololo. I therefore find that unconditional steps that convey a gravity of purpose and imminent prospect of execution of the decree have been taken by the 2<sup>nd</sup> respondent.

vi. Substantial loss may result to the applicant unless the stay of execution is granted.

Substantial loss does not represent any particular size or amount but refers to any loss, great or small that is of real worth or value as distinguished from a loss that is merely nominal (see *Tropical Commodities Supplies Ltd and Others v. International Credit Bank Ltd (in Liquidation)* [2004] 2 EA 331). “Substantial” though cannot mean the ordinary loss to which every judgment debtor is necessarily subjected when he or she loses his or her case and is deprived of his or her property in consequence. The applicant must establish other factors which show that the execution will create a state of affairs that will irreparably affect or negate the very essential core of the applicant as the successful party in the appeal. The loss ought to be of a nature which cannot be undone once inflicted.

The court has to balance the interest of the applicant who is seeking to preserve the status quo pending the hearing of the appeal so that his or her appeal is not rendered nugatory and the interest of the respondent who is seeking to enjoy the fruits of his or her judgment (see *Alice Wambui Nganga v. John Ngure Kahoro and another, ELC Case No. 482 of 2017 (at Thika); [2021] eKLR*). For that reason execution of a money decree is ordinarily not stayed since satisfaction of a money decree does not amount to substantial loss or irreparable injury to the applicant, where the respondent is not impecunious, as the remedy of restitution is available to the applicant in the event the appeal is allowed. In the instant case though, doubt has already been cast on the 2<sup>nd</sup> respondent’s capacity to recompense the applicant in the event that the decision on appeal is in her favour.

vii. Refusal to grant the stay would inflict more hardship than it would avoid.

The Court has the duty to balance or weigh the scales of justice by ensuring that an appeal is not rendered nugatory while at the same time ensuring that a successful party is not impeded from the enjoyment of the fruits of his or her judgement. No doubt it would be wrong to order a stay of proceedings pending appeal where the appeal is frivolous or where such order would inflict greater hardship than it would avoid (see *Erinford Propertied Ltd. v. Cheshire County Council* [1974] 412

All ER 448). It is also a fundamental factor to bear in mind that, a successful party is *prima facie* entitled to the fruits of his or her judgement.

5 It was argued by counsel for the 2<sup>nd</sup> respondent that the applicant has previously not complied with court orders directing her to deposit money in court, and presumably, she does not deserve the exercise of discretion in her favour. I have perused the relevant rulings and the applicant's affidavit in rejoinder. I have not found evidence supporting that argument. The applicant has attached proof of payments made into court since the orders were made.

10 The attachment and sale of property belonging to a judgment debtor will almost inevitably cause consequences which may appear harsh to the judgment debtor. However, these are a normal consequence of execution of a decree and something additional will be required before the judgment creditor's execution of a decree pending appeal is considered oppressive. In order to merit an order of stay of execution of a decree involving the ordinary residence of the judgment  
15 debtor, the applicant ought to satisfy court that eviction therefrom will occasion the applicant undue hardship, i.e. significant difficulty, expense or disruption. It should be hardship which is excessive or disproportionate in all the circumstances of the case. Undue hardship must be based on an individualised assessment of current circumstances that show that the eviction would cause significant difficulty, expense or disruption, beyond that to which every judgment debtor is  
20 necessarily subjected when he or she loses his or her case and is deprived of his or her property in consequence.

While execution of the decree may not directly affect the merits of the appeal, it has the potential to significantly affect the applicant's financial resources, to an extent that may incapacitate her as  
25 she pursues the appeal. Extreme hardship will be a justification for an order of stay of execution pending an appeal where, it has the potential to significantly affect the applicant's financial resources, to an extent that may incapacitate her as she pursues the appeal. While extreme hardship must involve more than the common consequences of being a judgment debtor, the extreme hardship standard is not as high as the significantly more burdensome "exceptional and extremely  
30 unusual" hardship standard that applies to other forms of adjudications, such as when a stay of sale is sought by a spouse to a mortgagor. All factors and consequences must be considered in their

totality and cumulatively. In some cases, common consequences of being a judgment debtor that on their own do not constitute extreme hardship may result in extreme hardship when assessed cumulatively with other factors.

5 In the instant case, the applicant, who apparently is a non-citizen, has no known social attachments in Uganda outside her business undertakings. She has already deposited in court substantial amounts of money as ordered by court, yet she may not have alternative financial and social support as is ordinarily available to citizens. She has averred that she occupies LRV 2339 Plot 19 Mackenzie Valley, Kololo as her residence, yet it is the property now threatened with attachment  
10 and sale before the appeal is heard. For a person in that situation, the residential property constituting her home is ought to be given special status because it may well be the most valuable asset that she owns and because it is the heart of where her life unfolds. For many person in that situation, the home represents the largest and most significant asset, and it is also a place of great emotional and personal significance. Readjusting to life in a foreign country after such a sale may  
15 cumulatively cause extreme emotional and financial hardship. This court has already directed that the title to that property be returned to her, yet it is still being held by the 1<sup>st</sup> respondent. The 1<sup>st</sup> respondent still holds onto two other properties registered to her name. Eviction from her residence as a result of attachment and sale in execution of the decree pending appeal therefore presents excessive hardship which is disproportionate in all the circumstances of the case. Refusal to grant  
20 the stay would therefore inflict more hardship than it would avoid.

viii. The applicant has given security for due performance of the decree or order.

In granting an order of stay of execution pending an appeal, the court has to balance the need to  
25 uphold the respondent's right to be protected from the risk that the appellant may not be able to satisfy the decree, with the appellant's right to access the courts. It is the reason that courts have been reluctant to order security for due performance of the decree. This requirement has been interpreted as not operating as an absolute clog on the discretion of the Court to direct the deposit of some amount as a condition for grant of stay of execution of the decree in appropriate cases,  
30 more particularly when such direction is coupled with the liberty to the decree holder to withdraw

a portion thereof in part satisfaction of the decree without prejudice and subject to the result of the appeal.

5 Courts have instead been keen to order security for Costs (see *Tropical Commodities Supplies Ltd and others v. International Credit Bank Ltd (in liquidation)* [2004] 2 EA 331 and *DFCU Bank Ltd v. Dr. Ann Persis Nakate Lussejere, C. A Civil Appeal No. 29 of 2003*), because the requirement and insistence on a practice that mandates security for the entire decretal amount is likely to stifle appeals. The purpose of an order for security for costs on an appeal is to ensure that a respondent is protected for costs incurred for responding to the appeal and defending the proceeding, which  
10 therefore implies such an order does not adequately meet entirely the purpose of security for due performance of the decree. In the case of a money decree, furnishing security for due performance of the decree denotes providing depositing the disputed amount.

15 Although the applicant has undertaken to furnish such security, the court has a duty in exercise its discretion to grant stay of execution of a money decree, to balance the equities between the parties and ensure that no undue hardship is caused to a decree holder due to stay of execution of such decree. For that reason, alternatively the Court in its discretion may direct deposit of a part of the decretal sum so that the decree holder may withdraw the same without prejudice and subject to the result of the appeal. Such direction for deposit of part of the decretal sum is not for the purpose of  
20 furnishing security for due performance of the decree but an equitable measure ensuring part satisfaction of the decree without prejudice to the parties and subject to the result of the appeal as a condition for stay of execution of the decree.

25 Considering that the 1<sup>st</sup> respondent still holds onto three titles to properties registered to the applicant's name, which in my view suffice as security for due performance of the decree, execution of the decree is hereby unconditionally stayed pending the disposal of the appeal. The costs of this application are to abide the result of the appeal.

30 Delivered electronically this 18<sup>th</sup> day of July, 2022

.....Stephen Mubiru.....  
Stephen Mubiru  
Judge,  
18<sup>th</sup> July, 2022.