

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT KAMPALA  
CIVIL SUIT NO. 632 OF 2001**

**CHRISTINE NAKAWOMBE MUKASA ..... PLAINTIFF**

**VERSUS**

1. **DAVID MUKASA SENYONDWA}**
2. **ROSE NANSUBUGA NTULUME}**
3. **HAJI BURUHANI MATOVU }..... DEFENDANTS**

**BEFORE: THE HONOURABLE MR. JUSTICE MOSES MUKIIBI.**

**PROCEEDINGS:**

14. 5. 2002 at 9.20 am.

Ms. Kauma – for Plaintiff.

Plaintiff is absent.

Ms. Ruth Nakakawa for 1<sup>st</sup> and 2<sup>nd</sup> defendants.

Counsel for 3<sup>rd</sup> defendant is not in court.

None of the defendants is in court.

Ngobi: Court Clerk/Interpreter.

Ms. Kawuma:- I received the hearing Notice late on 10/5/2002. I attempted to contact the plaintiff. She had contacted me earlier but she could not give me “full instructions” to proceed. I expected her to call on me on Monday (yesterday) but she did not turn up. I pray for adjournment to a definite date.

Court:- By consent of both Counsel this case is adjourned to Wednesday 12/6/2002 at 9.00am for holding a scheduling conference.

MOSES MUKIIBI

**JUDGE**

14/5/2002.

12/6/2002 at 9.10 am

Counsel for plaintiff is absent.

Ms. Ruth Nakakawa – Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> defendants.

Counsel for the 3<sup>rd</sup> defendant not in court.

Plaintiff is in Court.

2<sup>nd</sup> defendant is in Court.

3<sup>rd</sup> defendant is not in Court.

Ngobi: Court Clerk/Interpreter.

Ms. Nakakawa:- I received two letters from counsel for the plaintiff saying that she is unable to proceed today.

I pray for a dismissal or in case court is inclined to grant an adjournment let it be the last adjournment.

Court:- Plaintiff, where is your lawyer?

Plaintiff:- My lawyer told me to bring you this letter. She is attending a workshop. Last time I was in the village. I did not know of the hearing date. Please forgive me.

Court:- I do grant an adjournment for the last time at the instance of the plaintiff. I ward today's costs to the 2<sup>nd</sup> defendant alone in any event. The 3<sup>rd</sup> defendant is warned to attend court or else drastic measures may be taken against him. There is no reason why Counsel for the 3<sup>rd</sup> defendant is not in court.

MOSES MUKIIBI

**JUDGE**

12/6/2002.

Court:- With consent of Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> defendants the case is adjourned to Friday 12/7/2002 at 9.00 am for a scheduling conference. This date is said to acceptable to Counsel for the plaintiff.

MOSES MUKIIBI

**JUDGE.**

12/6/2002.

12/7/2002 at 9.20 am.

Ms. Kawuma for plaintiff.

Plaintiff is in court.

Ms. Ruth Nakakawa for 1<sup>st</sup> and 2<sup>nd</sup> defendants.

1<sup>st</sup> and 2<sup>nd</sup> defendants are in court.

Ms. Nakabuye Dorah – for 3<sup>rd</sup> defendant.

3<sup>rd</sup> defendant is in court.

Ngobi: Court Clerk/Interpreter.

Ms. Kawuma:- We have come to hold a scheduling conference where we intend to identify issues and exchange documents.

Ms. Nakakawa: I am ready to proceed.

Ms. Nakabuye: I am ready to proceed.

Court:- let us identify the agreed facts.

Ms. Kawuma:- It is agreed that Letters of Administration were granted to the first and second defendants. It is also agreed that the suit property is part of the deceased's estate. It is agreed that the plaintiff is a daughter and beneficiary of the deceased's estate.

It is agreed that the 1<sup>st</sup> defendant sold a Kibanja which included some developments situate at Kibuye along Salama Road to the 3<sup>rd</sup> defendant, and this property was originally part of the deceased's estate.

It is agreed that to date the 1<sup>st</sup> and 2<sup>nd</sup> defendants have not filed in court an inventory or an account in respect of the deceased's estate. It is agreed that the administrators of the estate convened a family meeting to discuss distribution of the deceased's estate.

It is agreed that a family meeting was held on 8<sup>th</sup> August 1992 and it was at that meeting that the 1<sup>st</sup> and 2<sup>nd</sup> defendants were nominated to apply for Letters of Administration.

It is agreed that at the same meeting some scheme of distribution of the deceased's estate was agreed upon by members of the family. The scheme of distribution is contained in the minutes of the meeting dated 8<sup>th</sup> August, 1992.

The minutes should be admitted in evidence by consent of all Counsel.

Ms. Nakakawa:- Yes, I do agree.

Ms. Nakabuye:- Yes, I agree.

Court:- By consent of all Counsel the minutes of a family meeting (of the late Adonia Mukasa) held on 8<sup>th</sup> August, 1992 are admitted in evidence and marked Exhibit PD IA, and an English Translation of the same is marked Exhibit PD I B.

Ms. Nakakawa:- It is agreed that following upon the nomination made by the family on 8/8/1992 the 1<sup>st</sup> and 2<sup>nd</sup> defendants applied to the High Court vide Admin. Cause No. 321 of 1993 for Letters of Administration. We pray that the grant of Letters of Administration to the 1<sup>st</sup> and 2<sup>nd</sup> defendants be admitted in evidence by consent of all Counsel.

Ms. Kawuma:- I do agree.

Ms. Nakabuye:- I do agree also.

Court:- By consent of all Counsel a certified copy of a grant of Letters of Administration under Admin. Cause No. 321 of 1993 dated 8<sup>th</sup> Feb. 1994 to the 1<sup>st</sup> and 2<sup>nd</sup> defendants is admitted in evidence and marked Exhibit PD2.

Ms. Kawuma:- I pray that the Petition for Letters of Administration and the Declaration in Admin.Cause No. 321 of 1993 be admitted in evidence by consent of all Counsel.

Ms. Nakakawa:- Yes I agree.

Ms. Nakabuye:- I agree too.

Court:- Certified copies of the Petition and the Declaration in Admin. Cause No. 321 of 1993 are, by consent of all counsel, admitted in evidence and jointly marked Exhibit PD3.

Court:- It is agreed by all Counsel as follows:

1. There is a document in existence contained in a black big book believed to be in the chambers of the late Buyondo Advocate. The book contains other things as well.
2. The document was written by the late Adonia Mukasa.
3. The document was read by members of the deceased's family.
4. The members of the family found it to be a useful document.
5. The members of the family at their meeting held on 8<sup>th</sup> August, 1992 agreed that they would consider the document and use it in some areas in the distribution of the deceased's estate.

Ms. Kawuma:- It is correct.

Ms. Nakakawa:- It is a correct position.

Ms. Nakabuye:- It is agreed. I have no objection.

Ms. Kawuma:- I have a burial. I request for an adjournment.

Ms. Nakabuye:- No objection.

Ms. Nakakawa:- No objection.

Court:- By consent of all Counsel the scheduling Conference is adjourned to Tuesday 27/8/2002 at 2.30 pm.

MOSES MUKIIBI

**JUDGE.**

12/7/2002.

1/7/2003 at 12.05 pm.

Ms. Cecilia Ssentongo – Counsel for Plaintiff.

Plaintiff is in Court.

Mr. Serwadda – Counsel for 1<sup>st</sup> and 2<sup>nd</sup> defendants.

1<sup>st</sup> and 2<sup>nd</sup> defendants are in court.

Ms. Munaabi – holding brief for Ms. Nakabuye – Counsel for the 3<sup>rd</sup> defendant.

3<sup>rd</sup> defendant is not in court.

Ngobi:- Court Clerk/Interpreter.

Mr. Sserwadda: I have taken over from Ms. Nakakawa who is no longer with our firm. I am now substantive counsel for the 1<sup>st</sup> and 2<sup>nd</sup> defendants.

Ms. Ssentongo:- I am holding brief for Mrs. Kakooza Mulyagonja.

Ms. Kawuma is out of the country. Mrs. Kakooza Mulyagonja had another matter before Justice Kagaba – HCT – CO – DC NO. 0012- 2002 – Atsushwada Vs Elizabeth Kababito. I am a new member of the firm. I joined in May, 2003.

Mr. Serwadda:- I came ready to proceed.

Ms. Sentongo:- I intend to take over this matter on behalf of the plaintiff.

I pray for adjournment of the case.

Mr. Serwadda:- I reluctantly consent to an adjournment. I pray for today's costs in any event.

Court:- This is a matter which is quite involved. Ms. Ssentongo said that she is new in the law firm. It is true that her senior partner Mrs. Mulyagonja was appearing before Hon. Justice Kagaba. So nobody could prepare to could conduct the case today. Mr. Serwadda is also new in the case. He was not too sure which stage Ms. Nakakawa had reached. This is a situation where all the original counsels who were conducting the case are not available. We have to chart out a new course with new Counsel. It is not fair to penalize any party by way of costs. So, I grant the adjournment sought by Counsel for the plaintiff but order today's costs to be in the cause.

MOSES MUKIIBI

**JUDGE**

1/7/2003.

Court:- By consent of Mr. Serwadda and Ms. Ssentongo this case is adjourned to Friday 19/9/2003 at 9.00 am for completing the scheduling conference.

MOSES MUKIIBI

**JUDGE**

1/7/2003.

27/11/2003 at 9.40 am.

Ms. Munaabi Betty – Counsel for the 3<sup>rd</sup> defendant.

The 3<sup>rd</sup> is absent.

Plaintiff and her Counsel are absent.

1<sup>st</sup> and 2<sup>nd</sup> defendants are absent.

Counsel Serwadda is absent.

Ngobi: Court Clerk/Interpreter.

Ms. Munaabi: Today's date was fixed by consent of all counsel. Mr. Serwadda for the 1<sup>st</sup> and 2<sup>nd</sup> defendants was present. Ms. Sentongo for plaintiff was also present. I was also present for the 3<sup>rd</sup> defendant. We all agreed on a date given by the court clerk. The plaintiff and the 1<sup>st</sup> and 2<sup>nd</sup> defendants were all in court. So all counsel involved in this case were present and they are aware of this date.

Court:- Ngobi (Court Clerk) how did you fix this date?

Ngobi:- All Counsels agreed amongst themselves on this date 27<sup>th</sup> Nov. 2003. The parties mentioned by counsel were also around. I had wanted to take them before the Deputy Registrar (Civil) but he was also absent. My role was to witness the consent. I fixed the case for hearing today at 9.00 am. I entered this information in the diary in the presence of all counsel.

Court:- I reluctantly adjourn this case sine die. Counsel for the Plaintiff should take the initiative to have the case fixed for hearing. I award costs for today to the 3<sup>rd</sup> defendant in any event to be paid by the plaintiff.

MOSES MUKIIBI

**JUDGE**

27/11/2003.

13/4/2004 at 9.30 am.

Ms. Kawuma:- Counsel for plaintiff.

Plaintiff is in court.

Mr. Sserwadda: Counsel for the 1<sup>st</sup> and 2<sup>nd</sup> defendants is absent

1<sup>st</sup> and 2<sup>nd</sup> defendants are absent.

Ms. Munaabi Betty – Counsel for the 3<sup>rd</sup> defendant is absent.

3<sup>rd</sup> defendant is absent.

Ngobi: Court Clerk/Interpreter.



Ms. Kawuma:- The case was fixed by court. We served M/s Ibanda Nahamya and Co. Advocates, Counsel for the defendant. They intimated that the date was not convenient; that they had previously fixed a Civil Suit No. 285/2003 and a Criminal Case. So we did not bother to serve M/s Kalenge, Bwanika and Co. Advocates. So I have come to apply for adjournment.

Court:- With the consent of Counsel for the plaintiff this case is adjourned to Wednesday 18.2004 at 9.00 am to complete the scheduling conference.

MOSES MUKIIBI

**JUDGE**

13/4/2004.

26/11/2004 at 12.15 pm.

Ms. Kawuma for plaintiff.

Plaintiff is in court.

Mr. Serwadda – Counsel for 1<sup>st</sup> and 2<sup>nd</sup> defendants.

1<sup>st</sup> and 2<sup>nd</sup> defendants in court.

Counsel for the 3<sup>rd</sup> defendant absent.

3<sup>rd</sup> defendant is absent.

Ngobi: Court Clerk/Interpreter.

Ms. Kawuma:- I have no affidavit of service to prove the 3<sup>rd</sup> defendant was served. I apply for an adjournment. There must have been oversight on the part of the serving clerk.

Mr. Serwadda:- I pray for costs for today. We have attended court ready to proceed.

Court:- By consent of both Counsel this case is adjourned to Wednesday 15/12/2004 at 9.00 am to complete the scheduling Conference. Counsel for the Plaintiff should serve the Counsel for the 3<sup>rd</sup> defendant early enough. Costs for today awarded to 1<sup>st</sup> and 2<sup>nd</sup> defendants.

MOSES MUKIIBI

**JUDGE**

26/11/2004.

15/12/2004 at 9.30 am.

Mrs. Kawuma for plaintiff.

Plaintiff is in court.

Mr. Serwadda – for 1<sup>st</sup> and 2<sup>nd</sup> defendants

2<sup>nd</sup> defendant is in court.

Ms. Betty Munaabi for 3<sup>rd</sup> defendant

3<sup>rd</sup> defendant is in court.

Ngobi: Court Clerk/Interpreter.

Ms. Kawuma Eva Luswata:- We wish to continue with the Scheduling Conference.

Court:- Yes, go a head.

Ms. Kawuma:- We have agreed on certain positions.

The plaintiff wishes to withdraw her suit against the 3<sup>rd</sup> defendant. The 3<sup>rd</sup> defendant too wishes to withdraw his counterclaim against the plaintiff.

Each party shall bear its own costs.

Ms. Betty Munaabi:- That is the position.

Court:- Leave is hereby granted to the plaintiff under 0.22 r.1 (2) of the CPR to withdraw her suit wholly against the 3<sup>rd</sup> defendant. The 3<sup>rd</sup> defendant has not prayed for costs. So I make no order as to costs.

MOSES MUKIIBI

**JUDGE**

15/12/2004.

Court:- Leave is hereby granted to the 3<sup>rd</sup> defendant under 0.22 r.1 (2) of the CPR to withdraw his counterclaim wholly against the plaintiff. The Plaintiff has not prayed for costs, and so I make no order as to costs.

MOSES MUKIIBI

**JUDGE**

15/12 2004.

Mrs. Kawuma:- We have also agreed that the plaintiff withdraws her suits wholly against the 1<sup>st</sup> and 2<sup>nd</sup> defendants, and that each party bears his/her own costs.

Mr. Sserwadda:- What my learned friend has stated is partly true. I want the plaintiff to pay costs of the withdrawal.

2<sup>nd</sup> defendant:- The estate of the deceased should meet the costs of defending the suit.

Court:- Leave is hereby granted to the plaintiff under 0.22 r.1.

(2) Of the C.P.R. to withdraw her suit wholly against the 1<sup>st</sup> and 2<sup>nd</sup> defendants. It is ordered that the 1<sup>st</sup> and 2<sup>nd</sup> defendants' costs of defending the suit be paid out of the estate of the late Adonia Mukasa.

MOSES MUKIIBI

**JUDGE**

15/12/2004.