

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA
HCT-05-CS-0003-1998

ASIIMWE ROGERS & OTHERSPLAINTIFFS

VS

JAMES SOZI & 2 OTHERSDEFENDANTS

BRFORE: THE HON. MR. JUSTICE P. K. MUGAMBA

RULING

The plaintiffs sought to recover land they claim was wrongly included in the property being held by the third defendant, the Non Performing Assets Recovery Trust. After the scheduling conference Mr. Sozi, counsel for the third defendant, raised three preliminary points of objection. These were:

1. Block 37 Plot 10 which is in issue was registered in the names of James Sozi in 1980 and was subsequently transferred into the names of the donor of the power of attorney in 1983. As this is an action in land it should have been initiated in 1995 at the latest and was therefore barred by time when it was filed in 1998.
2. This being an action involving Non-Performing Assets under the Non Performing Assets Recovery Trust Act (cap. 95) the High Court has no jurisdiction to hear it.
3. No Statutory notice was served on the 3rd defendant as required under the Civil Procedure and Limitation (Miscellaneous Provisions) Act, Cap 72, as ought to be the case before a suit is instituted.

I shall deal with the second objection first. The third defendant is sued and paragraph 8 of the plaint gives some detail of the plaintiff's grievance against the third defendant and paragraph 22 asks for reliefs which would affect the third defendant. The third defendant is, needless to say, a creature of the Non Performing Assets Recovery Trust Act, Cap 95 of the Laws of Uganda. Section 14 of the Act is instructive and states:

‘14. Jurisdiction of the Tribunal

(1) The Tribunal shall have exclusive jurisdiction to hear and determine all matters arising under this Act or relating to any non performing asset transferred to the trust under the Act.’

My sister Arach Amoko J held in *Haruna Kigongo vs Non Performing Assets Recovery Trust*, Misc. Appl. No. 859 of 2000 that section 14 of the Act does indeed oust the jurisdiction of the High Court in matters pertaining to the Act. I agree with her reasons behind that finding and hold that as this matter involves the Act the proper court to hear it is the Tribunal established under the Act.

Having found as I have this court should have the case dismissed with costs. The other objections are moot in the circumstances.

P. K. Mugamba

Judge

27th April 2005

27th April 2005

Mr. Dhabangi for the plaintiff

Mr. Sozi for the 3 defendant

Plaintiff in court

Ms Tushemereirwe court clerk/interpreter

Court:

Ruling read in court.

P. K. Mugamba

Judge