

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
HCT-00-CV-MC-0070-2004

STEVEN PEPE APPLICANT

- VERSUS -

THE REGISTRAR OF TITLES RESPONDENT

BEFORE: HON. MR JUSTICE RUBBY AWERI OPIO

J U D G M E N T:-

This application was brought by notice of motion under sections 181 and 182 of the Registration of Titles Act Cap. 230, section 14 (2) of the Judicature Act Cap. 13 section 98 of the Civil Procedure Act and Order 48 rule 1 of the Civil Procedure Rules. The application was for orders that:-

- (a) The respondent, her/his agents and or servants, set forth, substantiate and uphold his/her grounds for his/her refusal to register the applicant as proprietor of the land comprised in Block 19 Plot 5 at Ggomba Kalaybwalo.
- (b) The respondent registers the applicant as proprietor of the suit land.
- (c) Costs of the application be provided for.

The grounds of the application are briefly that:-

- 1) The respondent is the purchaser and beneficial owner of the suit and comprised in Block 19 Plot 5 at Block 19 Plot 5 at Kalaybwalo, Sabaddu Ggomba, Mpigi District.
- 2) The applicant purchased the suit land from the registered proprietor, Badru Ssali, in 1991 and is, since then, in possession of the suit land.
- 3) In April 2001, the applicant lodged a caveat with the respondent, but without an explanation the respondent has since declined to register the caveat lodged by the applicant.
- 4) In November 2001 the applicant applied to the respondent to register his name as proprietor of the suit land, but the respondent declined to do so.
- 5) Since 1991, the applicant resides at, and has made substantial development on the suit land.
- 6) If the applicant is not registered as proprietor of the suit land, he shall be deprived of his constitutional rights to property and in particular, he should be denied his interest in the suit land and shall suffer irreparable injury and loss.

The application was supported by affidavit deposed by the applicant on 11th May 2004.

The salient paragraphs of the affidavit are paragraphs 2-10. The applicant deposed that he purchased the suit land from the registered proprietor one Badru Ssali in 1991 after entering into a sale agreement. Thereafter he was handed over transfer forms and certificate of title. Upon the above transaction he entered into uninterrupted possession of the property and made numerous and substantial developments thereon, including custodian of residential and farm house. Subsequently, when he tried to register the said property in his name, he lodged a caveat on the suit land but the respondent declined to register the same. In November 2001 he tried to register his name as proprietor of the suit land but the respondent again declined to register his name thereon without any reasons. Hence this application.

Mr Twesigye who appeared for the applicant relied on the case of **Andrea Lwanga Vs The Registrar of Titles [1980] HCB 24**. After perusing the sale agreement and transfer forms it appears that the applicant has some interest in this suit land. Certificate of title attached was however too faint

to be legible. All the same I think the Registrar of titles should have entertained the applicant's caveat to be registered to allow the said interest to be protected against other claimants. To the extent, I made an order that the applicant's caveat be registered by the Registrar of Titles.

As far as registration of the applicant as a registered proprietor is concerned, it would be proper to have the Registrar in court to explain his reservations on the matter. That is in line with the decision in the case of **Andrea Lwanga** (supra). In conclusion this application is partly granted in the interest of justice. No orders as to costs in made.

RUBBY AWERI OPIO

JUDGE

9/8/2005.

12/12/2005:-

Parties in court.

Court:-

This ruling is over due. Parties have not been coming. They seem to have lost interest in the matter. Ruling is therefore delivered in absentia.

RUBBY AWERI OPIO

JUDGE

9/8/2005.