

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
HOLDEN AT MBALE**

HCT-04-CV-CR-0013-2012

(Arising from Family Cause No. 0004/2011)

NEKESA EDISA.....APPLICANT

VERSUS

1. WOGONGOBA WILLIAM

2. THOMAS WESAMOYO.....RESPONDENTS

BEFORE THE HON. MR. JUSTICE STEPHEN MUSOTA

ORDER IN REVISION

Under Section 14 of the Children Act, a Family and Children Court (FCC) has power to hear and determine;

- (a) Criminal charges against a child subject to Section 93 and 94 and
- (b) Applications relating to child care and protection.

Section 93 outlines the criminal jurisdiction of a Family and Children Court and Section 94 lists orders which can be made by that court.

In the same vein a FCC can determine parentage and may in the same proceedings grant custody of a child to an applicant on such conditions as it may deem fit. The court can under Section 76 of the Act entertain an application for child maintenance and may make an order against the mother or father of the child. A maintenance order may include feeding, clothing, education and general welfare of the child.

In the file before me, the matter under consideration was handled by the Magistrate Grade II Sironko and it was an application for maintenance and custody.

From the scanty record of proceedings it is clear that the Magistrate paid little attention to what he was doing. At the end of the proceedings, an order was extracted in the following terms:-

“IT’S HEREBY ORDERED AS FOLLOWS:

- 1. That the respondent (2) should give vacant possession of a plot and the house of the applicant.*
- 2. Costs to the applicant.”*

It is not clear what would happen to the 1st respondent.

From the law outlined above, I am in agreement with the opinion by the learned Chief Magistrate that the Magistrate Grade II had no jurisdiction to adjudge land to any of the parties before him in a matter for maintenance and custody. His order is therefore misplaced and of no legal effect. A court which acts without jurisdiction renders all its orders a nullity. The order by the trial Magistrate will be quashed and set aside.

A retrial is ordered before another competent and more serious court.

Stephen Musota

JUDGE

15.08.2012