

In the High Court of Uganda Holden at Soroti

Civil Suit No. 15 of 2017

1. Agama Richard :::::::::::::::::::::::::::::::::::::: Plaintiffs

 V_S

Okwakol Joseph & 11 Others Defendants

Before: Hon. Justice Dr Henry Peter Adonyo

Judgment

The plaintiffs filed this suit against the defendants jointly and severally for the following orders;

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c. A declaration that the defendants have illegally, unlawfully, maliciously interfered with the plaintiff's rights ignoring court orders.

5 d. A permanent injunction, special damages, exemplary damages, general damages, payment of interest and costs.

The 1st plaintiff is the Administrator of the Estate of the late Ikuret Peter and beneficiary of suit land comprised in Atutur together with his brothers.

10 On the 7th /08/2016, Court of Appeal issued an order staying execution of Civil Appeal No. 16 of 2013 of Soroti which allowed the plaintiffs to remain and utilize 85 acres of the suit land at Atutur Sub-county, the respondent in Appeal to utilize 15 acres where the school is located.

15 Apparently, either through ignorance of the law or by deliberate acts, the defendants stopped the plaintiffs from using the suit land as ordered by court, destroyed their crops and houses of the plaintiffs in total violation of the court order.

20 The plaintiffs' property was destroyed and vandalized by the defendants and/or their agents after holding several meetings contrary to the pronouncement in the order of the Court of Appeal.

The defendants themselves variously discussed and held meetings that stopped the plaintiffs from tending to their crops and cultivating the suit land as pronounced by the Court of Appeal. The plaintiffs attended some of the meetings.

25 The Defendants were further quoted by newspapers threatening the plaintiffs in which direct threats were issued on 13th -19th April 2017 in the Etop Newspaper.

30 The defendant's in their joint written statement of defence denied the claim and contended that in about March 2017, the 1st and 3rd defendants got information from the plaintiff that the community had stopped him from using his land yet he had a court order giving him the land.

5 That later after the District Police Commander of Kumi got intelligence concerning a brewing conflict about the suit land and the 3rd defendant called a meeting.

10 Upon reaching the suit land people from the village were demonstrating and threatened violence but were calmed by the 1st defendant and his team who informed the rioters that they had not come to implement any court order and further advised the plaintiff to first stop any activity on the land to avoid fuelling the already violent situation.

15 The 1st -3rd defendants averred that if not for their involvement and appropriate discharge of their duties as leaders of Kumi District the security situation in Atutur would have gone out of hand as there is an apparent bitter land struggle between the community and the plaintiffs. The defendants denied destroying any properties and calling any meetings to discuss issues concerning the disputed property.

20 This matter was set down for hearing but the defendants without justifiable reason opted not to participate in the hearing and court directed the matter to proceed exparte.

On the 9th of March 2022, counsel for the plaintiffs prayed, pursuant to order 9 rule 20 of the CPR that this suit proceed ex parte given the non-attendance by the defendants' despite being dully served.

25 This court being satisfied that there was sufficient service and no reason had been given by the defendants for non-appearance ordered that the matter proceeds ex parte and it was fixed for formal proof.

The plaintiffs led the evidence of four witnesses to prove their claim.

30 **PW1, Agama Richard** testified that he holds letters of administration to the estate of the late Ikuret John Peter and he left an estate measuring approximately 100 acres of land at Atutur village, Atutur Parish, Atutur

5 Sub County, Kumi District. This land is the subject of Civil Appeal No. 16 of 2013 at the Court of Appeal.

Atutur Sub county, Kumi District Land Board, Kumi District Local Government and Attorney General were threatening to evict him from the suit land which resulted in him securing an injunction from the Court of
10 Appeal on the 7th of September 2016.

The court order allowed him and his family to remain in occupation of 85 acres the suit land while the Respondents were allowed to occupy the 15 acres.

He endeavoured to serve the Attorney General Mbale/Ministry of Justice
15 and Constitutional affairs with the said court order. When the family of the late Ikuret embarked on cultivating the suit land the 2nd defendant attempted to stop them and went as far as reporting them to the RDC and LC5.

The family was later summoned and asked to present the court order
20 allowing them to cultivate the land.

That together with Opio Paul his younger brother he took a copy of the order to the RDC (1st defendant), CAO, DPC and Regional Police Soroti. That the RDC then asked him to go with him to the RSA Kumi for a consultation on the order and the RDC was advised to comply with the
25 said order.

That on return to the RDC's office they found a team of people including 2nd, 5th, 7th, 8th, 9th and 12th defendants seated in the office.

That the RDC told him that he was going to have a meeting with him and his brothers, they were asked to get out and the RDC first met the
30 2nd, 5th, 7th, 8th, 9th, 10th and 12th defendants for more than 2 hours.

5 That thereafter they were called back into the office and the 1st defendant informed them that they were going to follow the court order and that there were going to be meetings with the community on the suit land on 5th, 10th and 15th of April 2017.

10 That a notice was issued by the 2nd defendant to various authorities to mobilize the community to attend a meeting on 5th April. This meeting was held at Atutur Secondary School now called Merryland Secondary School and that except for the 2nd plaintiff, the family of the late Ikuret did not attend the meeting because they had heard of plans to kill them.

15 That he later learnt through the 2nd plaintiff, Adito John William, Akol Michael and other people that were in the meeting that the 2nd, 4th to 12th defendants led by the 2nd defendant threatened to shed blood and destroy their crops if they did not abandon the land purportedly belonging to the government.

20 That the 2nd plaintiff was almost beaten up by the mob led by the 2nd defendant who were carrying big sticks.

That the 4th to 12th defendants turned up for the meeting with big sticks. That the summary of what transpired in the meeting was captured in *Etop* Newspaper dated 13-19th April 2017 where it was clearly shown that the LC5 (3rd defendant) instigated violence among the crowd as she
25 disregarded the Court of Appeal Order and swore she will not allow the plaintiffs to take over the land, the newspaper also captured that the 2nd defendant the LC3 led a team which came with big sticks and wanted to shed blood.

30 That a second meeting was held on 10th April 2017 but he went together with Opio Paul to Soroti Regional Police station and met the Regional

5 Police Commander who called the DPC Kumi and told him to disperse the meeting because the court order was genuine.

That the OC CID said that another court order was on the way and the plaintiff and his family should stop cultivating the land and the Regional Police Commander asked the OC CID to give them a copy of the order.

10 That a third meeting did not take place because the Regional Police headquarters Soroti sent a team to disperse the crowd that had assembled. That on the 12th of May 2017 the 4th to 12th defendants led by the 2nd defendant uprooted three gardens of groundnuts, two gardens of cassava and one garden of maize and the incident was reported to the police vide
15 malicious damage to property SD Ref 02/12/05/17.

That on 15th May 2017 at around 1:00am the 2nd plaintiff's house was set on fire which led to loss of property worth Ugx. 5,000,000/= and the said incident was reported to the police vide SD ref 04/15/05/17. This act was repeated twice on 13th July 2017 and 24th August 2017 and were reported
20 to the police vide SD ref 07/13/07/17 and SD Ref 06/24/08/17 respectively.

That the police refused to forward the files to the office of the DPP when requested to do so. He was assaulted by the 7th defendant on 5th June 2017 and this was reported to police vide SD ref 07/05/06/17.

25 Furthermore, that on 18th August 2017 one garden of sweet potatoes, two gardens of cassava, two gardens of beans, two maize gardens and two gardens of millet were uprooted and the case was reported to police vide SD Ref 08/18/08/17.

That they could always notice the 7th defendant moving around their land
30 and thereafter the family would notice damage to their crops. That at every burial in Atutur Sub county the 2nd defendant would order the people to

5 graze their cattle on plaintiffs' land which gave people leeway to damage their crops.

PW2, Ochom Michael largely corroborated what PW2 stated but added that he attended the first meeting despite the warning on plans to kill him and his family members. He recorded what transpired at the meeting with
10 his phone, the 3rd defendant uttered threats to the family and instructed the community to slaughter the plaintiffs' family with pangas if they found them on the land. The 6th defendant asked them to vacate the land because every time they were attacked she was also made a victim.

That throughout the meeting he was pinched by the 7th, 8th and 12th
15 defendants. 12th defendant threatened to burn down their houses and destroy the crops if they did not leave the land. 9th defendant stated that the land the plaintiffs are cultivating is not theirs and they should be killed.

During the meeting he was asked by the 3rd defendant if the late Ikuret's
20 family was willing to give up their claim on the land. The 2nd and 3rd defendants claimed that the court order was fake.

PW3, Adito John William testified that he is a neighbour to the family of the late Ikuret and the estate measuring approximately 100 acres has been a subject of dispute with the local authorities for a long time since
25 the sub-county leadership has always wanted to establish a school on the land belonging to the plaintiffs. He corroborates PW1's testimony on the meeting held on 5th April, destruction of crops and the 2nd plaintiff's houses. He stated that the 1st to 6th defendants warned the family of the plaintiffs not to cultivate the suit land and they cannot take that land alone
30 and instigated violence in the crowd that attended the meeting. **PW4, Akol Michael** testified similarly as PW1 to PW3.

5 Documentary evidence:

PEX1 are letters of administration granted to Agama Richard on the 14th day of August 2013 by Hon. Lady Justice Wolayo in respect of the late Ikuret John Peter's estate.

10 **PEX2** is a court order from the Court of Appeal in Civil Application No. 39 of 2016 wherein the Court of Appeal ordered that the applicant (1st plaintiff herein) to remain in occupation of the suit land measuring approximately 85 acres with the suit land to be used and occupied by only the beneficiaries of the Estate of the late Ikuret for cultivation of crops and grazing of domestic animals. This order was clearly seen and received by
15 the Ministry of Justice and Constitutional Affairs Mbale regional office as evidenced by the stamp on the said document.

PEX3 is a notice dated 30.03.2017 informing Atutur Sub County through their leaders of a meeting with RDC and other district officials over the land dispute in Atutur Parish Government land. This notice signed by the
20 second defendant with requests the LC1, LC2, Councillors, opinion leaders, church leaders and imams to mobilize the community to attend a meeting in large numbers.

PEX4 are pictures of the damage done to the plaintiffs' crops and houses.

PEX5 is a copy of the Etop Newspaper dated 13th to 19th April 2017. The
25 translated version from Makerere University was filed in an additional trial bundle. Summarily, the article states that a family of ten narrowly survived being wiped by an angry mob armed with hoes, pangas and clubs. It goes on to state that the mob was led by the LC3 Chairperson himself and they were ready to shed blood because they were blaming the family
30 of the late Ikuret of trying to grab government land.

5 **PEX6** is a routing slip from the RSA Kumi to the OC CID Kumi dated 16/05/2017 requesting that the files containing the complaints by the plaintiffs be forwarded for action.

PEX7 is a copy of the note dated 17th May 2017 wherein the Regional Police Commander directs the OC CID Kumi to investigate the complaints
10 on Malicious damage to property and arson as well as give the plaintiffs and all stakeholders the new court order so that the law is observed.

PEX8 is a notice of intention to sue for contempt of court of appeal orders issued by the plaintiffs' counsel to the defendants.

Submissions and Court findings.:

15 Counsel for the plaintiffs submitted on the following issues.

1. Whether the defendants are liable for destruction and damage caused on the plaintiffs' property?
2. Whether the defendants' actions of denying the plaintiffs to utilize the suit land are unlawful?
- 20 3. Whether the defendants stopped the plaintiff from using the land.
4. What remedies are available to the parties?

Issue 1.

Whether the defendants are liable for destruction and damage caused on the plaintiffs' property?

25 Counsel submitted that as provided under **Article 26 of the Constitution;**

"Every person has a right to own property either individually or in association with others and no person

5 **shall be compulsorily deprived of property or any interest
in or right over property of any description.”**

Counsel further submitted that the plaintiffs’ right to property was violated as seen from the plaint under paragraph 4(c) and (d) as well as the testimony of PW1 which was corroborated by PW2, PW3 and PW4.

10 Counsel made this submission with reference to ***Maria Nakimera Nassanga V Teddy Nakawesa & 3 Ors Civil Suit No. 61 of 2002***, where court held that;

15 ***“In order for the plaintiff to establish that she suffered any loss or damage necessitating compensatory relief from this court, the plaintiff had to prove that her presence on the land was not illegal (did not amount to trespass), and that she actually owned the demolished structures. She also had to establish the respective monetary values of the houses and properties***
20 ***constituting the claim.”***

Counsel stated that the plaintiffs were lawfully on the suit land as per the Court Order marked as PEX 2, they owned the demolished structure and crops that were destroyed and further that the plaintiffs had established the monetary values of the houses and properties constituting the claim
25 as seen under Paragraph 5 of the plaint.

Counsel further submitted that while the defendants in the Written Statement of Defence plead that they were not aware of the Court Order and that they are not liable for destruction of the plaintiffs’ crops, the defendants made threatening statements contemplating the destruction
30 of crops and the same was captured in the Etop Newspaper marked as PEX 5 and the recording of the meeting done by the 2nd plaintiff. The

5 plaintiffs led evidence with 4 witnesses who corroborated their evidence
to the effect that the defendants contemplated their actions of
destructions and true to their word effected them. That the defendants are
leaders within Kumi District and Atutur Sub-county who are well known
to the plaintiffs as seen by the Notice of Intention to sue marked as PEX 8
10 indicating their titles and also admitted in the WSD. There is no way the
plaintiffs and their witnesses could have been mistaken about them.

Counsel finally submitted that from the foregoing uncontroverted
evidence, it was very clear that the plaintiffs' right to their property *vide*
crops and gardens was violated when the defendants destroyed the
15 plaintiffs crops as they had contemplated the destruction of the plaintiff's
crops and violence in the meetings held which included the burning down
the 2nd plaintiff's houses on three different occasions which plans were
indeed actualized and evident as seen from the photographs and in *Etop*
Newspaper dated 13th – 19th April 2017 marked as PEX 4 and PEX 5,
20 respectively.

From, the uncontroverted evidence adduced by the plaintiffs, it is clear
that the defendants encouraged the violation of the plaintiffs' right to
property for they mobilized the community of Atutur through their
various leaders to go to a meeting where a mob was encouraged to
25 violently destroy the properties belonging to the plaintiffs on the claim the
suit land was government land.

Given the importance of land in society the defendants ought to have
known the effects of rallying a meeting with an entire community to
discuss a land dispute especially land that has been in dispute for a long
30 time.

The leaders especially the RDC, LC3 and LC5 could have discussed the
court order and the issues relating to the land without involving the

5 community but the fact that they invited the whole community indicates that they envisioned damage to the plaintiffs' property as a means to an end in which they retain the land and this is seen, when in the presence of a riotous crowd, the 2nd plaintiff (PW2) was asked by the 3rd defendant if his family was willing to abandon their claim to the suit land.

10 Also by the police not investigating the various violations against the plaintiffs and their families and in a manner declining to forward the files to the RSA, the defendants were encouraged to continue violating the plaintiffs' right to property.

This was in spite of the fact that a Court of Appeal order was clearly seen
15 and received by the Ministry of Justice and Constitutional Affairs, Mbale regional office/Attorney General's chambers as evidenced by its rubber stamp on the order.

The defendants were therefore aware that the plaintiffs were lawfully cultivating 85 acres of land. This knowledge is proved by the evidence of
20 PW2, 3 and 4 who attended the meeting where the 2nd and 3rd defendant claimed the court order was fake.

Furthermore, in the WSD the defendants contend that the plaintiffs went to them seeking help that the community had stopped them from using the land yet they had a court order, this was in March 2017 before the
25 meeting in April when the violations started.

This aspect is worsened by paragraph 2(f) of their WSD where they aver that the 1st defendant and his team informed the rioters that they had not come to implement the court order since they did not have it and were not mandated to do so and advised the plaintiffs to first stop any activity on
30 the land to avoid fueling the already violent situation.

5 From all the above pieces of commissions and omissions, my finding is that the defendants were fully aware of the court order granting the plaintiffs' the right to cultivate the land despite the pending appeal but decided to provoke the community to cause destruction on the crops and structures on the land.

10 The defendants are thus accordingly found jointly liable for destruction and damage caused on the plaintiffs' property.

Issue 2 and 3.

- Whether the defendants' actions of denying the plaintiffs to utilize the suit land are unlawful?
- 15 - Whether the defendants stopped the plaintiff from using the land.

Counsel submitted that the term *unlawful* as defined under the Black's Law Dictionary Abridged 5th Edition means,

20 ***"That which is contrary to, prohibited, or unauthorized by law. That which is illegal; not lawful. The acting contrary to, or in defiance of the law; disobeying or disregarding the law..."***

Counsel went on to state that in the instant case, the defendants acted contrary to the Court of Appeal order in ***Civil Application No. 39 of 2016*** between ***Agama Richard V Atutur Sub-County & 3 Ors***
25 which stated inter alia that; (see PEX 2)

30 ***"The Applicant shall remain in occupation of the suit land measuring approximately 85 acres, it is understood that it will only be occupied and used by the beneficiaries of the Estate of the late Ikuret John Peter for cultivation of crops and grazing of domestic animals, and this order***

5 ***shall remain in force until the determination of court of
Appeal Civil Appeal No. 41 of 2016 pending in this court.”***

Counsel submitted that from paragraph 2(c) and (f) of the WSD, it is clear
that the leaders chose to ignore the court order and acted with
highhandedness to stop the plaintiffs from cultivating their land when
10 there was a Court Order.

It is also seen that the defendants were just determined not to obey the
court order. The defendants after knowledge of the court order held
meetings wherein there were plots hatched to destroy the plaintiff's crops
and acts violence ensued which included burning down the houses of the
15 2nd plaintiff on 3 (three) on different occasions with all of these incidents
happening at the suit land which was the subject of the court order.

According to counsel, that as seen in issue 1 above, the defendants are
liable for the destruction of the property as the evidence clearly showed
that they knowingly acted with disregard to the court order which
20 permitted the plaintiffs to use the land.

Basing on the uncontroverted evidence adduced in respect of the fact that
unmitigated violence against the plaintiffs' properties occurred as a result
of the actions of the defendants, I would agree with counsel and hold the
defendants liable for failing to follow a clear court order which resulted in
25 the defendants denying the plaintiffs the right to utilise their land and this
amounted to contempt of court orders which is unlawful.

Issue 4.

What remedies are available to the parties?

1. Compensation for the destroyed crops and gardens to be calculated
30 at current market rate:

5 In the case of **Kiggundu & 5 Others Vs Bunsu Local Council III & Anor C/S No.689 of 1996**, Justice Monica K. Mugenyi held that;

10 *"In the instant case, having found that a cause of action has been established by the first, second and third plaintiffs against the first defendant, it does follow that an actionable wrong has been established for which the said plaintiffs are entitled to compensation.*

... judgment is entered for the first, second and third plaintiffs as against the first defendant with the following orders;

- 15 1. *The first defendant is ordered to effect compensation to the first, second and third plaintiffs in the sum of Ushs 682,410/= as follows;"*

In respect of the instant matter, reference is made to paragraph 5 of the plaint wherein it is stated that;

- 20 5. *The plaintiffs aver that the actions of the defendants were illegal and unlawful and caused damages to the plaintiffs' property for which the plaintiffs hold the defendants liable in compensation.*

Particulars of Damages

- 25 i. 2 Gardens of cassava 100,000,000/=
- ii. 3 Gardens of G/nuts 120,000,000/=
- iii. Grassed thatched houses 14,000,000/=
- iv. Household items. 13,000,000/=

PW1 Agama Richard under Paragraph 43 of his witness statement
30 testified in this respect;

5 43. *THAT I pray that court orders the defendants to compensate us Ug shs 255,110,000 as pleaded in paragraph 5 and 6 of the*
plaint.

PARTICULARS OF DAMAGES

10 a) 2 Gardens of cassava 100,000,000/=

b) 3 Gardens of G/nuts 120,000,000/=

c) Grassed thatched houses 14,000,000/=

d) Household items. 13,000,000/=

247,000,000/=

15 **PW2 Ochom Michael** under paragraph 49 of his witness statement testified that;

49. *THAT to date the defendants have frustrated us from quiet enjoyment of our inheritance from our late father despite the court of Appeal issuing an order allowing us to cultivate the 85 gardens of land.*

20 Accordingly, the plaintiffs prayed for compensation for the destroyed crops.

From the foregoing, this court would be satisfied the plaintiffs have shown and proved the extent of damage to their properties in paragraph 4(c) and (d) of the plaint by additionally attaching photos of the destruction
25 thereto, although the figures therein are a wee bit overstated.

Therefore, without any loss assessment made by an independent loss assessing professional, I would award the following as such loss;

30 i. 2 Gardens of cassava 2,000,000/=

ii. 3 Gardens of G/nuts 4,000,000/=

iii. Grassed thatched houses 6,000,000/=

iv. Household items. 4,000,000/=

5 Total, Shs. 16 million. This amount is awarded to the plaintiffs as against the defendants jointly.

2. General damages:

As regard general damages, counsel for the plaintiffs submitted that in the case of ***Deylon Johnson Wilson & 5 Others Vs AG HCCS***
10 ***No.0027/2010, Justice Byabakama*** noted that;

"The plaintiffs seek general damages as well. In determining the quantum of damages, the Courts have mainly been guided by the value of the subject matter, the inconvenience that party may have been put through, the nature and extent of the breach. A plaintiff
15 *who suffers damages due to the wrongful act of the defendant must be put in the position he or she would have been had he or she not suffered the wrong."*

Counsel then prayed that this Honourable Court be pleased to award the plaintiffs each Ug. shs. 20,000,000/= as general damages for mental
20 torture, suffering and inconvenience.

I would agree with the evidence adduced that indeed the plaintiffs have indeed undergone through a lot of inconveniences and suffering at the hands of the defendants ranging from the destruction of their property to the constant threat to their lives wherein they have not even been helped
25 by the police.

I would thus award each the sum of Ugx. 5,000,000 which is an amount sufficient for general damages.

3. Interest at 25%:

The plaintiffs through counsel prayed that this Honourable Court to
30 award the plaintiffs commercial interest of 25% from the date of cause of action until payment in full since they had lost their houses and property

5 therein together with their crops, with the result that they had lost their means of livelihood which the defendants deliberately occasioned by damaging their properties.

In the case of ***Uganda Petroleum Co. Ltd Vs Kampala City Council Civil Suit No. 250 of 2015***, the court awarded the plaintiff
10 interest at a rate of 20% per annum on damages from the date of filing the suit until payment in full.

I would, considering the then prevailing economic situation award 18% per annum as interest on damages.

4. Special damages:

15 Counsel submitted that the law on special damages was stated in ***Nalwadda Vs Uganda AIDS Commission Civil Suit No.67 of 2011***

20 *"A claim for special damages must specifically be pleaded and strictly proved. A plaintiff has the duty to prove their damage. It is not enough to write down particulars, throw them to the Court and say this is what I have lost I ask you to give me those damages. They have to be proved. This does not mean that proof of special damages has to be proved by documentary evidence in all cases."*

The evidence which proves special damages is seen by the various
25 movements made by the plaintiffs in their quest for justice. The law on special damages was well stated in the case of ***Nalwadda Vs Uganda AIDS Commission Civil Suit No.67 of 2011*** wherein it was held that;

30 *"A claim for special damages must specifically be pleaded and strictly proved. A plaintiff has the duty to prove their damage. It is not enough to write down particulars, throw them to the Court and say this is what I have lost I ask you to give me those damages."*

5 *They have to be proved. This does not mean that proof of special damages has to be proved by documentary evidence in all cases."*

In respect of the case proof of special damages can be garnered from paragraph 6 of the plaint where it is stated that;

10 6. *The plaintiff shall aver that as a result of the defendants' unlawful actions, the plaintiff has lost a source of livelihood and suffered special damages.*

Particulars of special damages

- | | | |
|----|--|--------------------|
| 15 | a. <i>Transport to various Police Stations</i> | <i>2,000,000/=</i> |
| | b. <i>Transport to Kampala 3 times</i> | <i>750,000/=</i> |
| | c. <i>Instruction fees to lawyers</i> | <i>5,000,000/=</i> |

To prove the averment in paragraph 6 of the plaint, PW1 Agama Richard stated under paragraph 43 of his witness statement that;

20 43. *THAT I pray that court orders the defendants to compensate us Ug. shs 255,110,000 as pleaded in paragraph 5 and 6 of the plaint.*

Particulars of special damages

- | | | |
|----|--|--------------------|
| | a. <i>Transport and expenses to various Police Stations</i> | <i>2,000,000/=</i> |
| 25 | b. <i>Transport to Kampala 3 times to instruct and meet lawyers</i> | <i>750000/=</i> |
| | c. <i>Instruction fees to lawyers</i> | <i>5,000,000/=</i> |
| | d. <i>Fees for translating the Etop Newspaper and</i> | |
| 30 | <i>transport thereto (page 4, plaintiffs' additional trial bundle)</i> | |
| | | <i>8,110,000/=</i> |

Additionally, PW2 Ochom Michael under paragraph 49 of his witness statement stated that;

5 49. THAT I pray that court orders the defendants to compensate us Ug. shs 255,110,000 as pleaded in paragraph 5 and 6 of the plaint.

Particulars of special damages

10 a. Transport and expenses to various Police Stations
2,000,000/=

b. Transport to Kampala 3 times to instruct and meet lawyers 750000/=

c. Instruction fees to lawyers
5,000,000/=

15 d. Fees for translating the Etop Newspaper and
360,000/=

transport thereto (page 4, plaintiffs' additional trial bundle)

8,110,000/=

20 From the, above, it can be satisfactorily concluded that the claimed amount is not only reasonable but is proved.

I would thus award the claimed amount of Ugx. 8,110,000/= as special damages.

25 5. A declaration that the defendant's actions of denying the plaintiff to utilize the suit land and destroying his crops infringed on his proprietary and constitutional rights and are unlawful:

6. A declaration that the defendants have illegally, unlawfully, maliciously, unjustifiably interfered with the plaintiffs' rights ignoring the court orders:

30 The plaintiffs asked this court to further consider 5 and 6 above which respectively are that this court makes a declaration that the defendant's actions of denying the plaintiff to utilize the suit land and destroying his crops infringed on his proprietary and constitutional rights and are unlawful in addition to a declaration that the defendants have illegally,

5 unlawfully, maliciously, unjustifiably interfered with the plaintiffs' rights ignoring the court orders.

From the foregoing it is clear to this court that the actions of the defendants were unlawful, infringed on the plaintiffs' rights in addition to being in contempt of the Court of Appeal order. Such illegal behaviour
10 cannot be allowed in a democratic and law abiding society. The defendants are thus jointly held liable for not only acting unlawfully in addition to infringing on the rights of the plaintiffs but to being in contempt of court order.

Accordingly, they are found so and for being in contempt of a court order,
15 each is condemned to pay a fine Shs 500,000/= or face six months' imprisonment on default.

7. A permanent Injunction prohibiting the defendants from interfering with the suit land:

Counsel for the plaintiffs submitted that in *Akena & Ors versus*
20 *Opwonya High Court Civil Appeal No. 35 of 2016 (2018)*, Justice Mubiru stated that,

*"It is settled law that a permanent injunction is a remedy for preventing wrongs and preserving rights so that by single exercise of equitable power, an injury is both
25 restrained and repaired, for the purpose of dispensing complete justice between the parties.*

*Permanent or final injunctions are granted as a remedy against an infringement or violation which has been proven at trial. Such an injunction will be granted to
30 prevent ongoing or future infringement or violations."*

5 Counsel further stated that the defendants who include officials from
Atutur sub county, Kumi District Land Board, Kumi District Local
Government and Attorney General chambers did threaten to evict the
plaintiffs from the suit land which land they were rightly in as per a court
order which threat warrants a permanent injunction to prevent ongoing
10 or future infringement or violations of the plaintiff's rights in the suit land
as held in ***Akena & Ors versus Opwonya***.

I would agree with that submission and state that as long as the order of
the Court of Appeal allowing the plaintiffs to stay on the suit land is not
reversed by another competent order, then the desired orders of a
15 permanent injunction should issue and be effected by all and sundry. It is
accordingly issued in the terms sought.

8. Punitive Damages:

Punitive damages are generally awarded for high handed, deliberate
actions by the defendants which is the case in the instant matter. The
20 plaintiffs prayed for punitive damages of Ug shs. 50,000,000. The acts of
the defendants clearly were high handed and ubiquitous. There is need to
put to a stop flagrant disobedience of court orders and the culture of
wanton destruction of properties based on unjustifiable reasons.

Accordingly, I would award the plaintiffs as against the defendants Ug shs.
25 5,000,000. (Five million only) as punitive damages.

9. Costs:

The general principle under ***Section 27 (2) of the Civil Procedure Act***
is that costs follow the event and a successful party should not be
deprived of costs except for good reasons. The plaintiffs are the successful
30 parties here and there has been shown no reason as to why they should
forgo the costs. Accordingly, Costs of this suit is awarded to them.

5 Conclusion:

From the foregoing, I am satisfied that the plaintiffs have proved their case as against the defendants on a balance of probabilities, accordingly, judgment is entered in their favour with orders as below.

Orders:

- 10 a) The defendants are accordingly found jointly liable for destruction and damage caused on the plaintiffs' property.
- b) The defendants' action of denying and stopping the plaintiffs from utilising the suit land is hereby declared to be unlawful.
- c) The defendants are found jointly liable for destruction and damage
15 caused on the plaintiffs' property.
- d) By failing to follow a persisting court order, the defendants not only denied the plaintiffs the right to utilise the suit land but are also found to be in contempt of a court order.
- e) For destroying the properties of the plaintiffs, the defendants are
20 jointly condemned to pay compensation for the destroyed houses, crops and gardens in the total amount of Shs. 16 million.
- f) This Honourable Court also award each of the plaintiff the sum of Ugx. 5,000,000 as general damages at an interest rate of 18% per annum from the date of this judgment.
- 25 g) This court further awards the claimed amount of Ugx. 8,110,000/= as special damages.
- h) For being in contempt of a court order, each of the defendant is condemned to pay a fine Shs 500,000/= or face six months' imprisonment on default.
- 30 i) It is further declared that so long as the order of the Court of Appeal allowing the plaintiffs to stay on the suit land is not reversed or

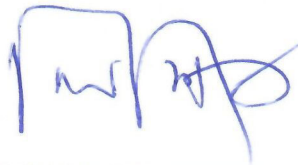
5 altered then a permanent injunction is hereby issued in the terms sought.

j) This Honourable Court additionally award to the plaintiffs the amount Uganda Shillings Five million only (Ug Shs. 5,000,000) as punitive damages.

10 k) The awards in (e), (g) and (j) above each to carry an interest of 18% per annum from the date of this judgment till payment in full.

l) The costs of this suit is awarded to the plaintiffs in any event.

I so order.



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Hon. Justice Dr Henry Peter Adonyo

Judge

17th August 2022

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