

2. That he came to know the 1st Respondent through Daniel Baguma Mujaasi. That he got involved in a fatal accident on March 2nd 2018 and he was admitted in Nsambya Hospital for head injury and broken arm.
- 25 3. That while on the sick bed, the 1st Respondent visited him and offered to help him get money for his needs as he was incapacitated, on condition he gives him the titles for safe custody.
4. That the 1st Respondent processed a letter from court authorizing him to use the left thumb print since he could not sign. That the 1st Respondent later
30 moved the applicant to Fort Portal Land Office to meet the Registrar to put his thumb print on a form.
5. That a month later, in the month of June 2018, he received a call from Post Bank Loan's Officer Kasese Branch that the 1st Respondent was processing a loan and he had transferred the title into his names.
- 35 6. That on the advice of the Loans Officer, the applicant reported to Post Bank Head Office in Kampala and explained that he had never sold his land to the 1st Respondent and the Bank demanded that the 1st Respondent produces a sales agreement, which he failed to do, and the Bank declined to give him the loan.
- 40 7. That he tried to lodge a caveat against the said title but he was informed by the Senior Registrar that he no longer had interests in the land.
8. That the Commissioner Land Registration advised him to apply for a permanent Caveat in the High Court, thus this application.

The Respondents were served with the Notices of Motion and the schedule to file
45submissions but they did not comply.

Issues:

- (1) Whether this application is proper before this court.

(2) Whether or not a permanent caveat should be granted on land comprised in FRV KB020, Folio 11, Block 78, Plot 29 and FRV KBO20, Folio 12, Block 78, Plot 20 and FRV, KBO20, Folio 10, Block 78, Plot 31 at Kibaale, Kamwenge District (now Kyegegwa).

(3) Remedies available to the parties.

Applicant's submissions:

1. That for a caveat to be valid, the caveator must have caveatable interests which could be legal or equitable as provided for under section 139(1) of the Registration of Titles Act (**Sentongo Produce Farmers Ltd Vs. Rose NakafumaMuyiise, H.C.M.A No. 690 of 1999; and Hunter Investment Ltd Vs. Lwanyaga & Anor, H.C.M.A No. 0034 of 2012.**)

2. That the applicant was the first owner of the suit land and developed the same with eucalyptus tree forest. That the 1st Respondent did not buy the applicant's land and was not known to the local leaders as the owner of the suit land. That as such the applicant has caveatable interest over the suit land.

RESOLUTION BY COURT:

It is observed that Order 36 rule 3 of the Civil Procedure Rules under which this application was brought does not support applications of this nature. Nonetheless, the application will be determined on its merits.

The applicant seeks a **permanent** caveat affecting land comprised in FRV KB020, Folio 11, Block 78, Plot 29 and FRV KBO20, Folio 12, Block 78, Plot 20 and FRV, KBO20, Folio 10, Block 78, Plot 31 at Kibaale, Kamwenge District (now Kyegegwa).

The **Black's Law Dictionary 8th Edition**, at **page 666** defines a caveat as a warning or proviso. Merriam Webster (online Dictionary) defines a caveat as a warning enjoining one from certain acts or practices. (Available at www.merriam-webster.com). It means that a caveat only sounds a warning to any person who seeks to engage or deal in any land or activity about the interests of the caveator. A caveat puts the world on notice of the existing interests of the caveator.

In **Rutungu Properties Ltd Vs. Linda Harriet Carryington & Anor, Court of Appeal Civil Appeal No. 61 of 2010**, quoting the decision of **Boyes Vs Gather** 80(1969) E.A 385 it was stated that:

“The primary object of a caveat is to give the caveator temporary protection. It is not the intention of the law that the caveator should relax and sit back for eternity without taking any step to handle the controversy so as to determine the thoughts of the parties affected by its existence.”

85 Further to above, the Hon. Lady Justice Hellen Obura (JCA) in the same decision gave the legal nature of a caveat where she noted making reference to the decision of **Lim Ah Moi Vs. Ams Periasamy Suppiah Pillay Civil Appeal No. A 2 644 – 1995** where it was held that:

90 *“It is well settled that a caveat acts as a statutory injunction which fetters a registered proprietor from dealing with his property and exercising all the rights conferred upon him by the Code. Because of its far reaching effect, it is vital that the claims made by the caveator are enforced by an action without delay.*

The Lady Justice also cited the decision in **Eng. Mee Young & others Vs. Lutchiman S/o Veleayuthan (1980) AC 331** where it was observed that: *“The caveat under the Torrens systems has often been likened to a statutory*

injunction of an interlocutory nature restraining the caveatee from dealing with land pending the determination by the court of the caveator's claim to title over the land, in an ordinary action brought by the caveator against the caveatee for
100*that purpose..."*

The learned Lady Justice drew an analogy from the above authorities and observed that:

"Its clear from the above authorities that a caveat is similar to an interlocutory injunction as it only gives temporary protection of interest as
105 *the caveator is required to bring an ordinary action without undue delay to determine the caveator's rights as against the other rights or competing interests and to obtain a permanent remedy in appropriate cases."*

The cumulative effect of the above decisions is that a caveat is meant to only offer temporary protection and not permanent protection.

110The applicant filed an application for a permanent caveat to issue against FRV KB020, Folio 11, Block 78, Plot 29 and FRV KBO20, Folio 12, Block 78, Plot 20 and FRV, KBO20, Folio 10, Block 78, Plot 31 at Kibaale, Kamwenge District (now Kyegegwa). Thus, the applicant seeks to attain permanent protection of his interests by way of a caveat. A caveat cannot be used to serve this purpose. I find
115the application untenable and without merit and hereby dismiss it with no orders as to costs. I so order.



Vincent Wagana

High Court Judge / Fort-portal

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