

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MUKONO**

CIVIL SUIT NO. 096 OF 2023

- 1. TUMUBWEINEE CHRISTINE NYARUBONA**
- 2. TWINEMANZI TUMUBWEINEE**
- 3. TUMUBWEINEE ROY RICHARD**
- 4. TUMUBWEINEE RAYMOND**
- 5. TUMUBWEINEE RONNIE MANZI**
- 6. PHILIPPA TUMUBWEINEE NYAKATO:::: COUNTERCLAIMANTS**
(Administrators of the Estate of the late
Tumubweinee Ephraim Manzi)

VERSUS

KIGGUNDU BONNY :::::::::::::::::::::::::::::::COUNTERDEFENDANT

BEFORE: HONOURABLE JUSTICE DAVID MATOVU

JUDGMENT

Introduction

1. Tumubweinee Christine Nyarubona, Twinemanzi Tumubweinee, Tumubweinee Roy Richard, Tumubweinee Raymond, Tumubweinee Ronnie Manzi and Philippa Tumubweinee Nyakato (hereinafter referred to as the “Counter claimants”) filed a Counter claim to Civil Suit No. 096 of 2023 in the High Court of Uganda at Mukono against Kiggundu

Bonny (hereinafter referred to as the "Counter defendant") seeking interalia the lifting of a caveat lodged on the land at Bugerere Block 100 Plot 822 land at Naantogonya II vide Instrument No MKO-00-142836 lodged on 24th February, 2023 by the Counter defendant.

Legal representation

2. Mr. Atwine Muhwezi represented the Counter claimants and the Counter defendant was not represented as he did not file a response to this Counter claim despite being duly served with the same on 16th June, 2023.

Background facts

3. The Counter defendant filed Civil Suit No. 096 of 2023 in the High Court of Uganda at Mukono against the Counter claimants seeking several declaratory orders, a permanent injunction, an eviction order, general damages, punitive damages and costs of the suit.
4. The Counter claimants filed a written statement of defence with a Counterclaim on 26th May, 2023 and according to the affidavit of Akatuhwera Simon the defence and Counterclaim was served

upon Counsel for the Counter defendant on 16th June, 2023 but they did not file a response to the Counterclaim.

5. On 6th November, 2023 Mr. Timothy Mucunguzi appeared before Court holding brief for Mr. Arthur Mwebesa with instructions to withdraw Civil Suit No. 096 of 2023 and Court allowed the withdrawal of Civil Suit No. 096 of 2023 with costs to the defendants/Counter claimants.
6. Court noted that by Counsel Timothy Mucunguzi conceding to the payment of costs in Civil Suit No. 096 of 2023 he by implication confirmed that the Plaintiff/Counter defendant was duly served with a written statement of defence and counter claim hence the order to proceed with hearing the Counter claim exparte.

Evidence of the Counter claimants

7. The Counter claimants relied on the evidence of Tumubweine Raymond who stated that he was in Court to have a caveat on their land at Bugerere Block 100 Plot 822 land at Naatogonya lodged by the Counter defendant lifted. He also prayed for costs of the Counter claim.

Arguments by Counsel for the Counterclaimants

8. Mr. Atwine Muhweezi briefly implored Court to lift the caveat and also award general damages for mental anguish on the Counter claimants by the Counter defendant.

Decision of Court

9. Court notes that the Counter defendant filed Miscellaneous Applications No.160 and 161 of 2023 which applications he withdrew as he did to his main suit No. 096 of 2023 and since he did not file a response to the Counter claim Court finds that the Counter defendant admitted the contents of the Counter claim against him. See case of **Murad Samnani and Another Versus Salim Jiwani Commercial Court** Miscellaneous Application No. 841 of 2016.
10. The evidence of Tumubweinee Raymond only referred to the lifting of the caveat on land at Bugerere Block 100 Plot 822 and costs of the Counter claim.
11. Court finds no reason to deny the Counter claimants this order relating to 143.3460 Hectares of land at Freehold Register Volume MKO 2202 Folio 21 Plot 822 Block 100 Land at

Naatogonya II which land is registered in the names of the Counter claimants on 22nd August, 2022 vide Instrument No MKO 00131311.

12. Court therefore orders for the lifting of the caveat by the Counter defendant on the land described hereinabove which caveat was lodged on 24th February, 2023 vide Instrument No MKO-00142836.

13. Court also awards costs of the Counter claim to the Counter claimants.

Dated this day of 2023.

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David Matovu
Judge