

- ii. The applicant lost his certificate of title to the land and upon application for a special certificate, he realised that the land was caveated.
- iii. The applicant approached the respondent with a view of obtaining the information with respect to the caveat but he was informed that the same had been lodged in error but the same has not been vacated to date which has greatly affected the applicant's use of the land.
- iv. There is absolutely no reason why the caveat was lodged on the land.

No reply was filed by the respondent. There is however proof of service of the application on the respondent.

Representation and hearing.

The applicant is represented by Mr. Kaahwa Joseph Muhumuza of M/S Kaahwa, Kafuuzi, Bwiruka & Co. Advocates. The respondent is unrepresented. Court directed the applicant to file written submissions by 21/11/2022 but counsel omitted to do the same.

Consideration by court

The only issue for determination is whether the caveat lodged by the Respondent on FRV 219 Folio 25 Burahya plots 17-19 Bwamba Road on 12/10/2009 should be vacated.

Section 139 of the RTA provides for who may lodge caveats as; '*any beneficiary or other person claiming any interest in land under the Act...*' The Applicant contends that there was no reason to lodge the caveat on his land.

The applicant did not give the full details of the caveat lodged on the suit land by the respondent and it is therefore assumed by this court that it is one that could have been lodged under S.139 RTA. It is not in contention

that the respondent has certain powers in respect to the registration of land and caveats.

Section 139 (1) of the RTA provides that any beneficiary or other person claiming any estate or interest in land under the operation of this Act or by devolution in law or otherwise may lodge a caveat with the registrar forbidding the registration of any person as transferee or proprietor of and of any instrument affecting that estate or interest until after notice of the intended registration or dealing is given to the caveator, or unless the instrument is expressed to be subject to the claim of the caveator as is required in the caveat, or unless the caveator consents in writing to the registration.

Section 140(1) of the RTA deals with the removal of caveats lodged under **Section 139 of the RTA**. The proprietor against whose title to deal with the estate or interest the caveat has been lodged or any other person claiming under the proprietor may summon the caveator to attend before the court to show cause why the caveat should not be removed; and the court may, upon proof that the caveator has been summoned, make such order in the premises as it seems fit.

It has been stated by Spry. J.A. at page 388 in the case of **Bayes Vs Gathure [1966] EA 385** that “*a caveat is intended to serve a twofold purpose; on the one hand, it is intended to give the caveator temporary protection, on the other, it is intended to give notice of the nature of the claim to the person whose estate in the land is affected and to the world at large.* (Underlining for emphasis). As such, a caveator should not be allowed to lodge a caveat and sit back for eternity without taking steps to establish his or her interests with finality.

The law requires that once a caveator files a caveat, the caveator has to show cause why the caveat should not be removed after the statutory period lapses. In the present case, the applicant contents that the caveat on his land was lodged in October 2009. The respondent has not taken steps to establish the caveated interest with finality. The respondent has also not furnished cause why the caveat should not be removed.

Relying on the inherent powers vested in this Court and in order to meet the ends of justice, I allow the application. The respondent is directed to remove the caveat lodged on 12/10/2009 on FRV 219 Folio 25 Burahya plots 17-19 Bwamba Road Fort Portal with immediate effect.

No order is made as to costs.

It is so ordered

Dated at Fort Portal this 17th day of January 2023



Vincent Emmy Mugabo

Judge.

Court: The Assistant Registrar shall deliver the Ruling to the parties.



Vincent Emmy Mugabo

Judge

17th January 2023.