

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA SITTING AT ARUA
MISCELLANEOUS CIVIL APPLICATION No. 0007 OF 2017
(Arising from Nebbi Chief Magistrate's Court Civil Suit No. 10 of 2008)

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INNOCENT ODAMA ATRIASON APPLICANT

VERSUS

10 ST. DANIEL COMBONI COLLEGE RESPONDENT

Before: Hon Justice Stephen Mubiru.

RULING

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This is an application under the provisions of section 98 of *The Civil Procedure Act* and Order 52 rules 1 and 3 of *The Civil Procedure Rules*. It seeks an order setting aside a consent judgment on grounds of illegality and fraud. It is supported by the affidavit of the applicant in which he states that the respondent and its lawyers forged his signature on the consent judgment supposed
20 to have been filed in the Nebbi Chief Magistrate's Court but which instead was filed at the High Court in Arua where it was signed by the then Deputy Registrar, and sealed with the High Court seal instead of the seal of the Chief Magistrate's Court of Nebbi. He averred that although he and his advocate were involved in the negotiations leading up to that consent, he was dissatisfied with the terms that were offered and therefore did not append his signature to the consent,
25 prompting the respondents and their advocate to forge his signature.

In an affidavit in reply sworn by Rev. Fr. Raphael Okumu on behalf of the respondent, the applicant's averments of forgery are refuted. He avers that the consent judgment was executed on 20th February 2015 by both the applicant and his advocate, Mr. Chris Kabuga, following inter
30 party negotiations for settlement of the matters in controversy between them as parties to Nebbi Chief Magistrate's Court Civil Suit No. 10 of 2008. The resultant consent agreement was filed at the High Court in Arua only because the original files of the trial court, the Chief Magistrate's Court of Nebbi, had at the time been remitted to Arua for revision proceedings thereat which had been filed by the applicant. The then Chief Magistrate of Arua was the caretaking Chief

Magistrate of Nebbi and at the same time the Acting Registrar of the High Court in Arua. He signed in his capacity as Chief Magistrate of Nebbi but inadvertently affixed the seal of the High Court which should not invalidate the consent judgment. Following that consent, the respondent paid to the applicant's advocate a sum of shs. 5,000,000/= upon execution and the last
5 instalment, being a sum of shs. 3,000,000/=-, on 6th July 2015. The respondent subjected the signature alleged to have been forged to the forensic examination of a Police Handwriting expert whose report confirmed that the applicant is the author of the signature he claims was forged.

Appearing without the assistance of counsel, the applicant submitted that he declined to sign the
10 agreement because the true acreage of the land in dispute is 44 acres as established by the government valuer yet the consent judgment reflected only 34.5 acres. The consent judgment itself has anomalies in the sense that although its heading reads "In the Chief Magistrates Court of Nebbi at Nebbi" it was signed by a judicial officer who at the time was the Acting Registrar of the High Court at Arua and sealed with the seal of the High Court which anomalies should
15 invalidate it. The consent judgment was sealed on 14th October 2015 yet the consent judgment is dated 20th January 2015.

In response, counsel for the respondent, Mr. David Ojambo, submitted that affixing the seal of the High Court was a minor error which should not invalidate the consent judgment since it was
20 signed by a judicial officer with the capacity to do so. The applicant's denial of his signature and claim that it was forged should be rejected in light of the forensic evidence which disproves the claim. After the judgment was signed, his advocate received the amount outstanding under the terms of the consent and therefore the applicant is estopped from denying the terms.

25 The background to this application is that on 4th March 2008, the applicant filed civil suit No. 10 of 2008 against the respondent before the Chief Magistrate's Court of Nebbi at Nebbi by which he sought general and special damages for trespass to land situated at Okubu village, Kaluwang Parish in Nebbi District, which he claimed to own as a customary tenant through inheritance from his late father. In their defence, the respondents denied the claim and refuted the applicant's
30 ownership of the land in dispute. A scheduling conference was conducted on 9th July 2009. Hearing of the suit commenced before a Grade One Magistrate with the testimony of the

applicant on 17th November 2009. However, the suit was eventually dismissed by the Chief Magistrate on 18th August 2010 with costs for want of prosecution. A subsequent application to reinstate the suit was also dismissed with costs by the Chief Magistrate. Being dissatisfied with the decisions, the applicant filed High Court Miscellaneous application No. 54 of 2010 seeking
5 revision of those orders by the High Court. In its ruling of 10th December 2010, the High Court ordered reinstatement of Nebbi Chief Magistrate's Court Civil Suit No. 10 of 2008, to be heard by a grade one Magistrate at Nebbi or Arua in the event that there was none in Nebbi.

On 20th December 2010, counsel for the applicant, Mr. Kabuga Chris filed a bill of costs in
10 respect of High Court Miscellaneous application No. 54 of 2010. Later by consent judgment signed on 8th April 2011 in respect of the taxation of costs proceedings springing from that application, the applicant agreed to withdraw Nebbi Chief Magistrate's Court Civil Suit No. 10 of 2008 in consideration of a sum of shs. 20,000,000/= the costs thereof of shs. 5,000,000/= and the costs of shs. 40,000,000/= for the revision proceedings in the High court. These sums were to
15 be paid by the respondent. The land in dispute was to be surveyed and valued and the respondent was to pay the market price of the established acreage. Clauses 1 and 3 thereof categorically stated that the matters then pending before the High Court and the Chief Magistrates court at Nebbi "are accordingly hereby withdrawn and abandoned, respectively." The paragraphs pertinent to the outstanding issues raised in this application provided as follows;

- 20 4. Both parties and their respective counsel agree that a valuer and a surveyor should be engaged as soon as practicable to establish the market value and size of the land in dispute (approximately 10 acres or beyond) and after establishing those facts, the respondent / defendant agrees to pay the value in accordance with the valuer's report.
- 25 5. Both parties agree that the costs of survey and valuation be equally shared by the parties.
6. Both parties agree thata payment schedule shall be drawn in respect of items 3 and 4 herein as shall be agreed upon by the parties after the amount payable in tem No. 4 has been ascertained.

30 In partial satisfaction of that judgment, the applicant received a sum of shs. 25,000,000/= on the day of signing of the consent judgment, i.e. 8th April 2011. Months later, the applicant's counsel, Mr. Chris Bakiza, sought to recover the outstanding balance of shs. 40,000,000/= (specified in

clause 3 of the consent judgment) by causing execution of the resultant decree. In proceedings initiated in that endeavour, specifically those of 5th August 2011, he stated as follows;

There has been part performance of the decree. Only 25,000,000/= has been paid leaving a balance of 40,000,000/= which should have been paid immediately after payment of the first instalment. Several attempts have been made to recover this balance outside the court, but counsel for the respondents insisted that this amount has to be paid in court. 4 months now it has not been paid and this is unreasonable time.....The only exception is item No. 4 where the market value of the land has not been ascertained.....Whereas we had thought it was 10 acres, it was discovered that it was about 44.831 acres (18.143 Hectares) which was being occupied by the respondent including land occupied by the two schools (primary school and college). However for purposes of this suit, the land actually occupied by Comboni College is 33.22 acres (13.728 Hectares) It is only the college that is being sued here. The market value recommended by the valuer (Palwak Romeo- the District Valuer, Arua) is 600,000/= per acre. The valuation report is dated 18/5/2011 copied to the District Staff surveyor and to both parties. It is addressed to the High Court, Assistant Registrar. Total value shs. 19,800,000/=. The instructions I have are that the applicant is not in agreement with the valuation report and contends that a higher value should be considered. the value per acre should be even higher, e.g. at least 1,500,000/=

The Assistant Registrar then ruled as follows;

Ug. Shs. 40,000,000/= agreed upon in the consent judgment was for the withdrawal of the case with costs as well as for costs in the High Court. It is not subject to further negotiation or litigation by lawyers. It is therefore ordered that the sum be paid within one (1) week from today, 5th August 2011 or else execution shall issue.....since the value of the land as per the valuation report of the District Valuer, Arua is not agreeable to the applicant, the parties are encouraged to negotiate for the purpose of consenting to the value agreeable to both and inform court accordingly. In the alternative, the applicant should at his own cost appoint a certified / independent valuer to do the work and produce a report for comparison with the existing one on or before 7/9/2011.

However, the respondent on 6th September 2011 filed High Court Miscellaneous Application No. 23 of 2011 by which it sought to set aside that consent judgment on grounds that the judgment was illegal in so far as it varied the order of the High Court Judge made in the proceedings for revision in High Court Miscellaneous Application No. 54 of 2010. In a ruling delivered on 13th

February 2012, the consent judgment of 8th April 2011 was set aside and the applicant was directed to deposit the sum of shs. 25,000,000/= on the bank account of the chief Magistrate's court of Nebbi, which he had received under the impugned consent judgment, within thirty days of the ruling, to remain on the account until the final determination of the re-instated Nebbi Civil
5 Suit No. 10 of 2008. The respondent was awarded the costs of the application.

The record indicates that the applicant thereafter made several attempts to cause taxation of the bill of costs filed by counsel for the applicant, Mr. Kabuga Chris on 20th December 2010, in respect of High Court Miscellaneous application No. 54 of 2010, including 17th October 2014
10 and 15th December 2014. On the latter date, the applicant stated that he needed time to consult his lawyer about an offer for settlement he had received from the respondent. The record reads as follows;

15/12/14

Ojiambo David in court

15 Odama Athieson in court

St. Comboni College represented by Fr. Raphael Okumu

Ojiambo: We are trying to settle this matter. I have made some offers to Atriason and he needs time to consult his lawyers.

Atriason: I need time to consult my lawyer. I have discussed with Fr. Raphael.
20 We need time

Court: Matter set for further discussion. Adjourned to.....

Ojiambo: I pray this matter is adjourned sine die to enable us discuss this matter.

Court: Parties agree to pursue this settlement and report to court to get the
25 date once they are ready.

On 20th February 2015, a consent order and a consent judgment were simultaneously entered into between the parties indicating, inter alia, that the bills of costs then pending taxation in High Court Miscellaneous applications Nos. 54 of 2010 and 23 of 2011 had been fully settled and
30 therefore entirely withdrawn. Both were sealed by court on 14th October 2015. Counsel for the applicant though nevertheless proceeded with taxation of the bill of costs there under on 15th December 2015 and obtained a certificate of taxation in the amount of shs. 18,447,620/=, in the absence of counsel for the respondent, but in the presence of Fr. Raphael Okumu, as a representative of the respondent. The respondents then filed Miscellaneous application No. 35 of

2016 on 5th May 2016 seeking to set aside the “ex-parte” certificate of taxation. One of the grounds raised was that the parties had on 20th February 2015, entered into a consent order / judgment sealed on 14th October 2015 that settled the bill of costs and hence it was taxed in error. In his affidavit in reply, the applicant denied ever having signed any consent order / judgment
5 with the respondent. He stated further that he had rejected the outcome of the negotiations between his lawyer and the applicant, his purported signature on the order / judgment of 20th February 2015 was therefore forged, he did not authorise his lawyer to receive any payment on his behalf under that consent and, on the face of it, the judgment had material irregularities of form. When the application came up for hearing on 25th May 2016, the applicant was in court
10 and indicated to the Assistant Registrar that he needed to engage another advocate. It was adjourned for that purpose. Eventually on 23rd September 2016, the parties filed a “consent settlement” by which the application was withdrawn with each party bearing its costs.

In the meantime on 7th March 2016, there were taxation proceedings before the Assistant
15 Registrar, at which the applicant again denied having signed the consent of 20th February 2015. The Assistant Registrar observed as follows;

It is only proper to have the applicant / plaintiff’s counsel who signed the disputed consent appear in court. This matter is adjourned to 11th April 2016.

20 On 16th April 2016, Mr. Chris Kabuga, counsel for the applicant was in court together with the applicant. He was handed a copy of the impugned consent from the court record. He then said;

The plaintiff is complaining that he did not append his signature on the consent. He has severally complained to me that he was not satisfied with the way the matter was handled. To the best of my knowledge, I should have fixed this matter for mention so
25 that the parties attend court and verify their signatures before the Registrar. Its not anywhere on record that the plaintiff did so in this case. No wonder this court went ahead and fixed this matter for taxation and actually taxation proceeded. That means this court was not aware how the consent was brought and reached. In as much as I signed the consent and received the sums therein, I did so pending verification from
30 the plaintiff. This is not my case. It’s for the plaintiff. If he is not satisfied then I cannot proceed. It is our submission that there is no consent. As such taxation of the plaintiff’s bill of costs should proceed and if there are any issues regarding consent, these should be addressed in another forum.

In response, Mr. Ojiambo, Counsel for the respondent stated that counsel for the applicant Mr. Kabuga had not explained how his client's signature came to be appended on the consent judgment. He said;

5 If there were any forgeries of his client's signature, then they were perpetrated by
counsel himself who went ahead and received money behind the back of his
client...This consent was endorsed from Nebbi in the presence of Mr. Joel Ojuko
who acted for the defendant, Mr. Chris Kabuga was present, the plaintiff was
present, the Bishop of Nebbi Diocese is the one who released the money and was
10 present. That same day 20/2/2015 an acknowledgement was made when the five
million was received (counsel tenders an acknowledgement). This is a matter of
gross professional misconduct and this kind of conduct must be put to an end... they
caused a taxation of Miscellaneous applications Nos. 54 of 2010. That portrays and
shows the character of the plaintiff and his counsel

15 In rejoinder, Mr. Chris Kabuga stated that at the time he received the money, the applicant was
away in Ghana and that he received the money "pending verification and signature of the
plaintiff....I pray that my client clarifies as to the signature on the consent." The applicant then
stated;

20 I have never signed any consent. I was not forced nor induced. That is not my
signature. I do not remember whether I was in the country or not.

In his ruling delivered on 2nd May 2016, the Assistant Registrar declined to tax the bill of costs in
Miscellaneous applications No. 49 of 2010 on grounds that there was already a certificate of
taxation in Miscellaneous applications No. 54 of 2010 and a subsequent consent order which had
25 not been formally set aside. Despite that ruling, the applicant appeared in court again on 16th
November 2016, for taxation of the bill of costs. Counsel for the respondent again presented the
consent order of 20th February 2015. The applicant again denied any knowledge of the consent
order. On 10th January 2017, the applicant then filed the current application seeking to set aside
the consent Order and Judgment of 20th February 2015, sealed on 14th October 2015 on the
30 grounds already elucidated above.

The impugned consent order of 20th February 2015 is to the effect that "the bill of costs in Arua
High Court Miscellaneous Application No. 0054 of 2010, No. 049 of 2010 and No. 0023 of
2011, pending taxation, are fully settled and as such entirely withdrawn by the parties." The

consent Judgment / decree bearing the same date provides, inter alia, that the applicant was to retain the shs. 25,000,000/= as part payment of the decretal sum. Counsel for the applicant, Mr. Chris Kabuga, on that day received shs. 5,000,000/= on behalf of the applicant as part payment of an agreed sum of shs. 8,000,000/= as costs.

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A consent Judgment is a judgment of the court in terms which have been contractually entered into by parties to the litigation, validated by Court under O.50 rule 2 and Order 25 Rule 6 of *The Civil Procedure Rules* (see *Brooke Bond Liebeg (T) Ltd v. Mallya* [1975] E.A 266). A consent judgment once recorded or endorsed by the Court, becomes the judgment of the Court and
10 binding upon the parties. It is however unique in that it is not a judgment of the Court delivered after hearing the parties. It is an agreement or contract between the parties. As such it can only be set aside for a reason which would enable the court to set aside or rescind on an agreement.

Historically, therefore, it was considered that a fresh action was necessary where a party sought
15 to establish that a consent judgment was tainted by fraud or mistake (see *Jonesco v. Beard* [1930] AC 298 and *de Lasala v. de Lasala* [1980] AC 546). The logic of this approach was that a fresh action would be required as the main proceedings were no longer extant, having been concluded, and could not be revived by an application made within the proceedings. Fresh pleadings would be required setting out the allegation of fraud, mistake or non-disclosure and
20 seeking the set aside of the order by way of relief and the matter would proceed to a trial of the allegations. However in *Hirani v. Kassam* [1952] EA 131, followed in *Attorney General and another v. James Mark Kamoga and others*, S. C. Civil Appeal No. 8 of 2004, it was held, inter alia, that;

Prima facie, any order made in the presence and with the consent of counsel is
25 binding on all the parties to the proceedings or an action, and it cannot be varied or discharged unless obtained by fraud or collusion, or by an agreement contrary to the policy of the court.....or if the consent was given without sufficient material facts, or in general for a reason which would enable a court to set aside an agreement.... It is a well settled principle therefore that a consent decree has to be upheld unless
30 vitiated by a reason that would enable Court to set aside an agreement such as fraud, Mistake, Misapprehension or Contravention of Court policy. The principle is on the premise that a consent decree is passed on terms of a new contract between the parties to the Consent Judgment.

Similarly in *Babigumira John and others v. Hoima Council [2001 – 2005] HCB 116*, it was held inter alia that a consent order can be set aside if it was given without sufficient material facts or in misapprehension or in ignorance of material facts or in general for a reason which would enable the court to set aside such an agreement. In *Pavement Civil Works Ltd v. Andrew Kirungi*,
5 *High Court Misc. Application No. 292 of 2002*, it was held that a consent Judgment and decree cannot be set aside by appeal but rather by a suit, or by an application for a review of the Judgment sought to be set aside. But that the more appropriate mode is by an application for review. The reasons that would enable court to set aside a consent judgment are fraud, mistake, misapprehension or contravention of court policy. In the instant application, the applicant
10 advances a three pronged attack for seeking an order setting aside the consent judgment, in that; he never consented to the terms of the consent, his signature was forged, and there are material irregularities of form that render the consent judgment invalid.

Regarding his argument that he never consented to the terms of the consent, it is trite law that
15 once Counsel receives instructions from a client and those instructions have not been terminated, counsel has full control over the conduct of the trial and has apparent authority to compromise all matters connected with the action including entering a consent judgment (see *Nankya Buladina and another v. Bulasio Konde [1979] HCB 239*; *Hansraj Raumal Shah v. Westlands General Stores Properties Ltd. and another [1965] EA 642* and *B. M. Technical Services v. Francis*
20 *Rugunda [1999] KALR 821*). It was held in the latter case and followed in *Lenina Kemigisha Mbabazi and Starfish Limited v. Jing Cheng International Trading Limited, High Court Misc. Application No. 344 of 2012* that:

The court cannot set aside a consent judgment when there is nothing to show that
25 counsel for the applicant has not entered into it without instructions. Furthermore that even in cases where an advocate has no specific instructions to enter consent judgment but has general instructions to defend the suit, the position would not change so long as counsel is acting for a party in a case and his instructions have not been terminated, he has full control over the conduct of the trial and apparent authority to compromise all matters connected with the action.”

30 From the facts of this case, at the time the consent judgment was entered on 20th January 2015 and sealed on 14th October 2015, the applicant was represented by Mr. Chris Kabuga. Indeed the two of them subsequently appeared together in court on 16th April 2016. The applicant did not

adduce any evidence that at the material time he had withdrawn instructions from his said counsel. His only argument appears to be that he did not give specific instructions to his advocate to enter into that consent since the terms were disagreeable to him but he does not say that he gave him express instructions not to enter into the consent. In *Nsimbe and two others v. Caltex (U) Ltd and three others, H.C. Misc. Application No. 144 of 2013*, where it was contended that the consent judgment should be set aside because counsel did not have specific instructions of the applicant to enter into the consent, it was held that;

The consent shows that Counsel Mr. Abaine signed for the Applicants and Annexure “D” and “F” to the affidavit of Susan Matovu also show that Counsel Abaine had full instructions to handle the matter and authority to negotiate and reach settlement. It is the established law that an advocate having approved the form of decree is stopped from questioning the form or substance thereof..... At the same time, where the applicants had given all the requisite instructions to the said lawyer before the consent judgment was entered, as in this case, they did not need have to sign it themselves since they were represented, and were actually present on the day the consent was formally entered. In effect they are estopped from trying to assert a contrary position from that clearly obtaining on the consent judgment.

Similarly in this application before me, in absence of evidence showing that the applicant expressly instructed his advocate not to enter into the consent judgment, he is bound by the signature of his advocate on the consent judgment, which neither the applicant nor his counsel disputed. The apparent authority vested in counsel to compromise all matters connected with the action including entering a consent judgment, can only be rebutted by evidence of express instructions that were given by the client to the contrary or that the advocate committed fraud against him in the conduct of his case. The applicant has not proved any of this. The consent judgment therefore cannot be set aside on this account. It is therefore binding on the applicant and he cannot now turn around, for reasons of his own, to say that he does not wish to be bound by the terms of the Consent Judgment.

The second limb of his argument is that the consent judgment should be set aside on account of his forged signature appearing on the consent judgment. Fraud, whether intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party can justify the setting aside of a consent judgment (see *Livesey (formerly Jenkins) v. Jenkins [1985] AC 424, [1985] 1 All ER*

106). For example in *Helge Angstrom Rudolf v. Henry Collins Masaawa and another High Court Misc. Appl. No. 1112 of 2008*, a withdrawal of a suit by counsel for the applicant without his consent was sought on grounds that the purported withdrawal of the suit by the Plaintiff was tainted with fraud and illegality because the alleged signature of the plaintiff on the withdrawal document was a forgery. The forgery was confirmed by a forensic examiner of questioned documents. The consent judgment was set aside.

However, a consent judgment cannot be set aside on account of one of the parties having a change of heart. It can only be done if there are mistakes as to fact or law, fraud committed by the other party, or any mistake made at the time when the Consent Judgment was entered. That the applicant's counsel did not explain the contents of the Consent Judgment in detail to the applicant, that the applicant did not to give his consent, that the applicant had no proper advice from his Counsel, all are not reasonable excuses which can be accepted by the Court. In *Robert Kagudde Mubiru v. David Mubiru and two others, High Court Misc. Application No. 76 of 2012*, the applicant sought to set aside a consent order regarding an agreed on a position that the valuer be jointly instructed by both parties, on grounds that the applicant's former Advocates had purported to sign the said order without the consent of the applicant and the order was grossly prejudicial to the applicant's case in the main suit. He contended that insertion into the order that one of the disputed property formed part of the deceased's estate was fraudulent as it was intended to deprive the applicant of his proprietary rights as regards that property since it in effect barred him from pursuing his claim over the property. The court held that the applicant other than alleging fraud, had not sufficiently demonstrated that his former advocates committed fraud against him in the conduct of his case. The allegation of fraud on the part of former Counsel for the applicant having not been proved and barring any other reason the Consent Order could not be set aside.

Similarly in this case, on the face of it, both the applicant and his Counsel confirmed the terms of the Consent Judgment by their respective signatures. During the proceedings of 16th April 2016, before the Assistant Registrar which were intended to verify the applicant's denial of the signature attributed to him, his advocate Mr. Chris Kabuga, curiously avoided explaining the circumstances in which his client's signature was appended to the consent judgment. Despite the

claim that the signature was forged, it is further curious that neither the applicant nor his counsel has ever reported a criminal case of forgery. It is further curious that even after learning that his advocate had already received sums of money in execution of the impugned consent judgment, which allegedly has never been transmitted to him; the applicant to-date has never lodged a
5 complaint of misconduct against the advocate before the Law Council. Both the applicant and his counsel's conduct is not consistent with the allegation of forgery. It is obvious that the applicant had a change of mind after the Consent Judgment was recorded. However, unfortunately for him it is now too late in the day for him to overturn the Consent Judgment under a disguised claim of forgery. The applicant's protests are ill intentioned. The respondents have adduced evidence of
10 the results of a forensic handwriting analysis of the impugned signature which disproves his allegation of forgery. He neither sought to cross-examine the author of the report nor did he adduce evidence to rebut it. His assertions of fraud by way of forgery are inadequate to satisfy the standard of proof of fraud. Since it has not been proved by the applicant that the consent complained of was entered into through fraud, connivance or absence of material facts, this
15 ground too fails.

The last ground raises want of form in that the consent judgment was sealed with the seal of the High Court rather than that of the Chief Magistrate Court of Nebbi as it ought to have been. The circumstances in which this occurred have been ably explained in the affidavit in reply. It
20 appears to me that this was an inadvertent mistake rather than a design to defraud. In *Wanume David Kitamirike v. Uganda Revenue Authority Court of Appeal Civil Appeal No. 138 of 2010*, the applicant contended that the Registrar's certificate dated 17.06.2010 certifying that the record of proceedings of the High Court which was applied for by the appellant on 30.09.09, was prepared and made available for collection by the appellant from the High Court Registry on the
25 19.05.2010, was invalid in law. This is because, according to the applicant's counsel, the same was headed "In the Court of Appeal of Uganda" instead of "In the High Court of Uganda" and also there was no seal on the same. Holding that the absence of a Court seal on a court document was a mere irregularity which cannot be fatal, the learned Justices of appeal stated as follows;

30 The applicant did not, in any way, dispute the fact that the Registrar's certificate dated 17.06.2010 was signed by the appropriate Registrar, High Court, Civil Division. There is no allegation that the same is a forgery. The Registrar, High Court, Civil Division, was not summoned by the applicant for cross-examination as

to how he came to issue the said certificate. The complaint that the said certificate is wrongly headed “In the Court of Appeal” instead of “In the High Court” and that no seal appears on it, are, in our view, mere irregularities, which in no way affect the genuineness and validity of the certificate.

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In applying the legal principles therein to the present case, considering that there is no evidence of fraud adduced by the applicant, the Court does not think that the Consent Judgment should be set aside on a mere technical error that does not go to the jurisdiction of the judicial officer who signed in his capacity as the caretaker Chief Magistrate of the court and on grounds concocted by the Plaintiff by way of an afterthought. It is in the interest of justice that the Consent Judgment be maintained and upheld by this Court in order to bring finality and closure to litigation between the two parties. Consequently, the application is dismissed with costs to the respondent.

15 Dated at Arua this 12th day of April 2017.

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Stephen Mubiru
Judge
12.04.2017.