

and contended that the appellant who had allegedly filed an appeal in the LCIII Court, was estopped from criticizing it for want of jurisdiction.

Only counsel for the applicant filed written submissions which together with the pleadings will form the basis of my ruling.

The Law and issues arising

Under Section 83 CPA, the High Court has powers of revision over the decisions of lower Courts when:-

- i. The lower Court exercised a jurisdiction not vested in her in law
- ii. The lower Court failed to exercise a jurisdiction so vested, or
- iii. The lower Court acted in the exercise of her jurisdiction illegally or with material irregularity or injustice.

LCI and II Courts were created first under the Local Council (Judicial Powers) Statute 1988 which was repealed and then replaced by the LCC Act. They are under Section 1 of that Act constituted by the Executive Committee members of a given village or Parish. Therefore, by the nature of their membership, LC Courts have a direct link to the LC Committees as administrative units governed by the Local Governments Act (LGA). Under LGA, committee members hold elective office under adult suffrage.

It is not in dispute that the respondent was the successful party in both the LCI and LCII Courts. His argument is that the lower Court had powers to hear the dispute and its appeal and determine it. On the other hand, it is argued for the applicant that:-

- i. The LCI and LCII Courts exercised jurisdiction not vested in them in law when they determined the dispute between the parties and therefore, the proceedings were a nullity
- ii. The LCI and LCII Courts did not have statutory quorum when they passed judgment against the applicant, therefore, their judgments were irregular

My Decision

It is not clear when the dispute between the parties was filed or heard in the two lower Courts. However, it is evident that the decisions of the LCI and LCII Courts were handed down on

26/08/2012 and 23/09/2012 respectively. I hasten to add that it is not the merits of those decisions, but the jurisdiction and constitution of the Court that are in issue.

I agree with applicant's counsel that by September 2012, no LCI or LCII Committees and Courts was legally in place. Justice Mutonyi in **Ocitti Vrs Okello Civil Misc. Application No. 54/2014**, advised that as far back as 2007, Local Council I and II Courts were not legally constituted. That was because those Courts were declared unconstitutional by the Constitutional Court in her decision in **Rubaramira Ruranga Vrs the Electoral Commission & Attorney General (Constitutional Petition No. 21/2006)**. I have also stated that the committee members who constitute the Courts can only exist after properly convened national elections as administrative units. By 2012, the Electoral Commission had not conducted LCI and II elections. Thus, although the Courts technically and practically existed on ground, by 2012, they had no constitutional mandate to operate as Courts of law and thus had no jurisdiction to adjudicate over disputes, they type that was before them in this matter. The position has ofcourse changed since the 2018 elections.

The decisions of the LCI and LCII Courts were thus a nullity and of no substance.

It was argued secondly that the LCI and LCII Courts lacked requisite quorum at the material time they sat and made their decisions. In particular that, there was no female representative contrary to Section 4(3) LGA which stipulates that at least two members of the Town, Division or Sub County Local Council Court must be women.

According to the proceedings of 23/9/12, a total of six men sat to hear and decide the dispute. The judgment was signed by the Chairperson LCII. There was no female representative and thus the Court had no quorum. The proceedings would thus be irregular and the decision illegal for lack of quorum. Although the proceedings for the LCI Court were not attached for scrutiny of this objection, I have already made the decision that the LCI Court had no jurisdiction to hear the dispute as the Court of firstinstance.

In conclusion, I find merit in the application and it is allowed. I thereby issue an order to revise the decision the LCI Court of Kamuli-Namwendwa LCII Court for lack of jurisdiction and quorum.

Although no particular prayer was made in respect of the Budhumbula Zone LCI Court, her proceedings and judgment were also made without jurisdiction.

I have mentioned that jurisdiction is a matter of law and at any point that it is brought to the attention of Court, it must be addressed. I would likewise revise the decision of the LCI Court of Budhumbula Zone by declaring it a nullity. Both decisions are therefore of no effect and are set aside. The parties should therefore revert to their original positions with respect to land at Budhumbula which was the subject in issue in both actions.

It is clear that both parties submitted themselves, to both the LCI and LCII Courts willingly and with no knowledge of their legal status. Although ignorance of the law is no defence, I judge both parties are technically in positions where they should be protected but not condemned by the law in costs.

I therefore decline to grant the respondent costs as prayed and instead order that each party meets their costs of this application.

I so Order

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EVA K. LUSWATA
JUDGE
DATED: 25/10/18