



3. When the Plaintiff proceeded to survey and take possession of the same, third parties claiming to have equitable interests in the suit land challenged him and since made it impossible for him to survey or take its possession. On 7<sup>th</sup> May 2018, the Plaintiff's lawyers M/s. Mukiibi & Kyeyune Advocates wrote to the Defendant's lawyers M/s. Kayanja & Co. Advocates informing them of the same and demanding a refund of the money paid at execution. In a response of 14<sup>th</sup> May 2018, the Defendant's lawyers wrote reassuring the Plaintiff that the Defendant was working on solving the claims and needed not more than four weeks to complete this process. That after the said weeks, the Plaintiff would be able to enjoy quiet possession of the land and presented in the agreement. To date the Defendant has not sorted the claims and the Plaintiff has never surveyed or taken possession of the land.
4. After service on the Defendant without him filing a written statement of defence or appearing before court and proof of service returned to court, on 2<sup>nd</sup> April 2019, judgment was entered for; (a) the decretal sum of Ug.shs. 200,000,000/=; (b) interest on (a) above at 25% per annum; (c) Ug. shs: 30, 000, 0000/= as expenses for surveying and grading the suit land; (d) general damages and costs of the suit. The suit was set down for formal proof. The Plaintiff was the only witness and testified as PW1. He reiterated the averments in the plaint.
5. In this case, it is not in dispute that the Plaintiff paid Ug. shs: 200,000,000 for purchase of the suit land from the Defendant. According to the purchase agreement between the two, the Defendant in paragraph 7 guaranteed good title free from any encumbrances favouring any third party. However when the Plaintiff tried to survey the suit land, he found many third party claimants of the same who made it impossible to do the same.
6. According to annexure BG3 from the Defendant's lawyers acting on his behalf, the Defendant requested for a period of not more than four weeks to conclude the matter of these third party claimants to the suit land. This communication was written on 14<sup>th</sup> May 2018 and received by the Plaintiff's lawyers on the same date. However there is no demonstration that the said third party claimants have ever been sorted by the Defendant for the Plaintiff to have an unencumbered title.

7. In particular, in unnumbered paragraph 2, the Defendant acknowledges receipt of the Ug. shs: 200,000,000/= from the Plaintiff as part payment of the suit land. This amount remains due and owing and is the one the Plaintiff sought to recover and for which the registrar entered default judgment. I am satisfied that the registrar properly entered the default judgment and the suit amount is sufficiently formally proved. In annexures BG2 and BG5 to the plaint which is annexure BG 7 to the witness statement, it is demonstrated that the Plaintiff has demanded the money in issue from the Defendant but it remains unpaid.
8. According to annexures BG2, BG3 and BG4, the Plaintiff has proven that he paid a total of Ug. shs: 10, 000,000/= vide voucher number 2835 on 20<sup>th</sup> March 2018 to Kasita, Carlos and others, who were his brokers for the suit land; a total of Ug. shs: 12,000,000/= to K.N. B (TENS) company vide receipt No.s 1184 and 1138 dated 30<sup>th</sup> March 2018 and 17<sup>th</sup> March 2018 respectively for subdivision of plots on the suit land and opening boundaries to measure off the suit land; and Ug. shs: 8,000,000/= vide receipt No. 700 dated 20<sup>th</sup> March 2018 to Andy's Machinery services Ltd. These expenses totalling Ug. shs. 30,000,000/= are reasonable, properly claimed and proved as special damages.
9. For the embarrassment and inconvenience, the Plaintiff is also entitled to general damages. I accordingly award Ug. shs: 25,000,000/= (Uganda shillings twenty five million only) as general damages. The Plaintiff is also entitled to costs. Interest on the decretal sum, the special damages and general damages is awarded at 25% per annum. For the decretal sum and general damages, interest shall run from 19<sup>th</sup> March 2018, the date of the agreement between the parties till payment in full and the interest on the general damages shall run from the date of judgment till payment in full.

I so order.

Lydia Mugambe.  
Judge.  
10<sup>th</sup> June 2020