

letters of administration of the estate to the plaintiff, a permanent injunction, general damages and costs of the suit.

The defendant on the other hand made a Written Statement of Defense in which
5 under paragraph 3 he denied the claims by the plaintiff and the reliefs sought
arguing that the plaint lacks merit and legal basis. The plaintiff also denied
paragraph 5 of the plaint which talked about the defendant wasting the estate if he
kept as an administrator of the estate. The defendant though admitted paragraph 4
10 of the plaint which among others confirmed the beneficiaries under the estate of
the late Katarwa Yosamu who included the plaintiff. The same paragraph stated
that the defendant has never distributed the estate of the late, which was also
admitted. The defendant further admitted the contents of paragraph 4(g) where it
was stated that the late had two houses that were demolished under unclear
15 circumstances and also admitted paragraph 4(h) where it was contended by the
plaintiff that the defendant without any color of right and without the consent from
the rest of the beneficiaries to the estate went ahead and constructed on the estate
hence depriving the rest of the beneficiaries including the plaintiff from obtaining
the shares from the estate.

20 It was on the basis of the admission of the facts in paragraph 4 that counsel for the
plaintiff made an oral application to have a judgment on admission entered against
the defendant.

Issues:

25 (a) Whether or not judgment on admission should be entered in favour of the
plaintiff.

(b) Remedies.

Representation:

Counsel Muhumuza Samuel of M/s Legal Aid Project appeared for the plaintiff and M/s Lawgic Advocates represent the defendant.

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Resolution:

Issue One: Whether or not judgment on admission should be entered in favour of the plaintiff

10 Order 13 of the Civil Procedure Rules. Order 13 rule 6 states thus:

“Any party may at any stage of a suit, where an admission of facts has been made, either on the pleadings or otherwise, apply to the court for such judgment or order as upon the admission he or she may be entitled to, without waiting for the determination of any other question between the parties; and the court may upon the application make such order, or give such judgment, as the court may think just”

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In *Future Stars Investment (U) Ltd Vs Nasuru Yusuf, HCCS No. 0012 of 2017*, the Hon. Justice Stephen Mubiru while considering order 13 rule 6 of the Civil Procedure Rules observed that, it is a settled principle of the law that a judgment on admission is not a matter of right but rather one of discretion of the court. The admission must be unambiguous, clear, unequivocal and positive. Where the alleged admission is not clear and specific, it may not be appropriate to take recourse under the provision. In *The Board of Governors Nebbi Town S.S.S Vs Jaker Food Stores Limited HC M.A No. 0062 of 2016 (Arua HC)* the Hon. Justice Stephen Mubiru further noted that the judge’s discretion to grant judgment on

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admission of fact under the law is to be exercised only in plain cases where the admissions of fact are so clear and unequivocal that they amount to an admission of liability entitling the plaintiff to judgment.

5 An admission should be on facts that have the bearing of disposing of a question in controversy or the entire suit. The party should be clearly understood to have rightly admit the claim without consideration of extrinsic evidence or the need for further interrogation of the pleadings. The admission should be glaring from the party's pleadings. Therefore, court should examine the totality of the parties' pleadings and the supporting documents and the clear and irresistible conclusion therefrom
10 should be that one party admits the theory or claim by the other party to the suit.

In this case, the plaintiff sued seeking to revoke the letters of administration granted to the defendant over the estate of the late Katarawa Yosamu in HCT 01 –
15 CV – AC – 38 of 2014, an order to have the grant surrendered, an order for comprehensive statement of account of all the dealings with the estate, a grant of letters of administration to the plaintiff, permanent injunction, general damages and costs of the suit and these are in paragraph 3 of the plaintiff. The defendant in paragraph 3 of the Written Statement of Defense denied the contents of paragraph
20 3 of the plaintiff and contended that the plaintiff lacks merit and legal basis. The plaintiff also denied all the other paragraphs. The contents of paragraph 4(a) to (h) of the plaintiff which the defendant admitted in paragraph 5 of his Written Statement of Defense, appear not to admit the claim by the plaintiff, but rather, facts which have a bearing on the claim. The defendant did not admit the claims by the plaintiff
25 under paragraph 3 of the plaintiff and there was no admission as to whether the plaintiff is fit and proper to administer the estate of the late. In my view the facts admitted had no effect of having the suit either fully disposed of or partially

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determined. The reading of the plaint and entire defense and the annexures thereto do not lead one to an irresistible conclusion that the defendant admitted the plaintiff's claim. To the contrary, the defendant disputed the plaintiff's claim. The alleged admission is not unequivocal or clear to warrant entering a judgment on admission in favour of the plaintiff.

Remedies:

Since the facts do not suggest that the defendant admitted the plaintiff's claim to warrant grant of a judgment on admission, I decline to grant the prayer by Counsel for the plaintiff and in lieu thereof issue the following directions for progression of the main suit.

(a) The parties should generate and file a Joint scheduling Memorandum within 15 days from the date of delivery of this ruling.

(b) Both the plaintiff and the defendant should file and exchange their trial bundles and witness statements within 30 days after filing the Joint Scheduling Memorandum.

I so order.


Vincent Wagana

**High Court Judge
Fort-portal
1.11.2022**