

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA  
HOLDEN AT MBALE**

**HIGH COURT CRIMINAL REVISION NO 002 OF 2012  
[ARISING FROM CRIMINAL CASE NO 497 OF 2011]**

**UGANDA.....PROSECUTOR**

***VERSUS***

**MBOIZI DISON.....ACCUSED**

**BEFORE: THE HONOURABLE MR JUSTICE STEPHEN MUSOTA**

**REVISION ORDER**

This file has been placed before me by the Learned Chief Magistrate Mbale vide her letter to this court dated 16<sup>th</sup> July 201 for a possible revision 2.

The background to this matter is that the Magistrate Grade II Pallisa convicted the accused Mboizi **Dison** for criminal trespass and malicious damage to property and sentenced him to one month imprisonment. In addition the trial Magistrate made an order that the convict vacate the land. Prior to this there had been several complaints over the matter and all indications are that the underlying conflict concerns a land dispute. There is infact a pending appeal HCCA 216/2008. In the learned Chief Magistrates opinion the order directing the convict to vacate the land was not in order because the Grade II Magistrate has no jurisdiction to grant such an order in respect of land and considering that the land appeal is already before the High Court the Magistrate's order is likely to cause confusion.

I agree with the views by the learned Chief Magistrate that the order to vacate land was illegal because the Magistrate Grade II had no jurisdiction to grant such order in respect of land.

Any order made without jurisdiction is illegal and null and void and ab initio.

Secondly, the punishments for both criminal trespass and Malicious Damages to property are clearly spelt out under the Penal Code Act. Upon conviction for Criminal Trespass under Section 302 of the Penal Code Act the convict is liable to imprisonment for 1 year and upon conviction for malicious damage to property under Section 335 (1) of the Penal Code Act, the convict is liable to imprisonment for 5 years. No consequential orders are provided for in both offences.

The orders concerning the disputed land ought to have waited for the outcome of the pending civil appeal.

Consequently, I will find that the order to vacate land given by the learned trial Magistrate was illegal. It will be set aside.

**Stephen Musota**

**Judge**

**20.11.2013.**

