

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA; AT KAMPALA
(EXECUTION DIVISION)
EXECUTION MISC. APPLICATION No. 2355 OF 2012
(Arising from High Court (Land Division) Civil Suit No. 1183 of 1997)

1. CHARLES JAMES MARK KAMOGA }
2. JAMES KIMALA } ::::::::::: APPLICANTS/JUDGMENT CREDITORS

VERSUS

1. ATTORNEY GENERAL }
2. UGANDA LAND COMMISSION }
3. MUGABO PETER BAGOZA }
4. JOHN SSIMBWA }
5. ELISA TUSUGIRE }
6. PATRICK OKULANGOLE } ::::::::::: RESPONDENTS/JUDGMENT
DEBTORS
7. J.K. SSEWANYANA }
8. LEMA NORAH KATABARWA }
9. M. NAKASIJJA }
10. EDITH BAINOMUGISHA }
11. S. OJAKOL }
12. BETTY KEMIREMBE }

BEFORE: - THE HON. MR. JUSTICE ALFONSE CHIGAMOY OWINY – DOLLO

RULING

This matter has come to me by way of reference from the Deputy Registrar Execution upon the instance of counsels for the Applicants herein. It arises from an application for execution of a consent decree in the head-suit herein; wherein the Court had granted a consent decree that the Plaintiffs (Applicants/Judgment Creditors herein) were entitled to terminate the 1st Defendant's

lease comprised in LRV 321 F.6 Plots No. 113–117 (the suit property), and re–enter and gain possession of the same. The Court had also made a consent declaratory decree therein that the 2nd Defendant wrongfully and unlawfully granted leases to the 3rd up to 12th Defendants out of the Plaintiffs land comprised in FRV 306 F.20 and FRV 314 F.13.

The Defendants however applied to Court to set aside the consent decree. The matter was put to rest by the Supreme Court, which declined to set the decree aside. When the decree holders sought to execute the decree, the 3rd up to the 12th Defendants (3rd to 12th Respondents/Judgment Debtors herein) objected to the enforcement of the consent decree against them, on the ground that they did not sign it. However, the High Court (Tuhaise J.), overruled the objection by counsel for the 3rd to 12th Respondents/Judgment Debtors herein and pronounced that the decree bound all the Defendants in the head–suit; and directed that execution should proceed against all the Respondents/Judgment Debtors herein.

After this, the 3rd to 12th Respondents/Judgment Debtors herein filed Misc. Application No. 631 of 2011 urging Court to review the consent decree or set it aside. The High Court (Tuhaise J.), again, dismissed the application on the ground that the matter had been decided by the Supreme Court; hence, the High Court had no jurisdiction to review it. The 3rd to 12th Respondents/Judgment Debtors herein then filed Misc. Application No. 357 of 2012, in the Court of Appeal, for stay of execution of the decree; but this was also dismissed. The 3rd to 12th Respondents/Judgment Debtors herein, then lodged an appeal by way of a Reference, under Reference No. 63 of 2013, which was also dismissed by the Court of Appeal. There is no contention that there is any order of stay of the execution of the decree.

Pursuant to the 3rd to 12th Respondents/Judgment Debtors herein having exhausted all the available avenues for objecting to the execution of the decree against them, the Applicants/Judgment Creditors herein applied to the Registrar Execution for completion of the execution process. The Registrar issued a notice to the Respondents/Judgment Debtors to appear before her and show cause why execution should not proceed in enforcement of the decree. However, counsel for the 3rd up to the 12th Respondents herein again objected to the execution of the decree against them, arguing that they did not sign the consent decree. The Registrar upheld this objection; and so, she declined to issue the warrant for execution against the 3rd up to the 12th Respondents/Judgment Debtors herein.

Following this turn of events, counsel for the Applicants/Judgment Creditors caused the Registrar to refer the matter to me for direction. From the record of Court as laid out above, there is no justification for the non-enforcement of the decree of the Court against the 3rd up to the 12th Respondents/Judgment Debtors herein. The law is quite clear that even an appeal, without an order of stay of execution by a competent Court, cannot stand in the way of enforcement of a decree. Here the consent decree against all the Defendants, inclusive of the 3rd up to the 12th Respondents/Judgment Debtors herein, has the force of law as there is no order staying execution of the decree. It must be enforced as ordered; because Courts do not make orders in vain.

Invariably, Court orders are not pleasant to those against whom such orders are made. Nonetheless, notwithstanding such unpleasantness of, and grievance with, the orders, such Court orders command both utmost respect and unreserved compliance with. It is pertinent to reproduce here, in extenso, what the Court of Appeal stated most authoritatively in the case of **Amrit Goyal vs Harichand Goyal & 3 Others – C.A.C.A. No.109 of 2004**; namely that: –

"A Court order is not a mere technical rule of procedure that can simply be ignored. Court orders must be respected, and complied with. A Court order must be obeyed, as ordered, unless set aside or varied. Those who ignore them do so at their peril."

In the case before me, the obduracy exhibited by counsel for the 3rd up to the 12th Respondents/Judgment Debtors, in persistently raising baseless objection to the enforcement of the decree, borders on abuse of the due process; and must stop. Accordingly, I direct the Registrar Execution to henceforth, enforce the decree of the Court in the head-suit herein, against the Respondents/Judgment Debtors as decreed.

A handwritten signature in purple ink, appearing to read 'Alfonse Chigamoy Owiny', with a stylized flourish at the end.

Alfonse Chigamoy Owiny – Dollo

JUDGE

06 – 02 – 2015