

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**

**FAMILY DIVISION**

**MISC.CAUSE NO.27 OF 2018**

5       **(Arising from Administration Cause No.553 of 2004)**

**DAVID LUZIGE DDUMBA.....APPLICANT**

**Vs**

**THE REGISTRAR OF TITLES WAKISO DISTRICT.....RESPONDENT**

10    **Before: Hon. Lady Justice Olive Kazaarwe Mukwaya**

**RULING**

The applicant, David Luzige Ddumba brought this application by way notice of motion supported by affidavit under no stated law. The application arises from Administration Cause No. 553 of 2004 in respect to the Estate of the Late Serestino Kasirye who died intestate in 1984.

15    To understand this application it important to appreciate its background as contained in Administration Cause 553/2004. By that administration cause, letters of administration to the estate of the late Serestino Kasirye were granted to his daughter, Ms. Justine Nalwanga Kasirye on the 18<sup>th</sup> January 2005. On the 4<sup>th</sup> of December 2009, Ms. Justine Nalwanga Kasirye surrendered the administrative responsibilities of the estate of Mr. Serestino Kasirye, her late  
20    father, to court, citing a preexisting court case over the matter, clan-rift and her deteriorating health among others as reasons for her inability to continue functioning as administrator of the estate. A formal communication to the Registrar, High Court Family Division dated 9<sup>th</sup> May 2012 was made by Ms. Justine Nalwanga Kasirye renouncing the Letters of Administration and returning the Certificate of No Objection plus all accompanying documents to the court for  
25    further management. This letter was copied to the Administrator General among others. Renunciation was granted by the Registrar of the Family Division on the same date. In a communication dated 21<sup>st</sup> June 2012, Ms. Justine Nalwanga Kasirye surrendered Certificate of

Title to Plot 60 Block 338, Busiro Kiwatule- private Mailo Land to the court for safe custody until a new administrator could be identified. She enclosed the title deeds for Plot 60 Block 338 and Plot 1438 Block 264.

On the 26<sup>th</sup> February 2014, Ms. Justine Nalwanga Kasirye wrote to the Deputy Registrar Family Division informing the officer about the wastage of the estate of the late Serestino Kasirye, since no administrator had been identified to replace her since she had surrendered her role as administrator. The letter was requesting for the intervention of the court. As far as this court could ascertain by perusal of the file contents on Administration Cause No. 553 /2004, to date, no other administrator has been appointed to replace Ms. Justine Nalwanga Kasirye.

The application before this court is supported by the affidavit of the applicant who refers to himself as a bona fide purchaser for value without notice, having purchased the land from Kawagga Kasirye George, who was apparently the biological son of the late Serestino Kasirye. According to the applicant, Mr. Kawagga Kasirye George sold him part of his beneficial interest of the land comprised in Kyadondo Block 121 Plot 10 ‘some time ago’. It was not possible to complete the mutation and transfer of the land since the Administrator to the estate of the late Serestino Kasirye, Ms. Justine Nalwanga Kasirye renounced her duties as administrator of the estate on the 9<sup>th</sup> May 2012. The applicant averred that on 4<sup>th</sup> of July 2017, in an addendum to the land transaction, which was attached to the affidavit in support of the application, and marked ‘A’, Mr. Kawagga Kasirye George acknowledged agreements dating from 28<sup>th</sup> July 2015 to 10<sup>th</sup> February 2017 between himself and the applicant and went ahead to consolidate all those agreements in writing in the addendum. The addendum stated that a total consideration of UGX 246, 500,000 had been paid by the applicant to Mr. Kawagga George Kasirye for his beneficial interest in the land that was still registered in the name of Ms. Justine Nalwanga Kasirye, the renounced administrator of the estate of the late Serestino Kasirye. Later that month, Mr. Kawagga Kasirye George died before concluding the land transaction.

The application before this court is seeking for orders that the caveat lodged by Mrs. Teddy Kawagga under Instrument No. 62127 and dated the 1<sup>st</sup> December 2008 is vacated and that this Court be pleased to issue an order to the Registrar of Titles, Wakiso District to mutate, vest and/or transfer land comprised in Kyadondo Block 121 Plot 10 at Nangabo, Wakiso District measuring approximately 2.58 acres to the applicant.

It was the duty of this court to determine;

1. **Whether the caveat lodged by Mrs. Teddy Kawagga under Instrument No. 62127 and dated the 1<sup>st</sup> December 2008 could be vacated.**
2. **Whether this Court could issue an order to the Registrar of Titles, Wakiso District to mutate, vest and/or transfer land comprised in Kyadondo Block 121 Plot 10 at Nangabo, Wakiso District measuring approximately 2.58 acres to the applicant.**

Counsel in this matter did not deem it necessary to highlight the law under which he was moving this Court for the orders prayed for. Nonetheless, this Court proceeded under S.98 of the Civil Procedure Act and S. 33 of the Judicature Act to make its determination of this matter. S.98 of the Civil Procedure Act gives the High Court unlimited original jurisdiction in all matters of a civil nature.

S.33 of the Judicature Act provides as follows;

*The High court shall, in the exercise of the jurisdiction vested in it by the Constitution, this Act or any written law, grant absolutely or on such terms and conditions as it thinks just, all such remedies as any of the parties to a cause or matter is entitled to in respect of any legal or equitable claim properly brought before it, so that as far as possible all matters in controversy between the parties may be completely and finally determined and all multiplicities of legal proceedings concerning any of those matters avoided.*

Turning to the 1<sup>st</sup> issue, on whether the caveat dated the 1<sup>st</sup> of December 2008, by Mrs. Teddy Kawagga could be vacated by this Court, Ms. Teddy Kawagga, who lodged the caveat, who is supposedly the widow to the late Kawagga George Kasirye, was not a party to this matter. The applicant sued the Registrar of Titles only. Counsel for the applicant made considerable submissions on the validity of the caveat and its cogency. It was impossible for this Court to make any decisions in this matter without the caveator being in court to explain the circumstances of the caveat and why it was still subsisting.

Further still, and even more pertinent, was the fact that the basis of this prayer was the purchase of land by the applicant of land that, by his own admission, formed part of the

estate of the Late Serestino Kasirye. The said land transaction commenced in 2015, a long time after the holder of Letters of Administration to the estate, Ms. Justine Nalwanga Kasirye, had renounced her role on the 9<sup>th</sup> of May 2012. To date there is no administrator to the estate.

5 While the applicant claims that he derives his rights in the land from the beneficial interest of the late Kawagga Kasirye George, the absence of an Administrator of the estate of the late Serestino Kasirye where his alleged beneficial interest stemmed rendered the transaction suspect. It may be that the late Kawagga George Kasirye had beneficial interest in the property, however that is a fact that can only be relayed by the rightful administrator of the  
10 estate of the late Serestino Kasirye, who having taken over authority to manage the estate, would transfer that interest from the names of the renounced administrator, into his/her name and then into the name of the party with the beneficial interest. This was not done. For the foregoing reasons, the caveat lodged by Ms. Teddy Kawagga must remain in place until a court with competent jurisdiction has the opportunity of hearing both caveator and the  
15 applicant over the matter and rendering a decision.

**2. Whether this Court could issue an order to the Registrar of Titles, Wakiso District to mutate, vest and/or transfer land comprised in Kyadondo Block 121 Plot 10 at Nangabo, Wakiso District measuring approximately 2.58 acres to the applicant.**

This Court has already found that the transactions between the Late George Kasirye  
20 Kawagga and the applicant were lacking in propriety. It therefore cannot make any orders vesting the property into the names of the applicant.

It is this Court's observation that the vacuum in the management of the estate of the Serestino Kasirye for the last six years caused by the renunciation of letters of administration by Ms. Justine Nalwanga Kasirye should be filled by the Office of the Administrator General which  
25 has the mandate to manage estates of deceased's persons, who die intestate like the late Serestino Kasirye. This will ensure that the estate is distributed and wound up. The documented disharmony between the family members/ immediate beneficiaries ought to be taken into account while making any future decisions on who should be mandated to manage the estate.

I order as follows:

1. This application is dismissed with no order as to costs.
2. The Administrator General is directed to take over the management of the estate of the Late Serestino Kasirye with immediate effect and ensure that the estate is distributed and wound up.

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**Olive Kazaarwe Mukwaya**

**JUDGE**

10 **Dated at Kampala this 24<sup>th</sup> day of October 2018**

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