

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION
MISCELLANEOUS APPLICATION NO 263 OF 2013
(ARISING FROM CIVIL SUIT NO. 136 OF 2013)

1. NATAYI RITAH
2. MUKWAYA MOSES
3. MAKUMBI EDWARD } ::::::::::: **APPLICANTS**

VERSUS

1. BARCLAYS BANK OF UGANDA LTD
2. WALAKIRA WILLINGTON } ::::: **RESPONDENTS**

RULING BY HON. MR. JUSTICE JOSEPH MURANGIRA

The applicants through their lawyers M/s Kajeke, Mugarura & Co. Advocates filed this application against the two respondents jointly or/and severally by Chamber Summons under Order 41 rules 1, 2 and 9 of the Civil Procedure Rules and Section 98 of the Civil Procedure Act.

This application is supported by the affidavit sworn by the 1st applicant on 22nd March, 2013.

The 1st respondent through its lawyers Ligomarc Advocates filed an affidavit in reply sworn by Simon Mugisha on 15th May, 2013. The 2nd respondent never

filed any affidavits in reply. The application against him would, therefore, succeed. Otherwise this application is primarily against the 1st applicant.

This application is seeking the following orders; that:- **a temporary injunction doth issue against the 1st Respondent restraining it or its agents from disposing of or alienating the property comprised in Kibuga Block14 Plot 1138, Land at Najjanankumbi (hereinafter referred to as the suit land) pending hearing and disposal of the main suit.**

Consequent to the above, I perused this application, considered the affidavits evidence adduced by the applicants and the 1st respondent, and in my considered opinion the pleadings by the said parties in this application raise triable issues in the main suit, HCCS No. 136 of 2013. Such issues have to be investigated by this Court at the time of the hearing of the said main suit.

Further, the law concerning the applications for temporary injunctions is settled. The conditions for grant of a Temporary Injunction were laid down in the case of **Kiyimba-Kaggwa v Haji Abdu Nasser Katende [1985] HCB 43** where Court stated that:

- 1. The grant of a temporary injunction is an exercise of judicial discretion and for the purpose of preserving the status quo until the question to be investigated in the suit can be finally disposed of;**
- 2. The conditions for the grant of a temporary injunction are:**
 - i) That the Applicant must show a prima facie case with a probability of success;**

- ii) That the Applicant must show that if an injunction is not granted he/she might suffer irreparable injury which would adequately be compensated by an award of damages;**
- iii) If the court is in doubt it should decide the application on the balance of convenience.**

On analysing the written submissions by the applicants and the 1st respondent and considering all the cited cases plus the evidence on record, the applicants proved all the conditions for grant of temporary injunction well laid down in the cases cited by the parties. In the premises, I make a finding that this application has merit. That the granting of the temporary injunction is an exercise of judicial discretion and the purpose of granting it is to preserve the matters in status quo until the questions to be investigated in the suit can finally be disposed of.

In the result, therefore, this application is allowed in the terms and orders being sought therein with costs in the cause.

Dated at Kampala this 14th day of June, 2013.

sgd
Murangira Joseph
Judge

