

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(LAND DIVISION)**

**MISC. APPLICATION NO. 396 OF 2013**

**(Arising from Civil Suit No. 209 of 2013)**

- 1. BETTY NALIMA**
- 2. NAJJUMA CHRISTINE**
- 3. CAROL NALIMA**
- 4. ESTHER MUKIIBI**
- 5. KAKANDE STEVEN ANDREW ..... APPLICANTS**

**VERSUS**

- 1. SEBYALA MOSES KIWANUKA**
- 2. RICHARD NALIMA**
- 3. GODFREY MUKIIBI NALIMA**
- 4. LUBMARKS INVESTMENT LTD**
- 5. CRANE BANK LTD ..... RESPONDENTS**

**Hon. Lady Justice Monica K. Mugenyi**

**RULING**

1. The first applicant, fifth applicant, and first respondent were all Directors in Lubmarks Investment Ltd, the fourth respondent company. On 17<sup>th</sup> April 2009 the fourth respondent company obtained an overdraft from the fifth respondent bank in the sum of Ushs. 300,000,000/=, and on 8<sup>th</sup> January 2010 the same company obtained a bank guarantee from the same bank in the sum of Ush. 200,000,000/=. The bank guarantee was authorized by a Board Resolution dated 7<sup>th</sup> April 2009 and signed by first respondent and first applicant. No resolution was availed to this court in respect of the overdraft facility. On 4<sup>th</sup> February 2011 the fourth respondent company passed another Resolution for the increment of the above overdraft and bank guarantee to Ushs. 550,000,000/= and Ushs. 350,000,000/= respectively. Yet again, on an unclear date in 2011 the said respondent company passed another resolution authorizing the increment of the bank guarantee to Ushs. 750,000,000/=.

2. On 4<sup>th</sup> July 2011 four separate mortgage deeds were executed by the fourth and fifth respondents in respect of properties owned by the first applicant, and the first, second and third respondents respectively. The properties in question are the first applicant's land comprised in Kyadondo Block 216 plot 2365 at Buye – Ntinda; first respondent's land at Kyadondo Block 1495 at Buye – Ntinda; second respondent's land at Kyadondo Block 266 plot 878 at Seguku, and that owned by the third respondent at Kyadondo Block 206 plot 2982 at Mpererwe. On the same date (4<sup>th</sup> July 2011), the first and second applicants, as well as the first, second and third respondents purportedly executed a guarantee in favour of the fifth respondent with regard to the mortgages created on the same day.
3. It would appear that the transaction entailed an arrangement where the fourth defendant, an investment company, was availed finances by the fifth respondent such as would enable it provide financial guarantees to its clients. Upon the fourth defendant's default on the mortgage terms, the fifth respondent kick-started a loan recovery process that entailed notice of sale of the allegedly mortgaged properties. The applicants thereupon filed **Civil Suit No. 209 of 2013** *inter alia* seeking the nullification of the afore-stated mortgage transaction and a permanent injunction restraining the fifth respondent from selling the mortgaged properties on account of absence of spousal consent and alleged fraud. The present application for a temporary injunction was subsequently filed to forestall the sale of the mortgaged property pending the determination of that suit.
4. At trial the applicants were represented by Messrs. George Muhangi and Edward Mukwaya, while Mr. Ernest Sembatya represented the fifth respondent. In their written submissions, learned Counsel for the applicants referred this court to the cases of **Kiyimba Kaggwa vs. Katende (1985) HCB 43** and **Giella vs. Casman Brown (1973) EA 358**, both of which were cited with approval in **Digital Solution vs. MTN Uganda Ltd High Court Misc Applic. No. 546 of 2004**, in exposition of the grounds for the grant of a temporary injunction. Counsel re-stated the said grounds as follows:
  - (a) *That an application must show a prima facie case with a probability of success.*
  - (b) *That an interlocutory injunction will not normally be granted unless the applicant might otherwise suffer irreparable injury which would not adequately be compensated by an award of damages.*
  - (c) *If the court was in doubt it will decide an application on the balance of convenience.*
5. It was Counsel's contention that the substantive suit herein did establish a prima facie case against the respondents given the latter's execution of mortgage deeds without requisite spousal consent. Counsel faulted Statutory Declarations deposed by the second and third respondents in which they declared themselves unmarried, for having been deposed a day after the execution of the mortgage deeds in question. Counsel argued that securing such declarations after the event did not legalise a mortgage deed that had been illegally executed without spousal consent. They questioned the authenticity of personal guarantees and statutory declarations attributed to the second and third respondents; as well as the

resolutions purportedly endorsed by the first applicant or any document purportedly executed by her with the fifth respondent. It was Counsel's submission that the first and fifth respondents had fraudulently colluded to execute the mortgage transaction in issue. Counsel further contended that the sale of the suit premises would cause irreparable injury to the applicants given that they were their matrimonial homes, they derived a livelihood therefrom, and consequently no amount of damages could adequately compensate their loss. Finally, Counsel argued that the balance of convenience in this matter favoured the applicants given the inconvenience their families stood to suffer if their matrimonial homes were sold.

6. The fifth respondent, on the other hand, contested the applicants' claim that they were not aware of the mortgage transaction, arguing that they had duly executed Board Resolutions, mortgage deeds, statutory declarations and a Guarantee agreement in support thereof. It was argued for the fifth respondent that the second applicant granted spousal consent for the transaction by Statutory Declaration, while the second and third respondents swore Declarations that they were not married and therefore did not require spousal consent. Learned Counsel contended that no proof of marriage was furnished by the third and fourth applicants neither did any of the applicants file an affidavit of rebuttal in respect of the Statutory Declarations relied upon by the fifth respondent. It was Counsel's submission that the deponement of the said Declarations a day after the execution of the mortgage deeds was inconsequential as the Deeds were subsequently registered and took legal effect on 15<sup>th</sup> August 2011, well after securing the requisite consent. Counsel faulted the applicants for raising the question of fraud with no particulars or mention thereof in the supporting affidavit.
7. On the issue of irreparable damage, learned Counsel advanced the position in **Kakooza Abdulla vs. Stanbic Bank Uganda Ltd Misc. Applic. No. 614 of 2012**, that **'security pledged to a financial institution or bank stand the risk of being sold and the intended sale is within the contemplation of the parties to the loan agreement. In other words, the sale of property by the mortgagee cannot lead to irreparable loss since it is the contractual arrangement or intention of the parties and expressly provided in the loan agreement or mortgage deed.'** See also **Matex Commercial Supplies Ltd & Another vs. Euro Bank Ltd (In Liquidation) (2008) 1 EA 216** and **Maithya vs. Housing Finance Co. of Kenya & Another (2003) 1 EA 133**. Counsel argued that should this application be disallowed, the respondent bank was able to sufficiently recompense the applicants for any loss suffered in the event that they won the substantive suit after the sale of their properties. He referred this court to the decision in **Castle Estates Ltd vs. Barclays Bank of Uganda Ltd Commercial Court Misc. Applic. No. 129 of 2009** where the following passage from **American Cyanamid vs Ethicon (1975) 1 All ER 504** was cited with approval:  
**"If damages in the measure recoverable at Common Law would be adequate remedy and the defendant would be in a financial position to recover them, no**

**interlocutory injunction should normally be granted however strong the plaintiffs claim appeared at that stage.”**

8. With regard to the issue of balance of convenience, it was Counsel’s contention that whereas the respondent bank had suffered the inconvenience of having depositors’ monies unutilized owing to the fourth respondent’s default; the applicants did not stand to suffer any inconvenience. In a brief reply, however, it was argued that the fifth respondent bore the onus of proof that the disputed transaction documents were properly executed; proof of the deponed marriages was a matter for the substantive suit; the balance of convenience favoured the maintenance of the status quo, and Regulation 13(1) of the Mortgage Regulations that the fifth respondent had sought to invoke as an alternative prayer was inapplicable in the absence of a valuation report of the properties’ forced sale values.
9. Order 41 rule 1(a) of the Civil Procedure Rules (CPR) mandates courts to grant a temporary injunction to restrain any party to a suit from **‘wasting, damaging or alienating any property in dispute in a suit.’** In the instant case, the said legal provision was invoked to restrain the alienation by the fifth respondent of the properties afore-cited.
10. As was demonstrated in the case of **Mbidde Foundation Ltd & Another vs. Secretary General of the East African Community & Another East African Court of Justice (First Division) Applications No.s 5 & 10 of 2014**, the ‘*prima facie* rule’ in applications for temporary injunctions, as had hitherto been espoused in **Giella vs. Casman Brown (1973) EA 358** (Court of Appeal), was reversed by the House of Lords in the case of **American Cyanamid vs. Ethicon Ltd (1975) AC 396**. In **Mbidde Foundation Ltd & Another** (supra) the conditions for the grant of a temporary injunction were, quite rightly in my view, held to have been most persuasively summed up in **Halsbury’s Laws of England, Vol. 11 (2009), fifth Edition, para. 385** as follows:

**“On an application for an interlocutory injunction the court must be satisfied that there is a serious question to be tried. The material available to court at the hearing of the application must disclose that the claimant has real prospects for succeeding in his claim for a permanent injunction at the trial. The former requirement that the claimant should establish a strong prima facie case for a permanent injunction before the court would grant an interim injunction has been removed.”**
11. As to the determination of ‘a serious question to be tried’, in **American Cyanamid vs. Ethicon Ltd (1975) AC 396 at 407**, Lord Diplock held that it was no function of a court hearing an application for an interlocutory injunction **‘to try to resolve conflicts of evidence on affidavits as to facts on which the claims of either party may ultimately depend nor to decide difficult questions of law which call for detailed argument and mature consideration.’** All that needed to be shown was that the application had ‘substance and

reality.’ See *‘Blackstone’s Civil Procedure’, 2005, Oxford University Press, p. 393*. On the other hand, *Halsbury’s Laws of England* (supra) more specifically posits:

**“Where the application is to restrain the exercise of an alleged right, the claimant should show that there are substantial grounds for doubting the existence of the right. The claimant must show that an injunction until the hearing is necessary to protect him against irreparable injury; mere inconvenience is not enough.”**

12. Consequently, it appears to me that a court adjudicating an application for a temporary injunction is required to investigate the merits of the substantive suit in respect of which the application arises to a very limited extent only. Where the application is to restrain the exercise of an alleged legal right, the onus is on the applicant to demonstrate substantial grounds for doubting or negating the existence of such right. Where a determination is made that there is no serious question to be tried, an application for a temporary injunction would be dismissed on that premise alone. However, where a serious question for determination has been demonstrated, courts will normally inquire into whether or not any injury suffered by the applicant could be adequately compensated by damages in the event that the action for which restraint had been sought, in the first place, would have transpired.

13. In *American Cyanamid* (supra) the adequacy of damages in an application for a temporary injunction was addressed as follows:

**“The object of the interlocutory injunction is to protect the plaintiff against injury by violation of his right for which he could not be adequately compensated in damages recoverable in the action if the uncertainty were resolved in his favour at the trial; but the plaintiff’s need for such protection must be weighed against the corresponding need of the defendant to be protected against injury resulting from his having been prevented from exercising his own legal rights for which he could not be adequately compensated under the plaintiff’s undertaking in damages if the uncertainty were resolved in the defendant’s favour at trial. The court must weigh one need against another and determine where ‘the balance of convenience’ lies.”**

14. In other words, the question of irreparable injury by either party was deemed to be one of the factors to be weighed by courts in determining where the balance of convenience lies. In that sense, the balance of convenience would be determined by weighing the applicant’s need for protection from irreparable injury, on the one hand; against the respondent’s corresponding need for protection against similarly irreparable injury arising from its being prevented from enforcing its legal rights. Irreparable injury, in this context, entails loss or injury for which either party could not be adequately compensated by an award of damages if the substantive suit were determined in their favour.

15. For purposes of temporary injunctions, damages have been considered to be inadequate where:

- a. The respondent is unlikely to pay the sum awardable at trial.
- b. The wrong under consideration is irreparable, for instance, loss of the right to vote.
- c. The damage or injury in question is non-pecuniary, for instance libel, nuisance, trade secrets; as opposed to contractually defined pecuniary amounts.
- d. Damages would be difficult to assess, for instance loss of goodwill, disruption of business or future business prospects, and where a respondent's conduct has the effect of killing off a business before it is established. See *'Blackstone's Civil Procedure', ibid., p. 394.*

16. This, obviously, is an indicative rather than exhaustive list; other factors would come into play on a case by case basis. Ultimately, however, when there is doubt as to the adequacy of damages by either party or, indeed, where other factors appear to be evenly balanced, it is a counsel of prudence for courts to preserve the status quo. Accordingly, the law on temporary injunctions may be summed up as follows: an applicant must, first, demonstrate the existence of a serious question to be tried; should such serious triable issue not have been demonstrated, the application would fail on that premise alone. However, where a serious triable issue has been duly demonstrated, the court would then consider the balance of convenience of the matter. Alongside other factors that may differ from case to case, the balance of convenience may be deduced from which of the opposing parties stands to suffer injury or loss that cannot be adequately compensated by damages should the substantive suit be determined in his/ her favour; or indeed, which party stands to suffer greater irreparable injury. For present purposes where matrimonial homes are at stake, the adequacy of an award of damages may, in turn, be deduced from the ability of the 5<sup>th</sup> respondent to meaningfully recompense the applicants for the loss thereof. Finally, where these factors appear to be evenly balanced, it is prudent that the status quo be preserved.

17. In the present application the applicants contested the validity of the mortgage transaction, questioning the authenticity of the written consent attributed to the second applicant, as well as the second and third respondents' purported waivers thereof. They thus impute fraud in the mortgage transaction and contend that the execution of the mortgage deeds without requisite spousal consent raises serious triable issues.

18. The requirement for spousal consent prior to execution of a mortgage in respect of a matrimonial home is explicitly provided for in section 39(1)(a)(i) of the Land Act. That legal provision notwithstanding, section 5(1)(b) of the Mortgage Act, 2009 does recognise the mortgage of a matrimonial home where **'any document or form used to grant the mortgage is signed by or there is evidence that it has been assented to by the mortgagor and the spouse or spouses of the mortgagor living in that matrimonial home.'** In the instant case where the second applicant executed a statutory declaration by which she consented to the mortgaging of her matrimonial home, and the second and third respondents similarly deponed statutory declarations stating that they were not married and did not,

therefore, require spousal consent; the present mortgages would have been deemed to be validly executed within the precincts of section 5(1), but for the other material on record and the legal jurisprudence enunciated below.

19. First, in the affidavit in support of the application the applicants deny any knowledge whatsoever of the mortgage transaction and aver that the second, third and fourth applicants are spouses to the first, second and third respondents, all mortgagors herein. Although there is no contention about the second applicant having been the first respondent's spouse, the said applicant would appear to have had no knowledge of the mortgage transaction in issue. This raises questions about the authenticity of the statutory declaration attributed to her by the fifth respondent. In the same vein, the third and fourth applicants lay spousal claim to the second and third respondents but deny having given consent to the mortgaging of their matrimonial homes. I do recognize that it is no function of this court to delve into the detailed merits of the affidavit evidence availed to it for purposes of this application. The question as to whether or not the third and fourth applicants were in fact the spouses of the second and third respondents is a matter for trial and proof by detailed evidence, the veracity of which may be tested by cross examination. However, for present purposes, the fact that the marital status of the third and fourth applicants is in issue and the spousal consent allegedly granted by the second applicant is disputed raises questions as to the mortgagee's legal interest.
20. Secondly, and perhaps more importantly, section 6(1) of the Mortgage Act places a duty on a prospective mortgagee faced with the prospects of a matrimonial home as security to satisfy itself that the spousal consent referred to in section 5 is informed and genuine. Therefore the recognition of mortgaged matrimonial property stipulated in section 5(1) is subject to the duty placed upon the mortgagee in section 6(1). Under section 6(1)(a) and (b) of the Act, that duty is discharged when the mortgagee explains to the spouse(s) of an applicant for a mortgage in the presence of an independent person, the terms and conditions of the mortgage sought; or, in writing, advises the applicant that s/he should ensure that his or her spouse(s) receive independent advice on the said terms and conditions. In addition the spouse(s) should provide a signed and witnessed document indicating that they have indeed received independent advice on the said mortgage and have understood and assented to the terms and conditions thereof; or that, the advice from the mortgagee notwithstanding, they have waived their right to independent advice. In the instant case there is no material before me that would demonstrate that the mortgagee complied with the provisions of section 6(1)(a)(i) or (ii), or indeed 6(1)(b). It can be reasonably deduced, therefore, that the mortgagee herein did not explain the terms and conditions of the mortgage to either the third and fourth applicants, the alleged spouses of the second and third respondents; or to the second applicant, the first respondent's uncontested spouse. Even if it were presumed that the second and third respondents were not married and therefore no spousal consent was required of them, there is no indication whatsoever that the first respondent was advised by the mortgagee to ensure

that his spouse obtained such advice; nor is there any indication that the mortgagee secured the affirmation of the said mortgagor's spouse that she had been so advised. On the face of the record, therefore, it would appear that the mortgagee did not comply with the cited provisions of the Mortgage Act in that regard.

21. Finally, but by no means least, the material availed to this court by the fifth respondent included a guarantee by the first and second applicants (alongside the first, second and third respondents). Section 2 of the Mortgage Act defines a surety to include such guarantors. As a general rule, whenever the relationship between a debtor and a proposed surety is 'non-commercial', or the surety does not stand to benefit from the transaction or is, otherwise, one where the surety reposed trust and confidence in the debtor; a mortgagee is required to take reasonable steps to satisfy itself that the surety's consent to stand as such has not been procured by undue influence, misrepresentation or other misconduct by the debtor. See *Halsbury's Laws of England, Vol 77, 2010, 5<sup>th</sup> Edition, paras. 147, 148*. Failure to take such steps, a mortgagee would be deemed to have constructive notice of the surety's right to set aside the transaction.

22. Thus in *Barclays Bank plc vs O'Brien (1994) 1 AC 180*, where the court found that a husband had procured his wife as surety to a transaction by misrepresentation, Lord Brown Wilkinson held:

**“Therefore in my judgment a creditor is put on inquiry when a wife offers to stand surety for her husband's debts by the combination of 2 factors: (a) the transaction is on its face not to the financial advantage of the wife, and (b) there is substantial risk in transactions of that kind that, in procuring the wife to act as surety, the husband has committed a legal or equitable wrong that entitles the wife to set aside the transaction. It follows that unless the creditor who is put on inquiry takes reasonable steps to satisfy himself that the wife's agreement to stand surety has been properly obtained, the creditor will have constructive notice of the wife's rights. ... But in my judgment the creditor, in order to avoid being fixed with constructive notice, can reasonably be expected to take steps to bring home to the wife the risk she is running as standing surety and to advise her to take independent advice.”**

23. The rule on constructive notice as laid down in *Barclays Bank plc vs O'Brien* (supra) was developed further in *Royal Bank of Scotland plc vs Etridge (Vol. 2) (2002) 2 AC 773*. In that case relationships that are susceptible to inquiry by a mortgagee were defined and explained within the context of undue influence (per Lord Nicholls):

**“Undue influence is one of the grounds of relief developed by the courts of as a court of conscience. The objective is to ensure that the influence of one person over another is not abused. In everyday life people constantly seek to influence the decisions of others. They seek to persuade those with whom they are dealing to enter into transactions, whether great or small. The law has set limits to the means**



properly employable for that purpose. ... Equity identified two forms of unacceptable conduct. The first comprises overt acts of improper pressure or coercion such as threats. ... The second form arises out of a relationship between two persons where one has acquired over another a measure of influence, or ascendancy, of which the ascendant person then takes unfair advantage. .... In cases of this nature the influence one person has over another provides scope for misuse without any specific overt acts of persuasion. The relationship between two persons may be such that, without more, one of them is disposed to agree to a course of action proposed by the other. Typically this occurs when one person places trust in another to look after his affairs and interests, and the latter betrays this trust by preferring his own interests. He abuses the interest he has acquired.’ (emphasis mine)

24. I do recognize that the issue of undue influence is a question of fact and the burden of proof thereof would rest upon the person who alleges it. Nonetheless, proof that such complainant placed trust and confidence in the other party with regard to such complainant’s financial affairs, coupled with a transaction which calls for explanation, would normally be sufficient, in the absence of satisfactory evidence to the contrary, to discharge the burden of proof. This would be *prima facie* evidence that the defendant abused the influence s/he acquired in the parties’ relationship. So the evidential burden then shifts to such defendant. See **Royal Bank of Scotland plc vs Etridge** (*supra*).
25. However, it is my considered view that the foregoing standard of proof pertains to a substantive suit premised on undue influence not to an interlocutory application arising from such suit. Thus, whereas a plaintiff who alleges undue influence would be required to furnish sufficient proof that s/he placed trust and confidence in the defendant with regard to such plaintiff’s financial affairs; an applicant for an interlocutory injunction need not delve into such detailed evidence in proof thereof. In my judgment it would suffice at that stage for an applicant to furnish such particulars as to the parties’ relationship as would reasonably denote such influence.
26. In the instant case the first applicant was the first respondent’s mother-in-law and co-director with him in the fourth respondent company; while the second applicant was the same first respondent’s wife. Within the context of patriarchal socio-cultural inclinations, typically both relationships would fall within the category of relationships where one party exercises influence over the other. Thus a son-in-law and husband would ordinarily be deemed to have a significant amount of influence over his mother-in-law and wife. The question as to whether such influence then crosses into the threshold of ‘undue’ influence should be subject to inquiry by a prospective mortgagee to avert its assuming the risk of constructive notice. In my judgment, therefore, the mortgagee herein should have exercised the common law duty placed upon it to ascertain whether both sureties understood the implications of standing

surety in the present transaction. No material was furnished to this court as would *prima facie* demonstrate that this was done.

27. To compound matters, on the face of it, the signature attributed to the first applicant in the board resolution of 7<sup>th</sup> April 2009 appears to noticeably differ from the signature attributed to her in latter resolutions made in 2011. Indeed, the former signature appears to be different from her designated signatures as depicted in all the documents in the transaction under scrutiny presently. Against the backdrop of the applicants' averment that they had no knowledge of the said transaction, it seems to me that this court is faced with a transaction that certainly calls for detailed explanation as far as the mortgagee's legal rights are concerned.
28. The legal right of a mortgagee to sale mortgaged land upon default is recognized in section 20(e) of the Mortgage Act. However, the remedies available to the mortgagee under that section presuppose the existence of a valid mortgage. The onus is on the applicant to demonstrate substantial grounds for negating or doubting the fifth respondent's right of claim over the mortgaged properties. In my judgment, this court's findings above raise substantial questions as to the validity of the fifth respondent's legal right to sell the mortgaged property. Therefore, on a balance of probabilities, I find that the applicants have duly discharged the onus placed on them. In the result, I am satisfied that the application raises serious questions to be tried.
29. Having so found, I revert to a consideration of the balance of convenience of this matter. This court gave due consideration to the applicants' need for protection from irreparable injury for loss of their property viz the need to protect the mortgagee from similar injury as a result of being restrained from enforcing its legal right. On the question as to whether or not an award of damages would adequately compensate either party for any injury suffered, I would answer in the affirmative for both parties subject to a proper valuation of the mortgaged properties. That factor, therefore, is evenly balanced. However, this court is unable to determine the fifth respondent's ability to so compensate the applicants in the event that the substantive suit was decided in their favour after the sale of their properties. I find no indication of the mortgaged properties' value on record; neither has this court been provided with an indicative liquidity or financial status of the mortgagee. It cannot be presumed that every financial institution is in a position to meet its credit obligations as and when they fall due.
30. Conversely, given that the present application seeks to temporarily restrain the fifth respondent from selling the mortgaged property, the grant of an interlocutory injunction would merely postpone the onset of this action. I would, therefore, exercise my judicial discretion on the side of prudence and do hereby order that the present status quo be preserved pending the determination of the substantive suit.

31. Before taking leave of this matter, I shall briefly address the competence of the representative affidavit deponed by the fourth applicant on behalf of all the applicants. Order 19 rule 3(1) of the CPR confines affidavits to facts within deponents' knowledge and which such deponent is able to prove. The circumstances of the present case are that the first and second applicants; as well as the first, second and third respondents are members of the same family, the first applicant being the matriarch thereof. The third and fourth applicants also lay claim to the same family by marriage to the second and third respondents, which claim the first applicant appears to acknowledge given her consent to the representative affidavit. As such, it is reasonable to conclude that the fourth respondent would indeed be knowledgeable about the details of the present dispute and able to prove them, as stated in the affidavit. The fourth applicant did also attest to having been authorized to depone the affidavit on behalf of the other applicants and written consent therefor was availed vide a document dated 2<sup>nd</sup> May 2013. Having established that the deponent had authority to depone the representative affidavit, I do find the affidavit in question competent for purposes of the present application. See ***Kaingana vs. Boubou (1986) HCB 59.***

32. In the final result, I do hereby grant a temporary injunction in this matter with no order as to costs.

**Monica K. Mugenyi**  
**JUDGE**

18<sup>th</sup> August, 2014