

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA SITTING AT ARUA
CIVIL APPEAL No. 0023 OF 2013

(Arising from Yumbe Grade One Magistrate’s Court Civil Suit No. 0058 of 2010)

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1. ALUMA MICHAEL BAYO }
2. ISMAIL DRATIGA } **APPELLANTS**
3. SWALEH AYO }

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VERSUS

SAIDI NASUR OKUTI RESPONDENT

Before: Hon Justice Stephen Mubiru.

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JUDGMENT

In the court below, the respondent sued the appellants jointly and severally for general damages for trespass to land, an order of eviction, a permanent injunction and costs. The respondent’s case was that his late father, Al-Haji Nasuru Okuti Fadimula was the owner of 2590 hectares of land in Kei Division, Palja Parish in Kei Sub-county, Yumbe District on which he established a farm he named “Lobe Mixed Farm.” Before his death, the respondent’s father had sometime during the year 1976 caused a survey of the land and secured a deed plan. Upon his death, the respondent and the rest of the members of the family of the deceased inherited the land and continued the farming activities until sometime in 2009 when the appellants unlawfully intruded into the land interrupting the respondent’s quiet possession and utilisation of the land. The appellant’s destroyed part of the fence, cut down some of the trees growing on the land, began cultivating portions of the land and building semi-permanent houses. The appellants failed to heed the respondent’s demands that they leave the land hence the suit.

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In his written statement of defence, the first appellant contended that he had never entered onto land constituting Lobe Mixed Farm but rather was occupying land constituting “Chere Mixed Farm” which is owned communally. He further contended that the respondent’s father had wrongfully and without their knowledge obtained a lease over part of the land comprising “Chere

Mixed Farm.” The first appellant’s father had in the past allowed a one Doka Ajobe to use that part of the land temporarily and the respondent had taken advantage of that to collude with Doka Ajobe to take over part of the appellants’ land. He contended that it was instead the respondent who in the year 2009 entered onto land constituting “Chere Mixed Farm” claiming it to be his.
5 He therefore counterclaimed against the respondent for trespass to land on that ground in that the respondent had entered onto “Chere Mixed Farm” and began construction of a fence and grazing cattle thereon with the aid of his employee, a one Agotre Kassim Fadimula.

The rest of the appellants filed a joint written statement of defence in which they denied the
10 respondent’s claim and claimed instead that the land in dispute belongs to them and they had been in occupation thereof since they were born on that land which belonged to their grandparents from time immemorial. The remained in quiet possession, unaware of any lease over the land until the year 2009 when a one Agotre Kasim unlawfully entered onto the land and began grazing his cattle thereon against their will. When leasing the land, the respondent’s father
15 did not involve any of them and as a result he had enclosed part of their land in what the respondent now claims to be land leased to “Lobe Mixed Farm.”

In his reply to the defences, the respondent contended that the land occupied by Doka Ajobe was separate and distinct from the one now in dispute. The land constituting both “Lobe Mixed
20 Farm” and “Chere Mixed Farm” is surveyed and each has a separate title deed. In his defence against the counterclaim, he averred that the first appellant has no customary interest in the disputed land. Survey of the land comprising Lobe Mixed Farm” was done openly and with the knowledge of the owners of all adjacent land and thus the title was acquired lawfully.

25 The respondent who testified as P.W.1 Nuru Okuti stated that he inherited the land in dispute from his late father, Haji Nuru, in 1986. Before his death, his father had on 14th June 1976 been offered a lease over the land by the Uganda Land Commission and had established a livestock farm thereon. At the time his late father applied for the lease, the land was part of gazetted woodland and when it was de-gazetted in 1976 his father applied for a lease over the land. His
30 father’s activities were interrupted by the war of 1979 forcing the family to flee into exile. Upon their return from exile, they continued to occupy the land until sometime in 2009 when the

appellants intruded onto the land. There are graves on the land of deceased relatives of his including that of his late father and mother. Some of the features on the land existing as remnants of the livestock farming activities on the land include the remains of a cattle dip, a fuel tank, old fencing posts, a bore hole, parts of caterpillar earth mover and a small bridge connecting “Lobe Mixed Farm” to the neighbouring “Chere Mixed Farm.” The land was surveyed during or around
5 June 1976 and a survey print issued. The dispute is over that portion of the land lying along a stream between the two farms. Attempts were made by the local leaders to resolve the dispute and they did so in the respondent’s favour but the appellants were relentless in their trespass on the land.

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P.W.2 Tata John Abe testified that the land in dispute was given to the father of the respondent by the elders then resident in the area. A one Doka, clan member of the appellants was given land neighbouring it and those two tracts of land are separated by a river. On 27th April 1976, the respondent’s father obtained a lease over his part. Around the year 2001, the appellants
15 encroached on the appellant’s land and constructed houses on it.

P.W.3 Agotre Kassim, a brother to the respondent testified that the appellant’s left their own land situated between a mile to three miles from that of “Lobe Mixed Farm” land and encroached up to a distance of about fifty metres into it. This land was lease to the respondent’s father in 1976.
20 He fenced it off and established a livestock farm on it. His activities on the land were interrupted by the war in 1979 but remnants of farm structures such as the cattle dip, part of the barbed wire fencing, a bore hole, parts of a Caterpillar earth mover, a primary school for the children of the farm employees, a mosque, and administration block, and a tank are still visible on the land. He returned from exile in 1986 and has since occupied the land as its caretaker but during the year
25 2009, the appellants encroached on the land and have since refused to vacate despite his several attempts to get them off the land. They cut down trees, cultivated crops on part of the land, cut down part of the fence, killed one of the cows, threatened the herdsman with violence and generally disrupted his quiet possession of the land. The first appellant had since then permitted a number of people to settle on the part of the land encroached upon.

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P.W.4. Juma Musa testified that the people of Omba at Paloko Oluba gave the land in dispute to the respondent's father on which he established Lobe Mixed Farm. They also gave some land to the appellant's clan on which they established Chere Mixed Farm. When the respondent returned from exile, he took over the management of his father's land. The appellants later cut down part of the fence and encroached onto the respondent's land. P.W.5 Kadongo Akbar Delu testified that he was invited by the respondent to on 15th October 2001 to take photographs of some parts of the land in dispute. He identified the photographs and had them tendered in court. They showed features such as cattle grazing on the land, parts of a broken down tractor, a farm building, and a cattle dip.

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In his defence, the first respondent who testified as D.W.1 stated that a natural stream forms the boundary between land comprised in Lobe Farm and that comprised in Chere Farm. He denied the existence of any of the appellants on Lobe Farm land or any of the members of the Oluba Clan for that matter. It is P.W.3 who during 2009 encroached on the Chere Mixed farm land and began grazing cattle thereon. The respondent's father was in 1976 allowed by the elders in the area to use the land constituted in Lobe Mixed Farm for only five years. The land was never surveyed. D.W.2 Rajabu Boro Amba testified that he gave the Oluba clan land now known as Chere Mixed Farm and does not know anything about Lobe Mixed Farm. To his knowledge, no survey of land has ever take place in the area. D.W.3 Sebbi Yabuga testified that in 1976, he gave a one Doka of the Oluba clan land now constituting Chere Farm. No member of the Oluba Clan is residing on Lobe Farm land. Instead it is the respondent who brought Ankole cattle and grazed on the Chere Mixed Farm land. D.W.4 Twaha Doka testified that in 1976, the respondent's father Nasuru Okuti was given land now constituting Lobe Mixed Farm. He has never encroached on that farm but has his own cattle which graze on Chere Mixed Farm land. That land was given to his father Doka Noah in 1976. The other two appellants did not testify.

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On 29th May 2015, the court visited the *locus in quo*. There it was established that the area in dispute measures approximately three to four square kilometres. The remnants of the livestock farming activities of the 1970s mentioned by the respondent and his witnesses were shown to court. The court was also shown physical evidence of the activities of the appellants on the land, complained of by the respondent. In his judgment subsequent to that visit, the Grade One trial

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magistrate found that the respondent's father had in 1976 received a five year lease offer for the land in dispute from the Uganda Land Commission. Upon expiry of the five year lease granted to "Lobe Mixed Farm," the land reverted to the Uganda Land Commission but the respondent has remained in rightful occupation as a customary tenant on the land. When the respondent returned from exile in 1986, he regained physical possession of the land. He took over the interest of his late father. When the court visited the *locus in quo*, it saw the remnants of the livestock farming that the respondent's father had begun before the 1979 war. All these were within the boundaries of Lobe Mixed Farm. Evidence of the appellants' activities on the disputed land was visible during the *locus in quo* visit. Chere Mixed Farm which they claimed to belong to their clan is located far from the disputed land. The appellants' claimed entry on the land as members of the Ogologolo Clan in 2009 therefore constituted a trespass onto the land. Thus the court dismissed the appellants' counterclaim and entered judgment for the respondent with costs.

Being dissatisfied with the decision the appellants raised two grounds of appeal, namely;-

1. The trial court erred in law and in fact when it confirmed that the suit land belonged to the respondent on grounds of having an expired lease whereas not.
2. The Trial Magistrate erred in law and in principle in failing to properly evaluate the evidence before him hence arriving at a wrong conclusion

In her submissions, counsel for the appellant Ms. Daisy Patience Bandaru argued that the trial court erred in finding that the respondent is the owner of the land. The document submitted by the respondent to prove ownership was P.E.1 dated 14th June 1976 which is not a lease but an offer of a lease to an offerree who is not the respondent. The offerree was Ali Haji Nasur who is the respondent's father. The respondent is not one of the offerrees. The offer in 1976 did not create a lease. An offerree is a mere tenant at sufferance and he could only acquire interest at registration according to Regulation 10 of *The Public Lands Rules* then in force. The offerree was in occupation up to the period of 1979. There is nothing to show that he ever returned from exile after the war. P.W.1, the respondent, claimed to have inherited the land in 1986. By 1986 there is no evidence to show that his late father was in occupation of the land, by that time it vested in the Uganda Land Commission and the respondent could not have inherited land that did not belong to his father in any way. There is no other documentation to prove a running lease. It was not a claim based on customary ownership. In his testimony, he said he did not

know how Mzee Doka came to possess the land yet it is through Doka's effort that the land was made available for leasing. Before that it was a forest. There was no customary ownership before that. The learned trial magistrate relied on that evidence and declared the respondent owner of the suit land. This was an error. At page five of the judgment the trial magistrate adjudged that a
5 lease was issued in 1976. There was no evidence of acceptance within the one month stipulated in the offer. The second ground is about evaluation of the evidence and it was covered by way of the above submissions. She prayed that the appeal be allowed and the judgment of the court below be set aside with costs.

10 In his submissions, counsel for the respondent Mr. Henry Odama argued that the 1976 lease offer was not the only evidence to prove ownership by the respondent. Although ownership of the land remained vested with the Uganda land Commission, there was effective possession by the plaintiff. The respondent's claim was that the appellants had trespassed on Lobe Mixed Farm which belonged to him. At the *locus in quo*, it was found the two farms were distinct. There is
15 the farm which belongs to the appellants. The counterclaim was that the respondent had trespassed on the land of Chere Mixed Farm. The dispute was over the boundary between the two farms. There was a fencing seen by court which clearly demarcated the boundary. The appellants were found to be undertaking various activities on the side of Lobe Mixed Farm. The respondent was in occupation. Lobe mixed farm borders the Kei Forest. The forest is separate
20 from the farm. The respondent's occupation began in 1976 when they began farming activities. Before that it was woodland. The respondent had established effective possession and the court was shown fencing posts some of which had been removed. The tractors, the bore holes and so on were visible.

25 The land had been vacant until April 1976 and later a survey was done in 1978. After the survey the respondent's family remained in possession. The features seen by the court confirmed possession. All the pieces of evidence were considered including possession. Reference to the expired lease was important for the genesis of the possession. The trial magistrate was right to arrive at the decision that he did and did not limit himself to the fact of the expired lease. The
30 decision was right after subjecting the entire evidence to evaluation. He invited the court to look at the entire record and prayed that the appeal should be dismissed with costs to the respondent.

Submitting in rejoinder, counsel for the appellants submitted that it was the evidence of the respondent that before the application for a lease, the suit land was woodland. There is no evidence that there was activity on the land before that. The evidence shows that the respondent was occupying a different piece of land. The features found on the land were proof that the respondent's father occupied by 1976 before his application. As such no evidence of occupation of the woodland was produced before court to guide it in making its decision. The argument that possession began after the offer is not backed by evidence. The court did not differentiate between the two pieces, the one his father was previously in occupation of and the one he applied for in 1976. This was a grave error. The application for the six square miles excluded the land he was already occupying. He was offered six square miles of land but it is not clear they included land he was occupying. The survey does not indicate that the land is he was already occupying was included. She reiterated her earlier prayers.

This being a first appeal, this court is under an obligation to re-hear the case by subjecting the evidence presented to the trial court to a fresh and exhaustive scrutiny and re-appraisal before coming to its own conclusion. This duty is well explained in *Father Nanensio Begumisa and three Others v. Eric Tiberaga SCCA 17of 2000*; [2004] KALR 236 thus;

It is a well-settled principle that on a first appeal, the parties are entitled to obtain from the appeal court its own decision on issues of fact as well as of law. Although in a case of conflicting evidence the appeal court has to make due allowance for the fact that it has neither seen nor heard the witnesses, it must weigh the conflicting evidence and draw its own inference and conclusions.

This court therefore is enjoined to weigh the conflicting evidence and draw its own inferences and conclusions in order to come to its own decision on issues of fact as well as of law and remembering to make due allowance for the fact that it has neither seen nor heard the witnesses. The appellate Court is confined to the evidence on record. Accordingly the view of the trial court as to where credibility lies is entitled to great weight. However, the appellate court may interfere with a finding of fact if the trial court is shown to have overlooked any material feature in the evidence of a witness or if the balance of probabilities as to the credibility of the witness is inclined against the opinion of the trial court. In particular this court is not bound necessarily to follow the trial magistrate's findings of fact if it appears either that he has clearly failed on some point to take account of particular circumstances or probabilities materially to estimate the

evidence or if the impression based on demeanour of a witness is inconsistent with the evidence in the case generally.

The two grounds of appeal raised by the appellants will be considered jointly. The respondent's case in the court below was premised on the claim that the land in dispute was before 1976 unoccupied and a gazetted woodland. It is upon its being de-gazetted that the respondent's father, Al Haji Nasuru Fadimula, applied for and was on 14th June 1976, offered a lease of 2590 hectares of that land by the Uganda Land Commission. According to the terms stipulated (see exhibit P.1), the lease was to be for an initial period of five years, the land was to be used for ranching and the offer had to be accepted in writing with proof of payment of the specified fees. The respondent did not adduce evidence of payments of the required dues nor a letter of acceptance of the offer. However, there was evidence adduced that the land was subsequently surveyed although no official deed plan was tendered in evidence. What the respondent adduced was a cadastral diagram showing the boundaries of the land surveyed. Evidence of the respondent, his witnesses and the observations made at the *locus in quo* visit indicated that the respondent's father had in the past established a livestock farm on the land.

There were documents before the trial court (marked DI only for identification) which showed that by instruction No. F0189 of 15th March 1978, instructions to survey approximately 1000 hectares of Lobe Farm applied for by Haji Nasuru Okuti were given by the then Provincial Commissioner, Lands and Surveys Department of the Nile Province. An endorsement on that document dated 10th June 1978 indicates that; "P.C Nile. Two different plots were surveyed under one I/S i.e F0189. All plots well. Deed plans not prepared. For your action please." In the survey job history dated 7th May 1978, under the heading "JOB HISTORY I/S F0189 (extension of to old I/S F009)" the following remarks were made; "two different pieces of land were connected to I/S F009 for the extension. The first piece lay in the extreme Southern side of the farm and the second piece lay on the extreme Northern side. The 1st job opened on old marks B/9998, 4 and 3 and closed on cms 7 and 8 old (all found firm). Area of land enclosed in the first survey was 181.756 hectares...the second piece of land lay between two surveyed plots under the following instructions I/S F0099 and I/S F 0100. On the extreme East I/S F0100 and extreme South I/S F0099 (see diagram). The drawings referred to are two traverse and cadastral diagrams

showing the boundaries of the two plots of land surveyed, one measuring 181.756 hectares and the other 86.184 hectares. In evaluating all the evidence before him, the learned trial magistrate in his judgment stated that;

5the plaintiff was once the registered proprietor of the suit land offered in 1976 which later expired proving that they owned the present Lobe Mixed Farm situated on the suit land. The lease offer agreement (sic) of 1976 is very important as it created the foundation of the relationship between the plaintiff and the Uganda Land Commission.....The late Alhaji Nasuru Okuti Fadimula was granted the lease in 1976 for five years, before 1979 war he had initiated the survey process for the renewal
10 unfortunately it was never executed up to-date. The defendants have considered this and gained access to the suit land in the northern western (sic) side portion on ground of clan ownership as to the testimony of DW1.....from the above evidence, it is clear that the relationship created by the 1976 agreement exhibit PEX1 has not been renewed.....the agreement only entrusted the plaintiff with unregistered interest upon
15 the expiry of the lease....it is clear from the evidence of DW1 that the suit property had expired lease thus no interest to the plaintiff.....In conclusion it is clear from the above evidence that the plaintiff is lawful on the suit property (sic) by virtue of his being in actual possession. This makes the plaintiff un-disposable (sic) by the
20 defendants.

In that analysis, the learned trial magistrate made some unfortunate findings such as the plaintiff having been once a registered proprietor of the land in dispute and referring to the offer of a lease as an agreement. The extract exemplifies the rather eclectic manner of his evaluation of the evidence before him which is manifested throughout the judgment. His style is generally difficult
25 to follow at times because of his tendency to skip from one legal concept to another and the frequent wrong choice of words and expressions. I have however been unable to fault him as regards his conclusion, certainly not in the terms suggested by counsel for the appellants.

The entire evidence adduced by the respondent intended to establish his title to the land was most
30 unsatisfactory. All he succeeded in proving was that sometime in 1976 and thereafter, his late father Al Haji Nasuru Fadimula applied for and was offered an initial five year lease in respect of 2590 hectares of land in that area. The process of surveying and issuance of a title deed was interrupted by the war of 1979. Documents that would have explained the extent, in terms of boundaries, of the land offered were only identified and never tendered in evidence as exhibits.
35 That evidence could not be relied upon, most especially since no official deed print was adduced

in evidence. The circumstances of transmission of this land from his father to himself were never explained. The evidence as a whole could not sustain his claim of ownership of the land.

5 However, the respondent's claim was not for recovery of land but rather for the tort of trespass to land. In the circumstances, inability to prove title to the land could not be fatal to his claim. Whereas actions for recovery of land are premised on proof of a better title than that of the person from whom the land is sought to be recovered (see *Ocean Estates Ltd v. Pinder* [1969] 2 AC 19), actions for the tort of trespass to land only require proof of possession of the land in dispute at the time of the intrusion complained of. A person in possession of land in the assumed
10 character of owner and exercising peaceably the ordinary rights of ownership has a perfectly good title against the entire world but the rightful owner.

Trespass to land occurs when a person directly enters upon land in possession of another without permission and remains upon the land, places or projects any object upon the land (see *Salmond and Heuston on the Law of Torts*, 19th edition (London: Sweet & Maxwell, (1987) 46). It is a
15 possessory action where if remedies are to be awarded, the plaintiff must prove a possessory interest in the land. It is the right of the owner in possession to exclusive possession that is protected by an action for trespass. Such possession should be actual and this requires the plaintiff to demonstrate his or her exclusive possession and control of the land. The entry by the
20 defendant onto the plaintiff's land must be unauthorised. The defendant should not have had any right to enter into plaintiff's land. In order to succeed, the plaintiff must prove that; he or she was in possession at the time of trespass; there was an unlawful or unauthorised entry by the defendant; and the entry occasioned damage to the plaintiff.

25 The fact of possession for purposes of an action in trespass to land is proved by evidence establishing physical control over the land by way of sufficient steps taken to deny others from accessing the land. That possession constitutes nearly all of the legal claim to ownership is expressed in the adage "possession is nine points of the law," explained in *The Dictionary of English Law* (1959) as follows;

30 The adage ... means that the person in possession can only be ousted by one whose title is better than his; every claimant must succeed by the strength of his own title and not by the weakness of his antagonist's.

The conditions establishing possession were discussed in *Powell v. McFarlane (1977) 38 P&CR 452* as including;

5both factual possession and the requisite intention to possess (*animus possidendi*).....Factual possession signifies an appropriate degree of physical control..... The question what acts constitute a sufficient degree of exclusive physical control must depend on the circumstances, in particular the nature of the land and the manner in which land of that nature is commonly used or enjoyed..... what must be shown as constituting factual possession is that the alleged possessor has been dealing with the land in question as an occupying owner might have been expected to deal with it and that no-one else has done so...Whether or not acts of possession done on parts of an area establish title to the whole area must, however, be a matter of degree. It is impossible to generalise with any precision as to what acts will or will not suffice to evidence factual possession.

15 Actual possession therefore is established by evidence showing sufficient control demonstrating both an intention to control and an intention to exclude others. A possessor of land may not have actual physical possession, but where he or she has knowledge of its boundaries and has the ability to exercise control over them, he or she will be taken to have constructive possession of it. Where part of the land claimed is not under actual physical possession, there must be
20 unequivocal evidence before court that the claimant deals with the cleared and un-cleared portions of the land, co-extensive with the boundaries, in the same way that a rightful owner would deal with it. Constructive possession of such land may be proved by evidence of enclosure and separation from adjoining land of the same character. Open, notorious, continuous, exclusive possession or occupation of any part thereof would in such circumstances constructively apply to
25 all of it. In such cases, occupancy of a part may be construed as possession of the entire land where there is no actual adverse possession of the parts not actually occupied by the claimant.

The evidence of possession adduced by the respondent before the trial court at page 2 of the record of appeal was that his brother P.W.3 has been in physical occupation of the land in
30 dispute since the family's return from exile in 1986. The photographs taken by P.W.5 Kadongo Akbar Delu and tendered in evidence showed both the remnants of the activities of the respondent's father on the land and the attempts by the respondent and the rest of the family to revive them. P.W.3 Agotre Kassim testified that the land had been fenced in 1976 and some of the fencing still exists on the land although part of it was destroyed by the appellants around the

year 2009. At the *locus in quo*, whose proceedings appear at pages 17 – 19 of the record of appeal, the respondent showed court some of the fencing posts that were still in place. P.W.3. indicated to the court the parts of the fence on the eastern and western side of the land which had been cut. On his part, the first appellant pointed to natural features such as streams and rivers as
5 the boundaries of what he claimed to be customary land. He did not specifically refute the respondent’s evidence of the fact that this land, which he claimed customarily belongs to his clan, had been fenced as far back as 1976. He did not refute the existence of the fencing and that parts of it had been destroyed.

10 On basis of that evidence as a whole, I am satisfied that although the respondent did not have actual physical possession of that part of the land now under dispute, he adduced unequivocal evidence before court showing that by fencing the whole of the land, including the part now in dispute, and grazing cattle on parts of it and in light of the activities going on that part of the land under his actual physical possession, co-extensive with the boundaries shown to court, he was
15 dealing with the whole of the land in the same way that a rightful owner would deal with it. Evidence of enclosure of the land and its separation from adjoining land of the same character established constructive possession of the rest of it that was so enclosed but not under actual possession. The respondent, and more particularly P.W.3 on his behalf, had enjoyed such open, notorious, continuous, and exclusive possession and occupation of a part of the land which in the
20 circumstances constructively extended to the rest of it as enclosed. In absence of actual adverse possession of the parts not actually occupied by the respondent before the year 2009, the trial court was correct in construing his occupancy of a part as possession of the entire land in dispute.

The respondent having established the fact of possession of the land as at the time of the alleged
25 intrusion in the year 2009, he further led evidence showing that the appellants had encroached onto the land. The activities of the appellants on the respondent’s land were shown to court during its visit to the *locus in quo* and are documented at page 18 of the record of appeal as including; cutting down parts of the fence, settling on the land, building houses and burning trees. The fact of intrusion having been so established, the burden was then on the appellants to
30 prove either that their activities on the land were ensuing with the consent of the respondent, that they were backed by legal authority or in exercise of a title superior to the possessory rights of

the respondent. The justification they had in their defence was that the land belongs to their clan customarily and that they were exercising their rights as customary tenants.

The defence adduced by the appellants could not assail the possessory rights of the respondent.

5 There was uncontroverted evidence that this land had been fenced off as way back as 1976 and that before that it was uninhabited woodland. If any customary interests in the land existed then they has been extinguished by the long period of inaction. The respondent's father had exercised open, notorious, continuous, and exclusive possession and occupation of this land from 1976 until 1979. That occupation was revived by the respondent and P.W.3 upon their return from
10 exile in 1986 and they had enjoyed undisturbed occupation until that intrusion in 2009, a period of 23 years. Any customary interests they may have had in the land were therefore extinguished by the law of limitation and the doctrine of laches. They were therefore unable to prove either alternative in which case the learned trial magistrate came to the right conclusion in dismissing their counterclaim and entering judgment against them.

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Dated at Arua this 20th day of July 2017.

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Stephen Mubiru
Judge
20th July 2017

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