

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
(CIVIL SUIT NO. 464 OF 2019)

- 1. NASSIMBWA HALIMA**
- 2. JUMA KASUJJA**
- 3. AMIN SENFUKA**

**(SUING AS Administrators of the Estate of the
Late Hajji Seifu Kasujja Bin Abdallah) ::::::::::: PLAINTIFF**

Versus

- 1. ANWAR KALYOWA**
- 2. MOHAMMED KALYOWA KABURIWAZI**
- 3. AZIZ KALYOWA ::::::::::: DEFENDANTS**

BEFORE: LADY JUSTICE ALEXANDRA NKONGE RUGADYA

Court Clerk: C. Nakayima

Okong Innocent for Plaintiffs

Kagimu Duncan for defendants. We have not yet inspected the documents. No response from Okongo when I asked. Interest of time, can subject the same to hand writing expert: for now can be marked as "Id".

Okongo:

Last here agreed that defendant counsel was to attend chambers of plaintiff counsel on 6th April 2022, at 2.00 pm. We waited. No phone call, no communication. He wrote last week seeking date for inspection. However time was too short for plaintiff to organize for that inspection.

We are not comfortable with the procedure he suggests that the consent will be subject to confirmation by experts. All that should be done before the hearing.



Kagimu:-

6th April 2022. It was date for them to file Trial Bundle and Witness Statement.

My Client had been sick, this continued till 2 weeks ago. We had not set a date for the meeting.

Court:-

Noted:

No surveys done.

Parties are agreeable to survey/locus visit.

RULING:

Following the submissions from either side , it appears this matter cannot take off.

From Counsel for the plaintiff's submission, his side has always been ready to present the documents for inspection. They presented 2 original agreements: dated 17th December 1972 and the second one: 17th November 1972. E.Mpanga was selling portions of land to Bin Abdulla Kasujja. The third document is dated 6th August 1974, not in its original form.

Counsel for the defendant's prayer is to subject the documents to the scrutiny of the handwriting expert, which counsel for the plaintiff does not object to. For the plaintiff however the agreement dated 10th December 1974 should also be subjected to the analysis by the expert.

This court's decision, as consented to by both sides is that the expert should be the same and to be appointed by this court. He/she is to be summoned to attend as a court witness.

1. Accordingly as prayed by counsel for the defendants, the agreement dated 10th December 1974 is to be availed to court for inspection by counsel for the plaintiff on 30th May 2022, at noon.



The documents shall be left within the custody of court, and for purpose of examination and analysis by the expert appointed by the Registrar, who will file a report within two weeks from 30/5/2022.

The specific instructions to the handwriting expert are:

- 1. To verify the signature of vendor for the agreement dated 10th December 1974, as well as signature of purchase.**
- 2. The defendant's side to avail a copy of the document signed by the late Juma Kalyowa, which name appears as Kiryowa in that agreement.**
- 3. Compare the three agreements dated 17th November, 1972, the other 17th December 1972 and 6th August 1974 and establish their authenticity through the handwriting and signatures appearing on each.**
- 4. If possible, advise on the estimated period/years in which the documents were made.**
- 5. Each side shall be availed with a copy of the report.**
- 6. The costs of the analysis shall be jointly met by the parties.**

Original agreement dated **10/12/1974** between Mpanga E. and Juma Kiryowa presented to court on **31/05/2022**.


Alexandra Nkonge Rugadya

JUDGE

1/6/2022.

