

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION

CIVIL REVISION NO. 09 OF 2018
(Arising from Civil Suit No. 113 of 2016, Chief Magistrate's
Court of Nabweru at Nabweru)

1. AYUB TALUTAMBUDDE

2. IBRAHIM YUSUF MUHAMED T/A

GLOBAL TRUST OIL ::::::::::::::::::::::::::::::::::: APPLICANTS

VERSUS

WILBERFORCE SSEKUBWA ::::::::::::::::::::::::::::::::::: RESPONDENT

BEFORE HON. JUSTICE NAMANYA BERNARD

RULING

Introduction:

1. The applicants brought this application under **Section 83** of the **Civil Procedure Act (Cap 71)** ("**CPA**"), and **Order 52 rule 1** of the **Civil Procedure Rules (S.I 71-1)** ("**CPR**") seeking for orders that:
 - a) The eviction order issued by the *Chief Magistrate, Nabweru* on the 2nd March 2018 against the applicants to vacate the suit premises known as Global Trust Oil at Sir Apollo Kaggwa Road, Makerere, be set aside on the grounds that the Chief Magistrate exercised jurisdiction with material irregularities.

- b) Costs of the application be provided for.
2. The main ground of the application is that the *Chief Magistrate, Nabweru* exercised jurisdiction vested in her with material irregularities.
 3. The application is supported by an affidavit sworn by Ibrahim Yusuf Muhamed. The application is opposed by the respondent who swore an affidavit in reply.
 4. The applicants were represented by *M/s. Kabega, Bogezi & Bukenya Advocates* while the respondent was represented by the *Kinobe, Mutyaba & Co Advocates*.
 5. The background of this application is that the respondent sued the applicants in *Civil Suit No. 113 of 2016 (Chief Magistrate's Court of Nabweru at Nabweru)* seeking for; an eviction order against the applicants from Global Trust Oil, Sir Apollo Kaggwa Road, Makerere; and an order for payment of rent arrears.
 6. On the 2nd March 2018, the *Chief Magistrate, Her Worship Nasambu Esther Rebecca*, ordered the applicants to vacate the rental premises. On the 20th June 2017, by an amended order, the *Chief Magistrate* ordered the applicants to pay UGX 50,000,000 being rent arrears to the respondent.
 7. On the 15th December 2021, when the application was called for hearing, all the parties were absent, but the Court noted that

written submissions were on record, and that ruling would be delivered on notice.

Consideration:

8. The main issue for determination is whether this is a proper case for revision.
9. **Section 83** of the **CPA** empowers the High Court to revise decisions of the Magistrates' Courts under any of the following circumstances:
 - a) where a Magistrate's court exercises a jurisdiction not vested in it in law;
 - b) where a Magistrate's court fails to exercise a jurisdiction so vested; or
 - c) where a Magistrate's court acts in the exercise of its jurisdiction illegally, or with material irregularity or injustice.
10. The principles for the exercise of High Court's revisionary powers were set out in the case of **Wadri & 4 Ors v. Dranilla (Civil Revision 7 of 2019) [2020] UGHCCD 68:**
 - a) Before exercising its revisionary powers under **Section 83** of the **CPA**, the High Court must ensure that the parties have been given the opportunity of being heard;
 - b) The High Court must refrain from exercising its revisionary powers where, from lapse of time or other cause, the exercise

of that power would involve serious hardship to any person;
and

c) The High Court will not usually interfere where justice has been done.

11. Turning to the instant application, both parties have been given an opportunity of being heard. The respondent filed an affidavit in reply, and both parties filed written submissions, which I have considered.
12. The applicants fault the *Chief Magistrate* for material irregularities in exercising her jurisdiction. They allege that by ordering the applicants to pay UGX 50,000,000, she acted beyond her jurisdiction.
13. **Section 207** of the ***Magistrates Courts Act (Cap 16) (“MCA”)*** as amended by ***Magistrates’ Courts (Amendment) Act, No. 7 (2007)*** provides for the jurisdiction of Magistrates’ Courts:
“[...] a chief magistrate shall have jurisdiction where the value of the subject matter in dispute does not exceed fifty million shillings and shall have unlimited jurisdiction in disputes relating to conversion, damage to property or trespass [...]” (underlining is mine for emphasis)
14. I have perused the Court record from the *Chief Magistrate’s Court of Nabweru at Nabweru* in which the *Chief Magistrate*

ordered the applicants to pay rent arrears of UGX 50,000,000 to the respondent.

15. In *paragraph 11* of the affidavit in support of the application, the applicants fault the *Chief Magistrate* for acting in excess of her jurisdiction, but no proof is provided by the applicants.
16. It is my finding that the *Chief Magistrate* acted within her pecuniary jurisdiction when she ordered the applicants to pay UGX 50,000,000 to the applicants (see **Section 207** of the **MCA**).
17. For this reason, I find no merit in this application, and it must fail.

Conclusion:

18. In the result, **I ORDER** as follows:

- a) This application is hereby **DISMISSED**.

- b) The costs of this application are awarded to the respondent.

I SO ORDER.

NAMANYA BERNARD
Ag. JUDGE
9th September 2022