

The Republic of Uganda  
In The High Court of Uganda Holden at Soroti  
Civil Appeal No. 49 of 2019  
(Arising from Civil Suit No. 026 of 2013)

10

The Reg. Trustees of Soroti Catholic Diocese

Tukei Simon Peter

Okwerede Egilasio

Ojilong Lawrence

..... Appellants

15

Versus

Omujal Joseph ..... Respondent

Before: Hon Justice Dr Henry Peter Adonyo

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Judgment:

1. Brief Facts:

Omujal Joseph, the respondent herein instituted Civil Suit vide No. 26 of 2013 against the Appellants jointly for recovery of 5 gardens located at Ogario village, Okeito parish, Kanyum sub county, Kumi District.

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Judgement was given in favour of the respondent which the appellants are aggrieved with hence this appeal.



5      4. Legal position in regard to an Appeal:

The right to appeal is a creature of statute and for one to appeal he or she must have a right to appeal granted by law. This is the position as was held in the case of *Alinyo vs R* [1974] EA 544.

10      **Order 43 rule 1 of the Civil Procedure Rules** provides for form of appeal and it provides that;

15                      **Every appeal to the High Court shall be preferred in the form of a memorandum signed by the appellant or his or her advocate and presented to the court or to such officer as it shall appoint for that purpose. The memorandum shall set forth, concisely and under distinct heads, the grounds of objection to the decree appealed from without any argument or narrative; and the grounds shall be numbered consecutively**

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**Article 139 of the Constitution of the Republic of Uganda** provides that the High Court shall have such appellate and other jurisdiction as may be conferred on it by this Constitution or other law.

25      **Order 43 rule 20 of The Civil Procedure Rules S1 71-10** specifically provides that where the evidence upon the record is sufficient to enable the High Court to pronounce judgment, the High Court may, after resettling the issues, if necessary, finally determine the suit, notwithstanding that the judgment of the court from whose decree the appeal is preferred has proceeded wholly upon some ground other than  
30      that on which the High Court proceeds.



5 defendant herein in his capacity as the chairperson of Kanyum Catholic Church directed Okwerede Egilasio and Ojilong Lawrence who are the 3<sup>rd</sup> and 4<sup>th</sup> defendants take over the suit land while claiming that the said suit land belonged to Kanyum Catholic Church.

10 That when he raised the said matter with the area LC 11 and later LC 111 courts, they mishandled the matter and so later he opted for redress from the Chief Magistrates' Court which ordered a retrial.

That mediation took place through courts orders which he claims was in his favor but had actually failed.

15 The respondent further stated before the lower court was that the land which was given to the 1<sup>st</sup> appellant was totally different from the suit land which also measures 5 gardens and at no time did the plaintiffs grandfather give the church any other additional land than the one the church continues to possess to date.

20 The appellants, however, denied all the allegations in the plaint and stated that the suit 5 gardens belonged to the church and were donated to the 1<sup>st</sup> appellant by the faithful converts to the catholic church who included the plaintiff's grandfather as far back as 27<sup>th</sup> June 1929. That it is not true that the 5 gardens now in dispute was solely given by Opolot as it was only one garden donated by the respondent's grandfather with the rest of the land  
25 donated by other persons including Aogon, and Okwada and that the suit land has been property of the church since then. That it was only until the death of Okwi that the respondent / plaintiff started claiming the land and yet his father and grandfather never made any claims in regards to the land with the 3<sup>rd</sup> and 4<sup>th</sup> defendants merely using the land as members of  
30 the church. That the said mediation was never in favor of the respondent since it had failed. That the court declares the fact that there is no cause of action disclosed.



5 From the submissions filed this year 2022 in respect of this appeal,  
counsel for the respondent raised a preliminary objection raised on the  
ground that ground one of the memorandum of appeal was vague,  
narrative and argument and was in contravention of Order 43 rule 2 of the  
Civil Procedure Rules which requires that a memorandum of appeal sets  
10 out grounds of appeal concisely and under distinct heads including the  
grounds of objection to the decree appealed from without any argument  
or narrative.

I would totally agree with counsel for the respondent but will proceed to  
overrule that objection for reasons that this matter has been in court for  
15 way too long, that is since even before 2013 when it retried by the lower  
trial court and as such, given the fact that the memorandum of appeal in  
this matter was filed in 2019 then the same should have been resolved  
there and then. I am now the 3<sup>rd</sup> judge to handle this matter and as such  
I think the justice of this matter would require that I ignore such  
20 procedural inequities and proceed to resolve the real issue between the  
parties herein once and for all by concluding this appeal accordingly.

Therefore, the preliminary objection though having arguably factual is  
overruled by virtue of the authority of this court under Section 98 of the  
Civil Procedure Act.

25 On the other hand, Counsel for the appellant also raised a preliminary  
objection that there was no cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup>  
defendant as their actions were done on behalf of the 1<sup>st</sup> appellant. He  
cited the case of ***Auto Garage vs Motokov (1971) EA 514*** where it  
was held that in determining that a cause of action exists, the court should  
30 take into account the fact that a plaintiff enjoyed a right and that right has  
been violated and the defendant was liable.

5 Counsel for the respondent objected to this point of law arguing that according to Order 6 rules 6 of the Civil Procedure Rules preliminary objection ought to have been raised in the appellants' pleadings. She further stated the case of **Siraji Bageya & Ors Vs Ochieng David, Civil Appeal No. 130 of 2009**, a preliminary point of law not raised in  
10 pleadings and in the memorandum of appeal was allowed. The appellate judge reasoned that to allow such an objection would amount to allowing a party to depart from their pleadings.

However, after perusing the written statement of defense filed in the lower court, I note that under paragraph 17 of the written statement of defense,  
15 the defendants now appellants aver that they deny that any cause of action is disclosed by the plaintiff respondent meaning that the issue of no cause of action disclosed was actually raised in the pleadings and as to whether there was a cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> defendants, I note from my perusal of the lower court record of the written statement of  
20 defense under paragraph 7 that the 3<sup>rd</sup> and 4<sup>th</sup> defendants wherein is stated they were merely using the land as members of the church and since they were merely licensees using it as members of the church given to them to utilize by the church, then I would conclude that indeed there was no cause of action against them. This preliminary objection is therefore  
25 sustained.

The witnesses in this suit testified as follows hereunder

**PW1 Omujal Joseph** testified that he inherited the five gardens from his late father called Okwi who died in 1954 who before his demise used to cultivate the suit land and his home was also situated in the same. That  
30 he inherited the suit land from his father after his father's death. That he however stopped cultivating it in 2005 after the defendants encroached on the land and also started cultivating it.



5 He informed court of the boundaries of the land. That he took the matter to LC11 and LC11 where he lost but he appealed to the Chief magistrate Soroti where a retrial was ordered.

During re- examination, he stated that the defendants were using the suit land for their personal benefits and not for the church. He also testified  
10 that He found Kanyum Catholic Church where it was and he heard that it had been given 5 gardens by one Emirua Okwi who is his neighbour but not a relative. He denied that his grandfather ever gave the Church land. That it was only Okwi who gave the church land in 1about 1929 and that the church land was different from what he was claiming. He admitted  
15 that he was not aware whether his grandfather gave the church land or not though in his plaint he avers that the land given to the appellants was totally different from the suit land which also measures 5 gardens and at no time did his grandfather give the church any other additional land than the one the church continues to hold on to date.

20 Further in the plaint he admits that his father gave the church land but one which was different from the one he is claiming although during re-examination, he states that he is not aware whether his grandfather gave land to the church which I find contradictory.

He also further states that Opolot was father and that Okwi was his father  
25 which also is confusing as he does not make clear as to who really was his father as this fact is materially important to establish whether he is telling the truth or not as to who really he inherited the suit land from then.

Indeed, counsel for the appellant brought to the attention of court the above contradictions and urged that the court should find that such  
30 contradictions go to the root of PW1's testimony which should be found unbelievable as was held in *Makau Nairubi Mabel versus Crane Bank Ltd HCCS No. 380 of 2009* per Obura Hellen J (As she then

5 was) when the learned judge had this to say in relations to contradicting statements, that;

10 *“The law relating to contradictions and inconsistencies is well settled that when they are major and intend to mislead or tell deliberate untruthfulness, the evidence may be rejected, if however, they are minor and capable of innocent explanations, they will normally not have effect.”*

My assessment of the evidence of PW1 is that this statement has major contradictions in terms of his knowledge of whether his grandfather gave  
15 the land to the 1<sup>st</sup> appellant and who really is his father.

I would conclude that his statements in that regard are so major that it goes to the root of his testimony which I would find not believable and only intended to mislead with deliberate untruthfulness and as such his evidence is therefore rejected.

20 Again **PW1 Omujal Joseph** and **Opule John PW2** state that there are graves in the suit land belonging to the respondents' brothers Opolot and Odikori but none remembers when they were buried with PW1 instead testifying that the police arrested him for destroying graves in the suit land him. This makes me wonder as to why the police would arrest him at all  
25 other than the church people if indeed he is telling the truth.

During cross examination, he testified that it is not true that he had complained to police that the church people ha ploughed his graves and that he was not arrested because he was ferrying gravel to go and create false graves on the church land. He further stated that the agreement to  
30 that effect was a forgery.



5 In the mediation report it was stated that there is purportedly a letter where the plaintiff apologized after attempting to cement a non-existent grave on the disputed land. He testified that that said agreement was a forgery is evident enough of its existence and his knowledge of its existence.

10 The appellants' witnesses, however, stated that, the church was given land by different people who amongst the was the respondents grandfather. That he was not the only one who gave the church the land but other people too.

**DW1 Opolot Gavas** testified that the land belonged to the church as it was given as a donation way back around 1929 and that Omujal Joseph, the plaintiff who was now seeking to take over the suit land was once even a chairman of the church and when his term was over and after he Opolot Gavas became the vice chairman of the church, there was no complaint about the suit land and that it was the church which has been in use of the land.

**DW2 Tukei Simon Peter** also testified that the land belongs to the church and found the church cultivating it. That Omujal Joseph, the respondent now was one of the people who showed him the land as being part of the church land.

25 According to DW1 and DW2 the land was donated to the church by different persons including the grandfather of the respondent who gave one garden. Others donated the other four gardens. The gift of the land was done *inter vivos* way back by the donees.

In the case of ***The Registered Trustees of Kampala Archdiocese v Nabitete Nnume Mixed Co-operative Farm Ltd HCCS NO.***

5 **1559/2000) [2017] UGHCLD 4** it was held that a gift inter vivos as defined in Black's Law Dictionary 8<sup>th</sup> Edition at page 710 is;

***"...a gift of personal property made during the donor's life time and delivered to the donee with the intention of irrevocably surrendering control over the property."***

10 Following the decision in ***Joy Mukobe vs. Willy Wambuwi HCCA No. 55 of 2005***, the court held that;

***"...for a gift inter vivos to take irrevocable root, the donor must intend to give the gift, the donor must deliver the property, and the donee must accept the gift."***

15 The delivery of the gift must be actual or constructive made during the donor's lifetime in a manner that depicts that the donor has stripped themselves of all dominion over the gift. See for example the decision in ***Namugambe Balopera & Ors Vs. Frederick Njuki & Anor HCCS No. 341 of 2013 (unreported)***.

20 And to illustrate that point further, ***Todd & Watts in Cases & Materials on Equity & Trusts 3<sup>rd</sup> Ed at 130*** states as follows

25 ***"For a gift to be perfect, the donor must actually complete the disposition of the subject matter in favour of the intended donee or execute a formal "deed of gift". Only then can a volunteer or donee enforce it. Intention not to be mistakenly inferred, must be joined by action."***

According to the appellants and their witnesses, the land was donated to the church and has been utilizing the same since 1929 which is quite some



5 time now and its ownership has never been in issue from the donees who including the grandfather.

There appears to have been no contention from Omujal Joseph while he was chairman of the church as well as his father and grandfather as to the ownership of the suit land which had been donated to the church.

10 The contention by Omujal that the church was given a different land which was not even established by locus visit raises doubt as to the veracity of his statement for it if not his now turning against the church and try to grab land.

15 Given the fact that there had been no previous contention and or revocation of the grant of the suit land, I would find and conclude that the claim of the respondent was ill advised as it only came after the death of his father and in my view the respondent then wanted to expand his land acquisition by selectively ignoring the fact that his inheritance was limited to what he got and not what had already been donated.

20 Counsel for the Appellant made submissions averring that the respondent's evidence was contradictory and inconsistent which went to the root of the case.

Although at page 6 and 7 of the record of proceedings there is the testimony of PW1 to the effect that the church and its primary school were  
25 not situating on the suit land which consists of the five gardens. In cross examination at page 10, DW1 testified that the church had a total of 8 gardens 3 on one side and 5 on the other side with a footpath separating the contested land from the church and that is the land Omujal is claiming which this witness stated was not right.

5 This assertion is confirmed by DW2 Tukei Simon Peter who likewise testified that the church was given the suit land in 1929 with Omujal being merely one of the neighbours to the suit land which had been donated to the church by a number of persons including Emuria Okwii, Aogon, Okwadi, Alengei and Okwi, the grandfather of Omujal with the church  
10 using the suit land for growing potatoes, millet, groundnuts, sorghum and some part uncultivated.

Arising from my assessment of the evidence above, I would find that the trial court erred in law and fact when it failed to properly evaluate the evidence on record and lent its aid to the respondent who found his claim  
15 upon lies since the land he was claiming had been occupied by the appellant before he was born hence coming to a wrong decision.

Ground 1 thus succeeds.

b. Ground 2:

*That the decision of the trial court has occasioned a miscarriage of*  
20 *justice.*

A miscarriage of justice occurs when a grossly unfair outcome occurs in a criminal or civil proceeding. That position of the law was defined in the case of ***Mukenye Guster vs. Kamini Tomasi HCCS No. 006 of 2006*** where court adopted the decision in ***Matayo Okumu vs. F***  
25 ***Oundhe [19766] HCB229*** to which I associate myself as to mean

***“...the circumstances where the decision of a court or a tribunal appears not be supported by evidence”***



- 5 In respect of the instant matter, counsel for the appellants submitted that the trial magistrate failed to properly evaluate evidence on record, weigh it and come to a just decision.

On the other hand, counsel for the respondent submitted that there was no better finding by the trial court than the fact that the respondent was  
10 the rightful owner of the suit land on the basis that the evidence from both sides confirm that the church was given 5 acres and the church building, a primary school and the priest's house are all on the 5 acres; the suit land which adjacent to the church developments, inhabiting the respondent's graves, is for the Respondent and as such there was no need for this court  
15 to interfere with the decision of the trial magistrate since there is no sufficient evidence adduced to prove that he erroneously arrived at his conclusions.

For the decision of the trial court, I would go back to the evidence raised in court. PW1 Omujal Joseph in his evidence in chief told court that he  
20 inherited the suit land of 5 gardens from his late father Okwi who died in 1954. That before the demise of his father, his father used to cultivate cassava, groundnuts, maize, potatoes and green peas on the suit land. That he PW1 also continued doing so until 2005 when the appellants /defendants forcibly entered the suit land and cultivated it.

- 25 PW1 further mentions features on the suit land including graves of his brothers which were identifiable by stones but he does not remember when they were buried. At page 6 of the certified lower court proceedings, PW1 during cross examination told court that

30 ***"I found Kanyum Catholic Church at that place. I was baptised in the same church. I wasn't a member of the church. I heard one Emuria Okwii is the one who gave the***

5        *church five gardens where it is. It is not true that my  
grandfather ever gave the church land, the land which  
was given to the church was for Okwii and not my  
grandfather. I never stated at LC that the suit land  
trespassed into during Amin's time. It was trespassed to  
10        in the year 2005. It was me who was using the suit land  
after the demise of my father"*

Compare this statement with that of his other witness, that is, **PW2  
Opule John** who testified in court that

15        *"... The suit land belongs to Omujal's father. He was  
called Okwii. The suit land is five gardens. It is the  
defendants now cultivating it. I don't know when the  
church got the land. I don't know who gave the church  
that land but I hear it is Okwii.*

20        *I never stated that the church grabbed the suit land from  
Omujal during Amin's regime before the LCs. I never  
testified that Omujal has not sold the suit land to the  
church.*

25        *The church has not been using the suit land since 1929.  
The church has five gardens. Okwii is the father of  
Omujal. Opolot is the father of Okwii. The land Okwii  
gave the church is not the suit land. It is different land.  
Okwii is not related to Omujal.*

*Both the church and its school have five gardens save the  
school bought other gardens for itself."*



- 5 The two statements are similar in context in that both testimonies of PW1 and PW 2 show extraordinary and remarkable contradictions which go to the root of their testimonies making their testimonies evidently unreliable for being concoctions of lies created to tell a speculative story.

For how can a witness at one breath allude to ***"I found Kanyum Catholic Church at that place"*** and in the next breath state that ***"It was me who was using the suit land after the demise of my father"*** and that ***"It is not true that my grandfather ever gave the church land, the land which was given to the church was for Okwii and not my grandfather."***

- 15 The above statement in addition to that of PW2 who proceed additionally to state that ***"The suit land belongs to Omujal's father. He was called Okwii. The suit land is five gardens. It is the defendants now cultivating it. I don't know when the church got the land. I don't know who gave the church that land but I hear it is Okwii. Okwii is the father of Omujal. Opolot is the father of Okwii. The land Okwii gave the church is not the suit land. It is different land. Okwii is not related to Omujal."***

- The summation of the testimonies of both PW1 and PW2 is that they are not to be relied upon as evidently they are very contradictory. I make this conclusion in line with the holding in ***Makau Nairuba Mabel vs. Crane Bank Ltd HCCS No. 380 of 2009*** per Obura LJ who held that the law relating to contradictions and inconsistencies is well settled that when they are major and intended to mislead or tell deliberate untruthfulness, the evidence may be rejected, if however, they are minor and capable of innocent explanations, they will normally have no effect.

5 The statements of PW1 and PW2 have major contradictions and are  
actually deliberate lies intended to mislead court and which actually it did  
for the trial court got caught up in that web of lies and went on to make  
decisions in favour of the respondent/ plaintiff who had totally failed to  
prove that the suit land was not for the church but wove a web of lies to  
10 grab the land from the church.

Therefore, where the trial court to properly evaluate evidence on record  
relating to the ownership of the suit land including those of DW3  
Okwerede Egilalsio and DW4 Ojilong Lawrence, it would have come to the  
right conclusion that the church had been in continuous possession of the  
15 suit land for time immemorial before Omujal Joseph hatched a plan to  
grab the suit land.

Undeniably DW1 Opolot Gavas told court thus at page 9 of the typed  
proceedings that;

20 ***“The truth is that land belongs to Mil Hill Catholic  
Church. I know how it got that land. I am born of 1938.  
That church was already in that place. The church was  
given land in about 1929 before I was born. Six people  
gave land to the church. They include Okwii Yeremiya my  
father, Oluku Yakobo, Opolot, the grandfather to the  
25 plaintiff, Alenge and Augustine Osire, Okurut Ichodio.  
These people sat as a group and came up with the idea to  
give land to the church. The land that belonged to Osire  
and Oluka is the one that was given to the church,  
Kesekia, Opolot grandfather of the plaintiff, Olenga are  
30 the ones who respectively gave the church land. The  
plaintiff was once a chairman of that church. The plaintiff***



5        ***claim over the suit land is as recent as 2001/ 2008. It is  
the church which has been using the land ever since up to  
now”***

DW1 was by the time he testified was 76 years while PW1 was 72 years  
which means that DW1 was the older of the two. They both come from the  
10 same village with DW1 emphatically testifying that the suit land belonged  
to the church of which it had been using before 2002 or 2008 when  
Omujal Joseph swung out a plan to lay claim of the suit land on the basis  
that it was his inheritance and not for the church.

This was on the back of Omujal Joseph having instituted similar claims at  
15 LC courts and even lost miserably.

By the trial magistrate not properly evaluating the evidence in regard to  
ownership of the suit land, its action occasioned a miscarriage of justice  
in this respect.

All over again, the trial magistrate occasioned a miscarriage of justice  
20 when it did not assess properly the evidence of Okalang John Peter, a  
retired school teacher who testified when he was 86 years and was DW6  
and who testified that the suit land of five gardens belonged to the church  
which was given the same through a one mujungu called Elliot before  
Omujal was born and that the suit land neighbours those of Omujal and  
25 Ekion and that he found the catechists of the church cultivating the suit  
land while Omujal was cultivating a neighbouring land which is not the  
suit land.

Both DW3 and DW6 corroborated the testimony of DW1 and DW2 with  
DW3 specifically reiterating that for the 54 years of his life he only knew

5        ***“Visiting locus in quo is not simply a matter of “filling and calling witnesses. There must be a justification before court CAN visit locus in quo”.***

Emphasis mine.

This was the similar position taken by Manyindo J (As he then was) in  
10    ***Yeseri Waibi vs. Edisa Lusi Byandaala [1982] HCB 28*** when the learned judge held that

15        ***“The usual practice of the visiting locus in quo is to check on the evidence given by witnesses and not to fill gaps for then the trial magistrate may run the risk of making himself a witness in the case. Such situation must be avoided”***

Therefore, by allowing witnesses who never testified in court and whom counsel never sought leave of court to call after closing the plaintiff's case, the trial court erred immensely thus occasioning a miscarriage of justice.

20    The practice of locus visit is clearly provided for by **Practice Direction No. 1 of 2007**.

**Guideline 3 of the Practice Direction** provides as follows on visits to locus in quo:

25        ***“During the hearing of land disputes the court should take interest in visiting the locus in quo, and while there:***

***Ensure that all parties, their witnesses, and advocates (if any) are present.***



5        **Allow the parties and their witnesses to adduce evidence at the locus in quo.**

**Allow cross-examination by either party or his/ her counsel.**

**Record all the proceedings at the locus in quo.**

10        Record any observation, view, opinion or conclusion of the court, including drawing a sketch plan, if necessary.”

**Guidelines 3(a), (b) and (c)** in my considered view provides for persons that have already testified at trial to substantiate their evidence at *locus quo* and be subjected to cross examination. They, therefore, pertain  
15 to trial witnesses.

To that extent the ***Practice Direction No. 1 of 2007*** reiterates prior-established practice for visits of *loci in quo* as stated in the case of ***Yeseri Waibi vs. Elisa Lusi Byandala [1982] HCB 28 at 29.***

In that case it was held that ***“the usual practice of visits to locus in quo was to check on the evidence given by witnesses.”*** Manyindo  
20 J. (As he then was) then outlined the procedure at visits to *loci in quo* thus:

***“The trial judge or magistrate should make a note of what takes place at the locus in quo and if a witness points out any place or demonstrates any movement to the court, then the witness should be recalled by the court and give evidence of what occurred.    Fernandes vs. Noronha (1967) EA 506 applied.”***  
25

5 **Guideline 3(e) of Practice Direction No. 1 of 2007** on the other hand mandates courts to form their own opinions or conclusions from observations made and/ or additional evidence adduced by trial witnesses.

10 From the evidence on record, it abundantly clear to me that with the evidence which had been adduced in court, the trial court should have found as a matter of fact that the church was given over five gardens of land by different people including the grandparent of the respondent and that the suit land which adjacent to the church was for the church and not the respondent who is merely one of the neighbours to the suit land and  
15 the church.

By not properly evaluating the evidence adduced before him, I would find and conclude that a miscarriage of justice was occasioned to the Appellants by the trial court for as is clearly provided for **by Section 101 of the Evidence Act Cap 6 Laws of Uganda**, the burden to prove a  
20 fact is on that person who alleges that fact.

In the instant matter, the respondent/ plaintiff alleged he was the owner of the suit land by virtue of inheritance. He failed to prove that the suit land was not part of the donation to the church yet credible and trustworthy witnesses overwhelmingly pointed to the fact that the church  
25 was in occupation of the suit land well before the claim made by the respondent/ plaintiff.

Even a dispute relating to the same matter which was taken before the LC courts by the respondent/ plaintiff was equally dismissed for lack of merit.

Given the overwhelming evidence against the plaintiff's claim, I am  
30 satisfied that the trial magistrate erred in law and fact by his not assessing



5 properly the evidence on record and thus arrived at the wrong conclusion. That wrong conclusion occasioned a miscarriage of justice. Ground Two succeeds.

6. Conclusion:

This appeal succeeds on both ground as it has merits and is thus allowed.

10 7. Orders:

Arising from my conclusion above, this appeal is allowed with the following orders issued.

- a. This appeal is allowed in favour of the appellants.
- b. The judgment and orders of the lower court is set aside and replaced  
15 with judgment and orders in favour of the appellants
- c. The Suit land is declared as belonging to the 1<sup>st</sup> Appellant., that is  
The Registered Trustees of Soroti catholic Diocese.
- d. A permanent injunction is also issued against the respondent and or  
any persons claiming any right in his names from interfering with  
20 the quite enjoyment of the suit land by the 1<sup>st</sup> respondent who is a  
donee of the suit land.
- e. The Respondent is condemned to pay the costs of this appeal and  
the costs in the lower court.

I so order



.....  
Hon. Justice Dr Henry Peter Adonyo

Judge

14<sup>th</sup> June 2022