

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**LAND DIVISION**  
**CIVIL SUIT NO. 273 OF 2018**

5           **1. NAMAZZI JUSTINE**  
              **2. NALUWOOZA AMINAH.....PLAINTIFFS**

**VERSUS**

10          **JOSEPH KASUMBA ATEENYI.....DEFENDANT**

**Before: Lady Justice Alexandra Nkonge Rugadya**

**JUDGMENT**

**Introduction:**

The plaintiffs are some of the administrators to the estate of the late kaboyo jane  
15   sanyu and registered proprietors of the suit land **Block 265 plot 6894,**  
**Kyaddondo Wakiso.**

The late Kaboyo Jane Sanyu died in 2008, leaving behind three (3) roofed rental  
uncompleted units which the family went ahead to complete following her death.

They filed this suit seeking the following orders:

- 20           a) *A declaration that the plaintiffs are the beneficial owners of the suit  
              land;*
- b) *A declaration that any sale to the defendant was null and void;*
- 25           c) *A declaration that the defendant is a trespasser;*

d) *An order against the defendant to deliver up vacant possession within a specified time and/or an order of eviction against the defendant;*

e) *An order of permanent injunction restraining the defendant and/or his agents from ever trespassing on the suit land;*

f) *General damages; interest and costs of the suit.*

10 It is the plaintiffs' case that the defendant who was unknown to the plaintiffs claiming as owner in the company of weight lifters and assisted by the police and without a court order forcefully took possession of the late Kaboyo's property confiscating all the materials. They arrested all the beneficiaries.

15 The defendant claiming as owner had purchased the property from one Wasswa Musa a son of the deceased who was not the administrator of the estate. It is the plaintiffs' further claim that he has been illegal possession since 2018, deriving his livelihood from the estate to the detriment of the *bona fide* beneficiaries to the estate.

20 In his WSD the defendant claimed he was a *bona fide* purchaser for value for the suit land comprised in **Kyadondo Block 265 plot 6894 land at Bunamwaya**, having purchased the same in 2016 from the beneficiaries of the estate of the late Kaboyo Jane Sanyu and taken possession thereof.

Furthermore, that the beneficiaries needed the finances to stream line the estate; and that he entered into the purchase agreement with their knowledge and consent.

25 After receiving the initial purchase price, the beneficiaries appointed one Bogere Ahmed to apply for the grant over the estate on 13<sup>th</sup> January, 2016. The beneficiaries requested for further payment and signed a deed of acknowledgment which showed that the money was for the processing letters of administration.



According to him therefore the plaintiffs had actual and constructive notice of his interests and activities since 2009 when he purchased the same from Wasswa Musa. He therefore denied any acts of trespass on the land.

5 Upon agreement of both sides court on 23<sup>rd</sup> February 2022 directed parties to engage office of Chief Government valuer to assess the value of the land comprised in **Block 265 plot 6894**, measuring 0.0570 hectares in the names of the administrator of the estate.

On 8<sup>th</sup> September, 2022 the two sides were also directed to file submissions be for court to address the issues raised, the gist of which is the validity of the  
10 transaction between the defendant and Wasswa Musa.

Timelines were given in court but only the plaintiffs' side filed submissions.

The following were the issues for court to determine:

**Issues:**

- 15 **1) Who owns the suit property;**
- 2) Whether there is a valid sale between Wasswa Musa and the defendant;**
- 20 **3) Whether the forceful eviction of the beneficiaries by the defendant was legal.**

**Representation:**

The plaintiffs were represented by **M/s Mwina, Wananda & Co. Advocates**. The defendant on his part was represented by **M/s Jambo & Co. Advocates**

25 **The law:**

By virtue of **section 101 (1) of Evidence Act, Cap. 6**, whoever desires court to give judgment to any legal right or liability depending on the existence of any