

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(LAND DIVISION)**  
**CIVIL SUIT NO. 705 OF 2017**

**1. NABALANZA HILDA KIIZA**  
**2. KIGONGO ENOCK:::PLAINTIFFS**

**VERSUS**

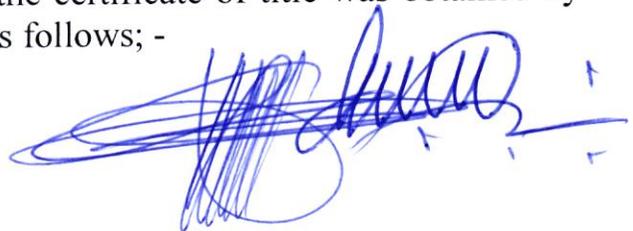
**YUDAYA NABITETENANKINGA**  
**KASUMBA:::DEFENDANT**

**BEFORE: HON. MR. JUSTICE TADEO ASIIMWE.**

**JUDGEMENT**

The Plaintiff sued the Defendant seeking for a declaration that the plaintiffs are the lawful and bonafide owner of the suit land comprised in Busiro Block 379 Plot 10 situate at Katale Wakiso District measuring 8.0936 hectares, an order for cancellation of the certificate of title for land comprised in Busiro Block 379 Plot 10 situate at Katale Wakiso District measuring 8.0936 hectares, an order that the plaintiffs be registered as the Administrators of the estate of the late **Nabanoba Deziranta**, permanent injunction against the defendant, her agents, servants, employees from using, or wasting the suit land and or dealing with the suit land in any way that is prejudicial to the plaintiffs' interests, a declaration that all transactions by the defendant in respect to the suit land is null and void abnatio, general damages, interest and costs.

The plaintiff's case is that they are the administrators of the estate of the late Nabanoba Deziranta who originally owned the suit land having acquired the same from her late father Ezira Busulwa. That the said Nabanoba Deziranta got registered on title April 2010 and after handed over the title to the defendant in confidence and trust for safe custody. That in breach of that trust, the defendant in 2012 unlawfully and illegally transferred the suit land in her names without the knowledge, consent and approval of Nabanoba Deziranta. That the certificate of title was obtained by fraud and she listed the particulars of fraud as follows; -



1. In total breach of trust and confidence causing the transfer of the suit land into the names of the defendant without the consent and knowledge of the late Nabanoba Deziranta.
2. Stating that the late Nabanoba Deziranta gave the said land to the defendant as a gift intervivos and with no deed of assignment.
3. Forging the thumbprint of the late Nabanoba Deziranta to cause the transfer of the suit land into the name of the defendant.
4. The defendant making efforts to deprive the rightful beneficiaries of their shares in the estate of the late Nabanoba Deziranta.

On the other hand, the defendant in her written statement of defence contended that the transfer of the suit land was done with a consent of late Nabanoba Deziranta and Nambooze Edrisa in view of the fact that she had a kibanja on the suit land and given the fact that she funded a civil suit in the High Court to recover the suit land and remove squatters. She denied acts of fraud as stated by the 4<sup>th</sup> plaintiff.

At scheduling the following issues were raised for determination; -

- (i) Whether the defendant acquired and transferred the suit land into her name fraudulently.
- (ii) Whether the defendant's power of attorney is valid after the death of the donor or not.
- (iii) Whether the registration of the defendant on the duplicate certificate of title for the deceased's land is still legal and valid.
- (iv) What are the remedies available to the parties?

### **Representation.**

At the hearing, the plaintiffs were represented by Counsel Mpagi Sunday while the defendant by Counsel Obed Mwebesa

Both parties filed written submissions which I shall consider in this judgement.

### **THE LAW**

The general rule is that he or she who asserts must prove and the burden of proof therefore rests on the person who must fail if no evidence at all is given on either

side. The standard of proof required to be met by either party seeking to discharge the legal burden of proof is on a balance of probabilities.

**In Miller V Minister of Pensions [1947]2 ALL E R 372 Lord Denning stated:**

“That the degree is well settled. It must carry a reasonable degree of probability but not too high as is required in a criminal case. If the evidence is such that the tribunal can say, we think it more probable than not, the burden of proof is discharged but if the probabilities are equal, it is not.”

It is also the position of the Law that the evidential burden does not shift to the defendant unless there is cogent and credible evidence produced on the issue for determination. I will now deal with the issues;

In a bid to prove their respective cases, the plaintiff called evidence of 5 witnesses while the 2nd defendant called 2 witnesses.

PW1 Kigongo Enock testified that the 1<sup>st</sup> plaintiff was his mother, the biological daughter and one of the administrators to the estate of the late Nabanoba Deziranta.

That he knew the defendant very well and he got to know her from the time this dispute in respect of the property started. Mostly when the defendant refused to return the duplicate certificate of title for the land comprised in Busiro Block 379 Plot 10.

That he is one of the administrators and beneficiary of the estate of the late Nabanoba Deziranta, vide High Court at Kampala Administration Cause No. 467 of 2013 dated 09<sup>th</sup> day of January, 2014 granted by Justice Moses Mukiibi.

That the late Nabanoba Deziranta formerly a resident of Katale Mayanja died on the 3<sup>rd</sup> day of September 2013, at Global Trust Medical Centre of diabetes mellitus.

That the late Nabanoba Deziranta owned land jointly with Nambooze Edrisa measuring 8.0936 hectares at Katale, Wakiso District comprised in Busiro Block 379 Plot 10 having acquired the same from her late father the late Ezira Busulwa who was the registered proprietor at the time of his death vide MRV 855/2 dated 1<sup>st</sup> day of February, 1962.

That the late Nabanoba and Nambooze Edrisa filed High Court Civil Suit No. 497 of 2005 and recovered the said land from Kayiwa Joseph who had sold the same to Kassaija Christopher as per the judgment of Hon. Justice Rubby Aweri Opio and the Decree dated 16<sup>th</sup> day of February, 2010 signed on the 12<sup>th</sup> day of March, 2010.

That as per the said court decision, the entries of Joseph Kayiwa and Kassaija Christopher were cancelled and the register rectified replacing it with the names of the late Nabanoba Deziranta and Nambooze Edrisa.

That on the 20<sup>th</sup> day of April, 2010 the late Nabanoba Deziranta got registered onto the duplicate certificate of title by an order of court vide High Court civil suit No. 497 of 2005 under instrument No. KLA452039.

That it is not true that the defendant fully funded High Court Civil Suit No. 497 of 2005 as alleged in paragraph 4 of her written statement of defence based on a mutual relationship with the late Nabanoba Deziranta but she was paid the damages and costs accruing from the said proceedings.

That after obtaining registration in the suit land, the late Nabanoba Deziranta handed over the duplicate certificate of title to the defendant in confidence and trust for her to hold in safe custody.

That it is not true that the suit land does not form part of the estate of the late Nabanoba Deziranta as alleged by the defendant in paragraph 3 of her written statement of defence as there is no blood relationship with the defendant.

That the death of the late Nabanoba Deziranta did not extinguish her interest over the suit land and as such he is entitled to her interests as an administrator and beneficiary of the said estate.

That the defendant on the 10<sup>th</sup> day of February 2012 in total breach of trust fraudulently, unlawfully and illegally transferred the suit land into her names vide instrument No. KLA535060 and she is the current registered proprietor.

That the defendant used a transfer form dated 30<sup>th</sup> day of January 2011, purporting that the late Nabanoba Deziranta and Nambooze Edrisa had signed for her using their thumbprints and as per application for consent to transfer, the consideration was gift.

That it is not true that the said land was transferred into the defendant's name was as a result of a mutual agreement with the late Nabanoba Deziranta as well as Nambooze Edrisa in the view that she had a kibanja on the suit land.

The defendant in her letter from Niwagaba & Mwebesa Advocates to the Land Registrar Wakiso District, dated 22<sup>nd</sup> day of November 2017 received on the 25<sup>th</sup> day of June 2018 claims that she purchased the suit from the late Nabanoba Deziranta and Nambooze Edrisa and they executed for her transfer forms in her name before their demise, which is not true and there is no proof of deed of assignment to the defendant.

That the defendant never settled and or removed any squatter (s) from the suit land as alleged in her pleadings since the late Nabanoba Deziranta revoked her powers of attorney and the squatters are well aware of the defendant's intentions of stealing the suit property.

That the defendant did not sell the suit land because of the squatters but the said squatters chased the defendant away because of her fraudulent acts against the late Nabanoba Deziranta and Nambooze Edrisa in respect of the suit land.

That as of the 29<sup>th</sup> day of April, 2013 the late Nabanoba Deziranta revoked the powers of attorney dated 20<sup>th</sup> day of October, 2010 that was granted to the defendant.

That even if the powers of attorney existed, upon the death of the late Nabanoba Deziranta and Nambooze Edrisa, the alleged powers of attorney elapsed automatically and the defendant cannot claim any interests from the same.

That the suit property or land automatically reverted back to the estate of the late Nabanoba Deziranta and Nambooze Edrisa as the registered proprietors and the defendant cannot claim any further interests in the same.

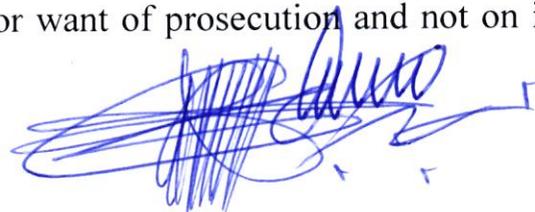
That the defendant no longer claims any kibanja interest over the suit land since she sold off her kibanja to different people including pastor Musana Henry and others and the defendant refused to transfer the suit land into my name as the administrators of the estate of the late Nabanoba Deziranta.

That it's not true the late Nabanoba Deziranta never revoked the said powers of attorney and there is no evidence to show that the said revocation was forged and the role of state house land department was to protect the interests of the late Nabanoba Deziranta but instead it is the defendant who wants to deprive us of our land that were are legally entitled to.

That the defendant is claiming that the late Nabanoba Deziranta gave her the suit land as a gift intervivos and there is no deed of assignment that was ever given to the defendant and the defendant does not even disclose ow she acquired the suit property.

That the defendant forged the thumbprint of the nate Nabanoba Deziranta to cause the transfer of the suit land into her name and the defendant is making all the effort to deprive us and other rightful beneficiaries of their shares in the estate of the Nabanoba Deziranta.

That it should be noted that High Court civil suit NO. 0576 of 2012, filed by the late Nabanoba Deziranta against the defendant was dismissed by Hon. Justice J. W. Kwesiga on the 20<sup>th</sup> day of February 2014 for want of prosecution and not on its

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merits as alleged by the defendant and the defendant applied for execution of the said decree against us as the administrators of the estate of the late Nabanoba Deziranta.

That the standard of prove in criminal matter is different from civil matters is different from civil matters and criminal case No. 0379 of 2014 was dismissed for lack of tendering in a handwriting expert report by the state witness who made the forensic audit and not on the merits but mere technicalities, on the 30<sup>th</sup> day of June 2016 for the reasons well known as per the copy of the discharge order dated 21<sup>st</sup> day of July 2016.

That the late Nabanoba Deziranta had lodged a caveat with district staff surveyor to stop any sub divisions of the suit land comprised in Busiro Block 379 Plot 10 vide Ref. F9744 of the 3<sup>rd</sup> day of April 2013.

That he lodged a caveat on the suit land vide instrument NO. WAK.00141545 registered on the 19<sup>th</sup> day of September 2017 to protect his interests and stopping any further transactions and or dealings as an administrator and beneficiary to the said estate.

That the said transfer of the suit land into the names of the defendant was done without the knowledge, consent and or approval of the late Nabanoba Deziranta and before her demise she lodged a complaint against the defendant at Kibuli Land Protection Unit on the 19<sup>th</sup> day of March, 2013 and made statements in respect of the suit land.

That the defendant has continued to dispose of part of the suit land to other third parties hence creating third party claims as evidence by a memorandum of understanding dated 6/3/2013 a conduct which amounts to breach of trust and unjust enrichment.

That he has suffered mental anguish and physical torture as the defendant has deprived him of his livelihood in the suit property and rest of the beneficiaries which attracts general damages.

In cross-examination, he confirmed that the 1<sup>st</sup> plaintiff is his mother and that his father died in 2020. That he is an administrator of the estate of his grandmother jointly with his mother, the 1<sup>st</sup> plaintiff who is alive. That by the time Nabanooba died in 2013, she had lodged a complaint with police which led to the criminal case at Buganda Road. That as a result of PE2, the entries of Kayiwa and Kassajja were removed from the register and reinstated the names of the original owner. That the title to suit land was given to the defendant by my grandmother for safe custody after

a court decision (PE2). That during the court case he met the defendant on several times trying to settle the case in vain and he lodged a caveat to the suit property.

On the other hand, DW1 Yudaya Nabitete Nankinga Kasumba testified that she knows the 1<sup>st</sup> plaintiff as a mother of the 2<sup>nd</sup> plaintiff and that their suit has no basis and ought to be dismissed.

That she got involved in the matters relating to the suit land after one Kayiwa Joseph and Kassaija Christopher had fraudulently acquired it to the detriment of late Nabanoba Deziranta and Nambooze Edrisa.

That she came in to help the deceased persons who were old to recover the land from the said fraud stars which she successfully did through a decision of 2010 (PE1 & PE2). That she personally instructed and paid lawyers who pursued the case and obtained a decree and the title of the suit land was rectified and registered in the names of Nabanoba and Nambooze at her cost. That thereafter the said Nabanoba and Nambooze (now the deceased persons) executed a power of attorney in her favour to sell the land among others.

That the agents of Kayiwa Joseph and Kassaija Christopher who had in the meantime forcefully occupied the land invaded her together with the deceased persons and indicated to her that they would not manage to get them off the land and that they would do everything possible to fail her including harming which threats she reported to the Resident District Commissioner Wakiso and the police at Kajjansi vide Kajjansi police station under SD 32/09/08/2010.

That following the threats, herself, Nabanoba and Nambooze (now the deceased persons), one Kisitu (the grandson of the late Nambooze), Ssebitaaba a cousin of the deceased persons and the late Christopher Kaweesi and Hajji Mawunda sat in a meeting where upon the deceased persons resolved that the land should be transferred into her names so that she could sell the same to recover her expenses.

That in the same meeting it was agreed that she continues fighting to remove the squatters and to deal with all legal matters relating to the land.

That accordingly, a memorandum of understanding was entered into with the deceased persons to that effect and in addition thereto transfer forms were executed by the deceased persons which were all witnessed by one Jackie Achan Okot Arach Advocate.



That in transferring the land into her names she did not breach any trust or act fraudulently. She did not even use powers of attorney.

That in the meantime she continued pursuing removal of the said people who were unlawfully occupying the land and instructed other lawyers (Niwagaba & Mwebesa Advocates) now Obed Mwebesa & Associated Advocates to pursue the same which order they obtained.

That in liaison with the above mentioned lawyers they instructed Nile General Authorities among others to pursue removal of people occupying the land at her expense.

That she refused to hand over a duplicate certificate of title upon which charges of fraudulent procession of a certificate of title were pressed against her at Buganda Road Court accusing her of fraudulent procurement of a certificate of title C/S 190 of the Penal Code Act and Court after hearing the case, dismissed it and she was discharged and the plaintiff filed the instant case relating to the same matter which was dismissed.

That the plaintiff should join her in removing the squatters from the suit land as per the wishes of the deceased.

That she has never disposed of part of the suit land and never breached any trust of the deceased. She invited Court to dismiss the case.

In Cross-examination, DW1 confirmed that she first met the late Nabanoba and Namboze in 2000 and helped them in civil case No. 497 of 2005. That she was a witness in that case and testified as a person owning a kibanja. That at the time she was trying to get the true landlord and nothing was promised to me and that the matter was decided and land was returned to them. She confirmed that she hired a lawyer and incurred costs in transferring the land back to Nabanoba and Namboze although there was no documentary evidence about the costs/payment.

That she was given authority to sale by PE4 and not ownership. That however she claims ownership as a registered owner. That was to transfer the property in my names, sale it and pay money to the 1<sup>st</sup> parties, Nabanooba and Namboze. However, she never sold the property in issue and no money was ever paid to the 1<sup>st</sup> party as per PE4.

That the consent forms bear the word GIFT as consideration and that the deceased signed by putting their thumbprints and that there is no certificate of translation. That the deceased denied all the documents in PE4, PE3 and PE5 although she died before the case was completed but after testimony in earlier case. That the transfer forms

were submitted to Land's in 2012, and she was registered on 10/2/2012 and that Namboze died before transfer was effected.

She further confirmed that she filed an application for removal of a caveat under M/C No. 125 of 2018 against the 2<sup>nd</sup> defendant and that in her affidavit in support she stated that she had purchased whereas not.

She finally stated that she is not willing to transfer the suit property to the administrators because she was given authority by the deceased to keep the land in her names as a trustee.

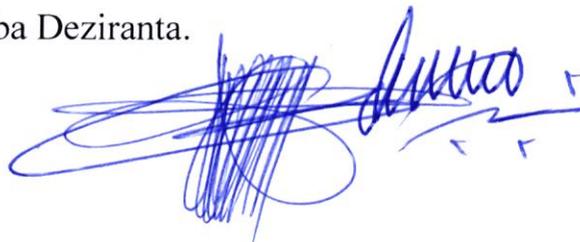
### **Resolution**

Although both counsel argued the three issues separately, I will resolve the 1<sup>st</sup> three issues together because they are all inter- linked.

- (i) Whether the defendant acquired and transferred the suit land into her name fraudulently.
- (ii) Whether the defendant's power of attorney is valid after the death of the donor or not.
- (iii) Whether the registration of the defendant on the duplicate certificate of title for the deceased's land is still legal and valid.
- (iv) What are the remedies available to the parties?

The plaintiffs listed the particulars of fraud as follows; -

1. In total breach of trust and confidence causing the transfer of the suit land into the names of the defendant without the consent and knowledge of the late Nabanoba Deziranta.
2. Stating that the late Nabanoba Deziranta gave the said land to the defendant as a gift *intervivos* and with no deed of assignment.
3. Forging the thumbprint of the late Nabanoba Deziranta to cause the transfer of the suit land into the name of the defendant.
4. The defendant making efforts to deprive the rightful beneficiaries of their shares in the estate of the late Nabanoba Deziranta.



The Court in the case of **Fredrick Zaabwe Vs Orient Bank & Others SCCANo, 4 of 2006**, defined fraud to mean the intentional perversion of the truth by a person for the purpose of inducing another in reliance upon it to part with some valuable thing belonging to him or her or to surrender a legal right. It is a false representation of a matter of fact whether by words or by conduct, by false or misleading allegations or concealment of that which deceives and it is intended to deceive another so that he or she shall act upon it to his or her legal injury.

**In Kampala Bottlers Ltd vs Damanico (U) Ltd, SCCA No.22 of 1992**, it was held that; “fraud must be strictly proved, the burden being heavier than one on balance of probabilities generally applied in civil matters, it was further held that; ‘The party must prove that the fraud was attributed to the transferee. It must be attributable either directly or by necessary implication, that is; the transferee must be guilty of some fraudulent act or must have known of such act by somebody else and taken advantage of such act.’”

In this case it is not in dispute that the plaintiffs are the administrators of the estate of the late Nabanoba, one of the joint owners of the suit land who died last.

Without going in to the legalities of the power of attorney PEX5. What is clear is that the defendant was given powers of attorney by Nabanoba, and Nambooze to sell the suit property and give the proceeds to Nabanoba and Nambooze who are referred to as first parties in this case.

The said power of attorney was issued on the 20/10/2010. A different document titled a memorandum of understanding (PE4) was signed in less than three months on the 30/01/2011. The said document was very clear as well and it allowed the defendant to sell the suit land after removing squatters and remitting the proceeds to the first parties and this was merely on trust.

Both documents did not create a benefit for the defendant. In short the defendant was acting as a good Samaritan to the elderly persons whom she had initially helped recover the same land as per PEX1 and PEX2

Both documents were created for the same purpose save for the fact that the second document required the first parties to transfer title in the names defendant for purposes of sale. To begin with one would wonder if it was necessary for one to first transfer title in her names for sale without reciprocal rights as though the power of attorney was not enough unless there was a hidden agenda.

In my view both documents were powers of attorney titled differently. They both created a donor-donee relationship or an agent principal relationship for the defendant to act on behalf of the first parties. This court would have interpreted these documents differently if the second document PEX4 created reciprocal rights.

The defendant produced transfer forms (PEX8) dated 30<sup>th</sup> 01/2011 and transfer was effected 10th day of February 2012. In her testimony the defendant testified that Nambooze died before the transfer was effected.

The law on power of attorney or agency is very clear and closely similar.

A Power of Attorney is a document that grants authority of the Principal to an agent to act on behalf of an agent. Such authority must have granted by deed. **See Gold Trust Bank (U) Ltd vs Josephine Zalwango Nsimbe HCCS 226/1992.** The position of the law is that a Power of Attorney is terminates upon the death of the Principal. In other words, an agent can only act for a living person. When an agent carries out an act, he carries it out as though it was the Principal carrying it out. Therefore, if the Principal is dead, then they obviously cannot carry out the act.

**Fredrick Zaabwe vs. Orient Bank Ltd and 5 Others SCCA 04/2006** for the holding that **“a donee of a power of Attorney acts as an agent of the donor.”**

*It was asserted the Donor not having been the legal owner of the suit property, the Defendant lacked locus to sell the property to the Plaintiff and doing so was a misrepresentation within the meaning of clause 4 of the agreement.*

In my opinion both documents PE4 and PE5 terminated at the demise of Namboze. At that time the defendant had no authority to deal with the land or continue with transfer. Besides the status of the Land had changed since the doctrine of survivorship would come in to declare the surviving owner Nabanoba Deziranta as a sole owner. The defendant needed new instructions to continue with the said transfer.

That notwithstanding, the defendant claims to have relied on the memorandum of understanding and transfer forms to transfer the suit land to her names.

The transfer documents had the defendant as a purchaser and the first parties as vendors contrary to the documents of authority PE5 and PE4.

It is not in dispute that the first parties were illiterate and the transfer documents were in English and no certificate of translation were brought to court in evidence.

The law on this is very clear, the first parties were illiterate and elderly which required protection under the Illiterates Act.



The MOU and Powers of Attorney should have been written under the Illiterates Protection Act. The case of **Violet Nakiwala & 2 Others vs Ezekiel Rwekibira and Another HCCS No. 280 of 2006 (unreported)** is the basis for the principle that a document written at the request on behalf of an illiterate must bear certification that it fully represents his instructions and was read over and fully explained to him short of which it would be void.

Although the defendants' counsel submitted that this fact was not pleaded, there are issues that cannot be ignored by court. One cannot exhibit a document which legally requires attestation and avoid the requirements simply because it was not a pleaded fact. I find that argument diversionary. Be that as it may, the power of attorney, the MOU and the transfer forms would be void and illegal.

There is no explanation how the first parties would have signed off their interest to the defendant if at all as a purchaser contrary to the express terms as contained in the MOU, PE4.

This was an utter and intentional misrepresentation by the defendant who is literate and took advantage of the parties' illiteracy to defraud them.

The defendant's actions were intentional from the word go. Besides having signed as a purchaser, as conceded in her application for removal of a caveat, where she swore an affidavit that she purchased whereas not. and I will quote her verbatim.

**“ I filed an application for removal of a caveat under M/C No. 125 of 2018 against the 2<sup>nd</sup> defendant. Annexures F thereof states I had purchased the land from Nabanooba and Nambooze.”**

However, in cross-examination she stated that she did not purchase the Suitland and blamed her lawyers for it which is quite surprising.

The defendant further conceded that the application for consent to transfer bear the word GIFT as consideration which was inserted by a Lands Officer as there was no consideration or money in the transaction.

I find the defendant's evidence doubtful on all aspects and as an attempt to pervert the truth which points to fraud.

It is not surprising that by the time Nabanooba Deziranta died, a complaint had been lodged at police and a case in court disputing the said transfer. Although the court case as per DEX3 was dismissed for want of prosecution, it's evident that Nabanooba Deziranta died fighting the registration defendant on title in the suit property.

Even if it were clear that the first parties had given the defendant authority to deal with the suit land in whatever manner as was found in criminal case, No.379 of 2014, the moment first parties changed their mind, the defendant had no authority over the suit property especially in a disguised memorandum of understanding with no reciprocal rights or consideration.

Ideally one cannot forcefully act on behalf of a donor or principal. Besides since 2011 to date the defendant has not performed as per expectation of the memorandum of understanding. Instead she illegally sold some land to third parties in a disguised MOU- PE8 between herself and a one Mr. Bataka Alex.

I therefore find that the defendant fraudulently transferred the suit land in her name. Therefore, her registration was and is illegal. The suit land belongs to the estate of late Nabanooba Deziranta.

Issues 1,2 and 3 are answered in the negative.

ISSUE 4:

**Remedies available to the parties.**

Under this, the plaintiff prayed for a number of remedies;

**a). A declaration that the plaintiff be declared and confirmed the owner of suit land.** I have already found that the suit land belongs to the estate of the late Nabanoba Deziranta whose administrators are the plaintiffs. This prayer is granted.

**b). An order cancelling the registration of the defendant from title and replace it with that of the plaintiffs.**

Under Section 177 of the Registrar of Titles Act empowers this Court to direct the Commissioner for Land Registration to cancel any certificate of title and replace the same, for being fraudulently obtained contrary to Section 176 of the Registrar of Titles Act.

I do agree with the Plaintiffs that this is a proper case for ordering cancellation of the title of the Defendant and register it in the plaintiff's names as administrators. The same is granted.

**c). A permanent injunction**

Having earlier found that the plaintiffs as administrators of the estate of the late Nabanooba Deziranta, are the rightful owners of the suit land therefore a permanent



injunction doth issue restraining the defendants, their agents, assignees, legal representatives or transferees from any further interference and/or claim on the suit land.

d). **General damages for trespass.**

The Plaintiff are entitled to recover damages from the Defendant for her fraudulent acts on the suit land since 2012. The law regarding general damages is that they are the direct natural or probable consequence of the Act complained of. **(See Storms versus Itutechinson [1905] AC 515)**

I shall therefore award damages of 40,000,000/= (forty) million Uganda shillings as damages for the persistent inconvenience caused to the plaintiffs for over 10 years.

e). Costs.

Costs follow the event as per section 27 of the civil procedure Act. The plaintiffs having been the successful party. They are entitled to cost of this suit. However, since the suit property initially secured by the defendant I shall not award any costs.

In conclusion, the plaintiffs' case succeeds with the following orders;

1. A declaration that the suit land belongs to the estate of the late Nabanooba Deziranta.
2. An order directing the Registrar of Title to cancel the defendant's name from title and replace it with that of the plaintiffs as administrators of late Nabanooba Deziranta.
3. A permanent injunction restraining the defendant, her agents, assignees, legal representatives or transferees from any further interference and/or claim on the suit land.
4. Forty million Uganda shillings (40,000,000/=) is awarded as General damages.
5. No order as to Costs.

I so order.

  
Tadeo Asiimwe

J U D G E

13/10/2023