

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION
MISCELLANEOUS APPLICATION NO.1364 OF 2023
(ARISING FROM LAND DIVISION HCCS NO. 38 OF
2021)**

**1. ADRONA NYINDOMBI
2. DOROTHY MATOVU
3. SARAH MATOVU
4. GEORGE MATOVU
5. DENIS MATOVU
6. THERESA MATOVU:.....APPLICANTS
VERSUS**

DR. JOSEPH WASSWA MATOVU:.....RESPONDENT.

BEFORE: HON.LADY JUSTICE KANYANGE SUSAN

RULING

This is an Application brought under Section 98 of the Civil Procedure Act, Section 33 Judicature Act. Cap 13. Order 52 rule 1,2,3 of the Civil Procedure Rules. It seeks for orders that

- a) HCCS no.38 OF 2021, Dr Joseph Wasswa Matovu versus Adrona Nyindombi and 7 others is Res Judicata in respect to suit property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District.
- b) That the Respondent has no locus to bring the said suit.
- c) Costs of the Application.

Background

The Respondent filed Civil Suit No.38 of 2021 seeking declarations that ***the 1st 2nd, 3rd,4th,5th, and 6th***

Applicants were illegally and fraudulently registered as proprietors to land and property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District. That the said transfer affecting the said land was null and void. That the said land belongs to the estate of the late Eng. John Tebyasa Matovu. That the 7th and 8th Respondents acted fraudulently in relation to the transactions affecting the land, and prayed for an order cancelling all the transactions affecting the suit land among others.

The applicants filed a written statement and then filed this application through their lawyers **Ligomarc Advocates** seeking orders, ***that HCCS no.38 OF 2021 in respect to suit property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District is res judicata. That the Plaintiff has no locus to bring the said suit and costs.***

GROUND FOR THE APPLICATION.

The grounds of this Application have been stated in the Affidavit of Adrona Nyindombi but briefly they are ,

- The Respondent filed HCCS no. 38 of 2021 seeking cancellation of the certificate of title for the suit property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District,
- The suit property has been wholly and subject to litigation in HCCS NO. 250 of 2009 and Civil Appeal No. 186 of 2012
- The Respondent ceased to be the Manager of the estate of John Tebyasa when he died and that the suit property does not form part of the estate of the late John Tebyasa

- The suit property did not form part of the property of the late John Tebyasa when he was adjudged a person of unsound mind and when he died.

The Respondent through his lawyer **M/s Simon Tendo Kabenge (Stek) Advocates** filed an affidavit in reply and contested that he is still the subsisting manager of the estate of the late John Tebyasa and a beneficiary.

-That Civil Suit No. 38/2021 is not barred by the principle of Res judicata as Fraud was never pleaded as a cause of action in C/S No. 250 OF 2009

- The subject matter has never been adjudicated upon on its merits in any of the previous suits.

- That plot No. 37 and 114 Block 367 Land at Mpogo Wakiso District, the subject matter in Civil Suit No. 38/2021 was never an issue in Civil Suit No.250/2009.

The Applicants filed an affidavit rejoinder deposed by Genevieve Akello who asserts that she is an advocate fully aware of the facts of the case, and has the authority to depone the same,

-she further contends that Civil Suit No.250 of 2009 and HCCS No. 38 of 2021 are in material particulars similar

- That the Respondents have since expressed their intention to appeal to the supreme court and the same is pending hearing.

-That civil suit no 224 of 2016 was also dismissed on grounds that it was res judicata, the subject matter having been adjudicated upon in HCCS no 250 of 2009

- that the order being relied on by the Respondent claiming that he is still a manager of the Estate of the late John Tebyasa was by Registrar and is not binding on this court.

PRELIMINARY OBJECTION

Counsel for the Respondent raised a preliminary objection that the affidavits in support of this application by Adrona Nyindombi and in rejoinder by Genevieve Akello are incurably defective affidavits that make the application fatally incurable.

Counsel contends that the 1st Applicant did not attach any evidence of written authority to swear the affidavit on behalf 2nd -6th Applicant. Counsel relied on the authorities quoted by Justice Henry Kaweesa in his decision to strike out an affidavit in the case of **Bishop Patrick Baigasiima V Kiisa Daniel & 16 others MA 1495/2016**.

In the case of **Binaisa Nakalema and 3 others versus Mucunguzi Myers MA no 460 of 2013** court discussed the provisions of Order 1 r 10(2) and 13 of the Civil Procedure Rules and Order 3 r2(2) of the Civil Procedure rules and guided that a person swearing on behalf of others ought to have their authority in writing which must be attached as evidence and filed on court record.

In the case of **Makerere University versus St Mark Education institute and others HC Civil suit no 378 of 1993** it was held that an affidavit is defective by reason of being sworn on behalf of others without showing that the deponent had authority.

The first Applicant in paragraph 1 states ‘ ***that the 2nd - 6th Applicants have duly authorised me to depone this affidavit and as such I depone this affidavit on my behalf and on behalf of the 2nd to the 6th Applicants.*** No written authority was attached.

In the case of **Tumwine Tumushabe and 4 others versus Assimwe consolidated MAS 125 and 132 of 2014** Justice Percy Ntuhaise found that where an applicant

swears affidavit without including other applicants' authority, application stands in respect of that applicant.

I find that this application stands in respect of 1st Applicant as deponent also swore the affidavit on her behalf but not on behalf of others as she did not attach the authority.

In the premise, the affidavit of the 1st Applicant is maintained.

On the second affidavit of Genevieve Akello, Counsel for the Respondent contends that the only way one can swear an affidavit is by a power of attorney.

Counsel relied on the case of Justice Madrama in MA No.699 of 2011 in which it was held that **"the person who claims to have authority to swear such affidavit on another's behalf must attach a power of attorney"**. Counsel contends that the deponent was not a party to the suit and was not counsel in the matter, he states that she has no capacity to swear an affidavit in respect to matters of the Bank and cited Order 19r3.

The above-cited case is distinguishable, the deponent in that case stated that, 'I am a male adult Ugandan of sound mind, an advocate in the above-stated law firm the duly authorized agent of the Applicant'. The court found that ***'the affidavit is made in the capacity of a duly authorized agent and not in the capacity of an advocate'***.

In Paragraph 1 of the affidavit of Genevieve Akello, she states that she swore affidavit in her capacity as an advocate. In paragraph 2 of the affidavit in rejoinder she averred she is aware of the facts and has authorisation of the applicants. She attached an email from Dorothy authorising her.

In the Court of Appeal in the decision of Justice Christopher Madrama **in Shifa Lovewood v Luyima Godfrey & Namazzi Eva Civil Appeal No. 229 of 2021**, the Court of Appeal found that the deponent of the affidavit that had been struck out by the trial Judge had the requisite knowledge about the evidence before the court. Since the evidence was material and relevant, the order striking out the affidavit was set aside.

The principle of an advocate swearing an affidavit was settled in the Supreme Court case of ***Mbarara Municipal Counsel v Jethra Brothers Limited, Supreme Court miscellaneous application no.10 of 2021***, Justice ***Ezekiel Muhanguzi held that*** ***“affidavits can be sworn by anyone to prove a set of facts, and an advocate is not an exception. An advocate is therefore not prohibited to swear an affidavit where necessary, especially on matters that are well within his/her knowledge”.***

Counsel Akello swore the affidavit in rejoinder as an advocate having full knowledge of the facts surrounding the matter and what happened in the previous cases. The grounds of the beliefs are clear and I quote “that whatever I have stated herein above is true and correct to the best of my knowledge and belief.” Accordingly, the requirement under Order 19 R3 (1) has been met. She also had an email authorising her. I find that she did not need a power of Attorney to swear the affidavit.

In light of the foregoing, the preliminary objection in respect of the affidavits supporting the Application fails and the Affidavits are maintained. I will now discuss the merits of the application.

SUMMARY OF ARGUMENTS OF COUNSEL.

Counsel for the Applicant contends that the suit instituted by the Respondent is Res judicata with respect to property comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District,

Counsel submitted that the Respondent together with five others filed High Court Civil Suit No. 250 of 2009 against the 1st to 6th Applicants. Counsel also submitted that the Respondent's claim was for a declaration that the land comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District is family land of the Matovu family, a declaration that the transfer of the said land by the 1st defendant(now deceased) to the 2nd to 7th defendants(Respondents herein)was wrongful and void, an order cancelling the transfer.

Counsel further submitted that the Respondent's suit was dismissed for lack of merit and judgment was entered in favor of the Applicants on a counterclaim.

Counsel also submitted that the Respondents herein being dissatisfied with the Ruling of the High Court in High Court Civil Suit No. 250 of 2009 appealed against the same Vide Civil Appeal No.0186 of 2012. The Court of Appeal found that the plaint does not establish any right upon which the plaintiffs could sustain any action to recover the land in question. The court of appeal upheld the ruling of the High Court and resultantly dismissed the appeal.

Counsel stated that the Respondent also filed Civil Suit No.224 of 2016 also challenging the Applicant's interest in the land comprised in comprised in Busiro Block 367 Plot 143 Land situated at Mpogo Wakiso District, that the suit was dismissed on the ground that it was res judicata. Counsel argued that one of the suit properties in issue was

substantially adjudicated upon in in High Court Civil Suit No. 250 of 2009, Civil Appeal No.0186 of 2012 and Civil Suit No.224 of 2016

In Reply Counsel for the Respondent submitted that the cause of action to be determined in HCCS nO.38 OF 2021 is for FRAUD which was never subjected to determination in High Court Civil Suit No. 250 of 2009, Civil Appeal No.0186 of 2012 and Civil Suit No.224 of 2016 and therefore the principle of Res judicata does not therefore arise.

Counsel further submitted that the previous suits were determined without hearing any evidence in the matter.

ISSUES FOR DETERMINATION

1. Whether HCCS No. 38 of 2021 is barred by Res judicata.
2. Whether the Respondent has Locus Standi to bring the instant Suit.

ANALYSIS

ISSUE 1

Whether HCCS No. 38 of 2021 is barred by Res judicata.

The doctrine of res judicata, also known as claim preclusion, is a well-established legal principle that serves to prevent the re-litigation of issues that have already been conclusively determined by a competent court in a prior lawsuit between the same parties or their privies.

The doctrine of Res judicata is enshrined in Section 7 of the Civil Procedure Act which stipulates that "*no court shall try any suit in which the matter directly and*

substantially in issue has been directly and substantially in issue in a former suit between the same parties or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try the subsequent suit or the suit in which the issue has been subsequently raised, and has been heard and finally decided by that court."

The test of whether a matter is res judicata has been decided on by a number of court decisions. ***In Mansukhlal Ramji Karai and another v Attorney General, Makerere Properties Limited and another Supreme Court Civil Appeal 20 of 2002, the court said that:***

"The provision indicates that the following broad minimum conditions have to be satisfied

- (1) There has to be a former suit or issue decided by a competent court.***
- (2) The matter in dispute in the former suit between the parties must also be directly or substantially in dispute between the parties in the suit where the doctrine is pleaded as a bar.***
- (3) The parties in the former suit should be the same parties or parties under whom they or any of them claim, litigating under the same title."***

See also, case of ***Godfrey Magezi V National Medical stores and others (Civil Suit 636 of 2016) [2017] 15 (9 November 2017)*** which was also cited by Counsel for the Applicant,

It has been submitted by Counsel for the Applicant that Civil Suit No.38 of 2021 shares a commonality with previous cases that is HCCS NO. 250 OF 2009, Civil Appeal No. 186 of 2012, and HCCS NO. 224 OF 2016 and

that the suit instituted by the Respondent is res judicata with respect to property comprised in Busiro Block 367 Plot 143 land at Mpogo.

Counsel for the Respondent however submitted that the only way in which HCCS No.38 OF 2021 would be barred by Res judicata is if the court had determined a cause of action of fraud and states that the cause of action in the present suit is clearly Fraud.

Counsel for the Respondent referred the court to the finding of the court in Civil Suit No.250 of 2009 and I quote **“Indeed Justice Mulangira Joseph as he then was determined the same matter without hearing any evidence from the parties” he found on page 10 of his ruling attached as Annexure ‘B ’to paragraph 6 of the Applicant’s incompetent affidavit in support that, More so under Section 64 RTA such transfer can only be challenged on the basis of Fraud and in as much as the plaintiffs have not alleged fraud and or set out particulars of fraud, no cause of action is established by the plaintiffs”**

Counsel for the Respondent further referred to the finding of the court in Civil Suit No.244 of 2016 on page 10 of the ruling of Justice Bashaija K. Andrew while quoting the previous decision that “since no fraud has been alleged or particularised, the plaintiffs had not established any cause of action and could not under section 64 RTA, Challenge the transfer except on the ground of fraud.

In regard to the parties, the Respondent avers in his affidavit Paragraph 7 (e) That the parties in HCCS No.250/2009 and HCCS No.38 /2021 are different. He avers that Imelda Gertrude Bassude Matovu, Josephine Nakato Matovu, Beatrice Babirye Matovu, John Kiiza Matovu, and Henry Tibyasa Matovu are not parties

to this suit. The parties in Civil Suit No. 250/2009 are Imelda Gertrude Basudde. Matovu, Dr Joseph Wasswa Matovu, Josephine Nakato Matovu, Beatrice Babirye Matovu, John Kiiza Matovu, and Henry Tibyasa Matovu V John Tebyasa Matovu, Adrona Nyindombi, Dorothy Matovu, Sarah Matovu, George Matovu, Denis Matovu and Theresa Matovu.

In the present case, the parties are Dr. Joseph Wasswa Matovu Versus Adrona Nyindombi, Dorothy Matovu, Sarah Matovu, George Matovu, Denis Matovu, Theresa Matovu

It is true Imelda Gertrude Bassude Matovu, Josephine Nakato Matovu, Beatrice Babirye Matovu, John Kiiza Matovu, and Henry Tibyasa Matovu are not parties in the present suit. However, I am alive to the fact that the people named are family members. In disputes such as disputes over family land or estate matters, like in the present case, courts may take a broader view of res judicata. Even if all family members are not individually named as parties in the present lawsuit, if the dispute fundamentally involves the same family estate or property, and if the judgment in the previous suits effectively determined the rights and interests of the entire family in that property, the doctrine of res judicata may still apply.

The fact that Dr. Joseph Wasswa Matovu sued as both a beneficiary and the court-appointed manager of the estate of the late John Tebyasa Matovu, suggests that Dr. Joseph Wasswa Matovu may have acted on behalf of the other beneficiaries and family members(Imelda Gertrude Bassude Matovu, Josephine Nakato Matovu, Beatrice Babirye Matovu, John Kiiza Matovu, and Henry Tibyasa Matovu), in his capacity as the court-appointed manager of the estate, the underlying interest in the estate and the property remains consistent among the family members.

In essence, their interests in the estate and the property may be considered collectively.

It is on that basis that I find that the argument that some of the parties in HCCS No.250/2009 are not parties in the present case cannot be sustained.

The claim of the Respondent against the Applicants in **Civil Suit No.250 of 2009 (IMELDA GERTRUDE BASUDDE. MATOVU, DR JOSEPH WASSWA MATOVU, JOSEPHINE NAKATO MATOVU, BEATRICE BABIRYE MATOVU, JOHN KIIZA MATOVU, AND HENRY TIBYASA MATOVU VERSUS JOHN TEBYASA MATOVU, ADRONA NYINDOMBI, DOROTHY MATOVU, SARAH MATOVU, GEORGE MATOVU, DENIS MATOVU)** was for *a declaration that the land comprised in Busiro Block 367, plot 143 situate at Mpogo, wakiso district is family land of the Matovu family, and one in which the plaintiffs have an interest, a declaration that the transfer of the said land by the 1st defendant(John Tebyasa Matovu) to the 2nd to 7th defendants(Respondents herein)was wrongful and void, an order cancelling the said transfer, an order investing the land into the joint names of the plaintiffs and the 1st defendant, a permanent injunction to restrain further dealings in the said land, general damages, interest thereon and costs.*

Neither Counsel did attach a copy of the plaint in Civil Suit No 224 of 2016 (**JOHN TEBYASA MATOVU, suing through Dr. Joseph Wasswa Matovu VERSUS ADRONA NYINDOMBI &5 OTHERS**) but I will make reference to the decision of Justice Bashaija paragraph 230 where he stated that *"it is no doubt that the parties in the former suit are the same as in the instant suit albeit in a reversed order. It is also evident that the subject matter of litigation is the same as in the present suit.*

Also, the issue in the former suit as to whether the transfer of the suit property by the 1st defendant to co-defendants was lawful is the same in the instant suit. Paragraph 3 of the plaint in the instant suit clearly brings out this issue of propriety/legality of the transfer of suit property comprised in Busiro Block 367, plot 143 situated at Mpogo, Wakiso district into the names of the 2nd -7th defendants in the former suit who are the same in the present suit. Most importantly, the court in the former suit pronounced itself regarding the legality of the transfer of the suit land."

In the instant suit, Respondent's(Plaintiff's) claim is for a declaration that; the 1st 2nd, 3rd,4th,5th, and 6th Applicants were illegally and fraudulently registered as proprietors to land and property comprised in Busiro Block 367 Plot No.37,114 & 143 Land situated at Mpogo Wakiso District, that the said transfer affecting the said land was null and void, that the said land belongs to the estate of the late Eng. John Tebyasa Matovu, that the 7th and 8th Respondents acted fraudulently in relation to the transactions affecting the land, an order cancelling all the transactions affecting the suit land, an order for vacant possession of the suit land to the court-appointed Manager of the estate of the Late Eng. John Tebyasa, an order for removal of caveats lodged by the 2nd defendant, an order for mense profits, permanent injunction, general, exemplary and aggravated damages, costs.

I find that it's true that CS NO 250 Of 2008 was disposed off on a preliminary objection that there was no cause of action. The parties in that case did not present any evidence. This was also one of the grounds of appeal in court of Appeal in CA no 181 of 2012, which appeal was

dismissed. Its true in that case no 250 of 2008 Fraud was not pleaded and the judge stated that under S,64 a transfer can only be challenged on the basis of fraud and in as much as the plaintiffs have not alleged fraud, no cause of action is established by the plaintiffs. The judge found the land was not family land but belonged to the 1st defendant. He also found he was registered proprietor and there was no lawful act committed by him transferring the land to his children and their mother and that it would be unconstitutionally for court to order the 1st defendant to surrender his land to people he does not wish to give it to or order cancellation of the title. He struck out the plaint, entered judgment on the counterclaim, ordered removal of the caveat, and also granted a permanent injunction restraining the plaintiffs or persons deriving interest from them, from ever interfering with the suit land in whatever ever manner or disturbing the quiet possession of the suit land by the defendant.

The court thus pronounced itself on the said transfer which the present suit seeks to determine null and void and basis of which the plaintiff seeks to nullify the registration of the defendants on grounds of fraud and on the same property comprised in Busiro Block 367 plot 143 situate at Mpogo Wakiso district. The court thus conclusively pronounced itself on the legality of the transfer form and on the interests of the parties when it granted the counterclaim. The issue of the late Tebyasa Matovu being of unsound mind and incapable of giving the said gift was also dealt with in the civil appeal 186 of 2012 conclusively.

In the case of Lt David kabarebe v Major Prossy Nalweyiso CACA No.34/03

It was held that *'to give effect to the plea of res judicata, the matter directly and substantially in issue must have been heard and finally disposed of in the former suit.'*

In the case of Lt David kabarebe v Major Prossy Nalweyiso CACA No.34/03

It was held that *'to give effect to the plea of res judicata, the matter directly and substantially in issue must have been heard and finally disposed of in the former suit.'*

I find that the present case, HCCS No. 38 of 2021, is indeed barred by the doctrine of res judicata in respect of the property comprised in Busiro Block 367 Plot No. 143 Land situated at Mpogo Wakiso District. The matters directly and substantially in issue in the previous cases, including HCCS No. 250 of 2009 and HCCS No. 224 of 2016, were substantially the same as the matters raised in the current suit. While a new cause of action based on fraud has been introduced, it is essentially a different legal label applied to the same underlying dispute, and the previous cases had already pronounced the legality of the transfer of the property comprised in Busiro Block 367 Plot No.143 Land situated at Mpogo Wakiso District.

The doctrine of res judicata, as enshrined in Section 7 of the Civil Procedure Act, serves to prevent the re-litigation of issues that have been conclusively determined by a competent court in prior lawsuits. Therefore, I find that HCCS No. 38 of 2021 is barred by res judicata, and the matters raised in this suit have already been heard and finally disposed of in the former suits HCCS NO 250 of 2009 and Court of Appeal Civil Appeal no 186 Of 2012, and the rights of the parties determined in the preliminary objection. The decision was also confirmed by the Court of Appeal which also conclusively determined the rights of the parties,

I also note that the Respondent has since appealed the decision of Civil Appeal No.186 of 2012 to the Supreme



Court and the same is pending determination. I would advise counsel to follow up that Appeal in the Supreme court.

ISSUE 2

Whether the Respondent has Locus Standi to bring the instant Suit.

In the of Dima Dominic Poro V Inyani & Anor (Civil Appeal No.17 of 2016) The term *locus standi* literally means a place of standing. It means a right to appear in court, and, conversely, to say that a person has no *locus standi* means that he has no right to appear or be heard in a specified proceeding. (see *Njau and others v. City Council of Nairobi [1976–1985] 1 EA 397 at 407*). To say that a person has no *locus standi* means the person cannot be heard, even on whether or not he has a case worth listening to. In **Kithende Appolonia and 2 others, versus Eleanor Wismer CACA NO 34 OF 2010** the Court of Appeal defined locus standi as the right that one has to be heard in a court of law or other appropriate proceedings once one has a direct interest in the matter, then one is eligible to claim relief in respect of the matter if that one's interest is being adversely affected.

Counsel for the Applicant submitted that the Respondent brought the suit in his capacity as a manager of the estate of John Tebyasa Matovu(a person of unsound mind) and further submitted that the Respondent ceased to be a manager of the estate of the late John Tebyasa on 31st December 2017 when Eng. John Tebyasa died.

Counsel further submitted that the Respondent also brought the suit in his capacity as a beneficiary of the estate of the late Eng. John Tebyasa Matovu but has no

beneficial interest since the Applicants are the Registered proprietors of the property in question.

In response to Counsel for the Respondent argued that the Management order by the Registrar has never been set aside. Counsel further argued that as a beneficiary of the estate of the deceased John Tebyasa Matovu, he can file a suit.

I note that the Respondent brought Civil Suit No.38 of 2021 in the capacity of a beneficiary and the court-appointed Manager to the estate of the late John Tebyasa

The respondent was appointed a manager of the estate of Mr John Tebyasa Matovu a person of unsound mind whom the lower court adjudged him as person of unsound mind on the 24th day of October 2013.

Under S 2 of the **Administration of estates of unsound mind Act**, the court may appoint a manager of the estate of a person of unsound mind on the application of a superintendent or other person in charge of a mental hospital, the commissioner of prisons or a relative of any such person of unsound mind.

If someone was appointed as a manager for a person of unsound mind under the provisions of administration of the Estate of Persons of Unsound mind under the Act, their authority as a manager is generally tied to the person who is of unsound mind.

When a person of an unsound mind passes away, the authority of the manager typically ends. The manager's role is to make decisions on behalf of the person of unsound mind while they are alive and unable to make decisions for themselves.

After the person's death, the manager would typically not have the authority to continue transacting on their behalf,

as their legal authority was specific to the person of unsound mind's lifetime.

In instant case the person of unsound mind Tebyasa Matovu to whom plaintiff was a manager of his estate died

Section 25 of the Succession Act stipulates that all property in an intestate devolves upon the personal representative of the deceased upon trust.

It has not been shown that plaintiff is the legal representative of the deceased.

But he also brings this suit as a beneficiary.

In the case of **Isreal Kaggwa versus Martin Banoba SCCA 52 /1995** also cited by counsel for respondent, a beneficiary to an estate of a person has locus to sue in his own name to protect the estate of the intestate or his own benefit without having to obtain letters of administration. It was submitted that property was found not to be part of the estate of the deceased as he gifted it away before his death.

The determination that the property comprised in Busiro Block 367 plot 143 land at Mpogo Wakiso District does not form part of the estate of the late John Tebyasa Matovu is a triable issue so I won't delve in that.

I therefore find that the respondent as a beneficiary has locus standi to bring a suit claiming the estate of the late Tebyasa Matovu, but he had no locus standi to bring suit as a manager of a person of unsound mind when that person died.

In conclusion, I find that

- a) HCCS No 38 of 2021 is Res Judicata in respect of the property comprised in Busiro, Block 367 Plot 143 land situate at Mpogo Wakiso District..

b) The Respondent has locus standi to bring suit against the Applicants as a beneficiary.

c) Costs are awarded to the Applicants.

DATED AT KAMPALA THIS ^{31st}-----DAY OF ^{October}-----2023

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KANYANGE SUSAN
AG JUDGE LAND DIVISION.