THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

LAND DIVISION

CIVIL APPEAL NO. 7 OF 2016

MATOVU JOSEPH :: APPELLANT

VERSUS

SOPHIA MAYANJA :: RESPONDENTS

BEFORE: HON. LADY JUSTICE IMMACULATE BUSINGYE BYARUHANGA

JUDGMENT

This appeal was filed by Matovu Joseph (*herein after referred to the "appellant"*) challenging the judgment and orders of Her Worship Acio Julia Lucy, Chief Magistrate of Mengo Chief Magistrate's Court (hereinafter referred to as the trial court) which was delivered on 13th April, 2015. The trial court decided the case in favour of Sophia Mayanja (hereinafter referred to as the "*respondent*") and declared her as the owner of the suit land, an eviction order against the appellant, appellant was ordered to give vacant possession to the respondent, a permanent injunction was issued restraining the appellant and his agents from further trespass, appellant was orders to pay the respondent mesne profits of Uganda shillings 3,000,000, general damages of Uganda Shillings 9,000,000 and costs of the suit were also awarded to the respondent.

Background

The respondent filed a suit in the trial court against the appellant seeking a permanent injunction, general damages for trespass, declaration of the respondent as the lawful/ rightful owner of the suit land, mesne profits, vacant possession and costs of the suit. The respondent in her plaint averred that she was the registered owner of the suit land and a copy of the certificate of title was attached as annexture "A". The respondent further pleaded that the appellant had since trespassed on her land and commenced construction as per annexture "B". The respondent indicated in her plaint that the appellant's entry on the respondent's land without her consent or permission constituted trespass and that the appellant was threatening to alienate the suit land.

For his part the appellant in his written statement of defence stated that he had a kibanja on the suit land measuring 150ft by 150ft and had been in possession of the same since 1993 and that the said kibanja had been given to him by his late mother Magarita Nassimbwa and an agreement in Luganda was attached as annexture "A". The appellant further averred that the said Magarita Nassimbwa is one of the people who were allowed to remain in the project area for National Housing Corporation and she was supposed to be issued with a title deed for her respective portion of land as per the letter written by the Commissioner for Housing addressed to the Commissioner for Lands dated 19th October 1990 and attached to the Written Statement of Defence as annexture "B".

In reply to the written statement of defence the respondent averred that the appellant had no kibanja on her land comprised in Block 203 plot 2888 land at Namungona and indicated that the appellant had never been in possession of the suit land and that the appellant entered the suit land in early 2011. The respondent further pleaded that even if the appellant had a kibanja it was not suited on the suit land but on a different plot and evidence to that effect would be produced at trial. The parties agreed on the

following issues for determination at the trial as per the joint scheduling memorandum file in Mengo Court on 6th April, 2011;

1. ***Whether the defendant has a kibanja interest on the suit land?***
2. ***Remedies available to the parties***

The trial court decides in favour of the respondent. The appellant was dissatisfied with the judgment and orders of the trial court and filed this appeal advancing the following grounds of appeal;

1. T***he learned trial Chief Magistrate erred in law and fact when she held that the appellant is not a son of the late Margaret Nassimbwa.***
2. ***The learned trial Chief Magistrate erred in law and fact when she held that the late Margaret Nassimbwa who was the appellant's mother acquired a title deed in respect of her kibanja.***
3. ***The learned trial Chief Magistrate erred in law and fact when she based her decision on a document which is null and void.***
4. ***The learned trial Chief Magistrate erred in law and fact when she held that the appellant does not have any kibanja interest in the suit land.***
5. ***The learned trial Chief Magistrate erred in law and fact when she held that the appellant is a trespasser on the suit land.***
6. ***The learned trial Chief Magistrate erred in law and fact and misdirected herself when she failed to properly evaluate evidence on record as a whole thereby coming to a wrong conclusion.***
7. ***The learned trial Chief Magistrate erred in law and fact when she failed to apply the correct principles governing the award of general damages.***

Mr. **Ronald Kayizi of M/S Lutakoome & Co. Advocates** represented the appellant while Mr. **Kenneth Kajeke of M/S Kajeke, Maguru and Co. Advocates**

represented the respondent. Both Counsel filed written submissions to argue the appeal. The submission are on court record and I will occasionally revisit them when resolving the grounds of appeal.

Role of the 1st Appellate Court

The role of the 1st appellate court has to be addressed since this is a 1st appeal from a decision of the Trial Chief Magistrate to the High Court. This role was properly articulated in the case of ***Selle and Anor versus Associated Motor Boat Limited and ors (1968) EA 123 at page 125,*** Justice Clement De Lesteng stated that the role of the first appellant court as follows;

> ***"An appeal …. is by way of retrial … the court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has neither seen nor heard the witnesses and should make due allowance in that respect."***

Also see ***Fredrick K Zaabwe versus Orient Back & 5 others SCCA No. 4 of 2006.***

In reevaluating the evidence and subjecting it to the fresh scrutiny, I will keep in mind the issues raised at trial and the evidence adduced by both parties in order to resolve the grounds presented in the memorandum of the appeal.

Ground One: *The Learned Trial Chief Magistrate erred in law and fact when she held that the appellant is not a son of the Late Margaret Nassimbwa.*

Counsel for the appellant submitted that the evidence on record indicates that the Late Miriam Magarita Nassimbwa is the appellant's mother. Furthermore, counsel submitted that it is possible that the Late Margret Nassimbwa being referred to by

the respondent and her witnesses is different from the appellant's mother as there possibly two different persons with similar names who lived in different areas.

In reply, Counsel for the respondent submitted that the respondent and her three witnesses' testimonies were consistent and they proved to the Trial Court on a balance of probabilities that Nassimbwa Magarita Miriam who owned a kibanja interest on land that belonged to National Housing and Construction Corporation was the biological mother of PW3 (Joseph Sempebwa) and PW4 (Edith Namirembe) and the said kibanja is now registered in PW3's names and the same is comprised in Block 203 plot 3881 which is different from the suit land.

According to the record of proceedings of the trial court (page 25 of the record of proceedings), DW3 (Kabuye Gonzaga) testified that he is the Chairperson LC 1 Lugala Lubuja Parish Rubaga Division and that he had held this position since 1998. He also testified that he had lived in this area since the 1980s and there was only one Maragarita Nassimbwa who lived in the said area.

PW3 and PW4 testified that their late mother was called Margarita Nassimbwa who bore seven children, four of whom were deceased and three were still living including Joseph Sempebwa, Edith Namirembe and Stanley Kyobe. They also testified that they do not know the appellant Joseph Matovu and that he is not their brother as he is not among Margarita Nassimbwa's children. This testimony was corroborated by PW2 (Kirya Lakeri Nakisinde Kizito) who testified that the late Margarita Nassimbwa was her older sister. PW2 also testified that she did not know her sister's children who had died while she was away, however she knew the children who were living and the appellant/ defendant was not among them.

According the written statement of defence filed on 8th of February 2011, the appellant pleaded that he is a biological son of the Late Margarita Nassimbwa. It is

a known principle of law that, "***he who alleges must prove" (See Section 101(1) and 102 of the Evidence Act).***

During trial, the respondent brought witnesses who were living relatives of the late Margarita Nassimbwa and they all consistently and coherently testified as to the identification of the biological children of the late Margarita Nassimbwa and the appellant did not bring any living relatives to confirm that the late Margarita Nassimbwa was his biological mother or any documentary evidence for that matter like a birth certificate. Whereas the defence witnesses testified that they saw the appellant living with the Late Margarita Nassimbwa, such evidence does not prove parentage.

I disagree with the Counsel for the appellant that it is possible that there are two people with similar names who lived in Namungoona. All the witnesses in the trial court including the defence witnesses testified to the fact that they only knew one Margarita Nassimbwa who lived Lubya/Lugala, Namungoona. Furthermore, no evidence was adduced to the contrary. Court cannot rely on speculation but facts that have been proved on a balance of probabilities.

Having re-evaluated the evidence on this issue, I find that the appellant failed to discharge his burden of proving that the late Margarita Nassimbwa was his biological mother.

Therefore, I agree with the trial Chief Magistrate that the appellant/ defendant is not the biological son of the Late Margarita Nassimbwa.

Ground two and six: *The Learned Trial Chief Magistrate erred in law and in fact when she held that the Late Margaret Nassimbwa who was the Appellant's mother acquired a title deed in respect of her kibanja* ***And*** *the Learned Trial Chief*

Magistrate erred in law and fact and misdirected herself when she failed to properly evaluate the evidence on record as a whole thereby coming to a wrong conclusion.

I shall deal with grounds 2 and 6 as they are related and my decision shall resolve both issues concurrently.

Counsel for the appellant submitted that for the respondent to prove that Nassimbwa was given a title, the respondent needed to produce a title issue by National Housing Construction Corporation to Nassimbwa and not one issued to PW3.

Counsel for the appellant also submitted that the title exhibited as PE5, the land in issue is located in Lubya and the title registered in PW3's names is located in Namungoona and as such they are two different plots of land. Counsel also submitted that the above is proof that no title has ever been issued to the Nassimbwa Margarita.

In reply, Counsel for the respondent submitted that during locus, the defendant/ appellant could not identify the neighbours to the suit land. Furthermore, counsel submitted that the appellant's evidence in the trial court was filed with so many falsehoods and contradictions and as such the appellant could not sustain his claims.

According to annexture "B" which is attached to the written statement of defence in the trial Court, the Late Margarita Nassimbwa was recognized as one of the 23 (twenty-three) people who were allowed in 1978 to stay in the project area so that the planning of the new housing estate would incorporate them. This letter was authored on 19th October, 1990 by the Commissioner for Housing in the Ministry of Housing and Urban Development and it was addressed to the Commissioner for lands.

In the above mentioned letter, the Commissioner for Housing directed the Commissioner for Lands to have the 23 people's land surveyed and respective title

deeds be issued. This letter was annexed to the appellant's written statement of defence but not exhibited in court and the same cannot be relied on by court.

In exhibit PE5, the late Miriyamu Margarita Nasimbwa got a lease for land comprised in LRV 1921 folio 8 plot 1837 Kyadondo block 203 at Lubya for a term of two years on 1st March 1991. The Late Magarita Nassimbwa was registered on this land on 7th March 1991at 3.25pm under instrument number 347193. It was a lease between Miriyamu Mangarita Nasimbwa and City Council of Kampala as the land lord.

PW3 also testified that he had his mother's kibanja registered in his names as per exhibit PE6. According to the aforementioned exhibit, PW3 was registered on the land on 4th October 2006 at 10:15 am under instrument No. 371919 and the land is comprised in LRV 2689/19 volume 3415 folio 2, plot number 2331, Kyadondo block 203 Namugoona Kigobe.

On the other hand, the appellant produced in court an untranslated bequest deed dated 22nd June 1993 where it was asserted that the Late Nassimbwa Margarita had bequeathed a kibanja to the appellant measuring 150ft x 150ft. This document is on court record and not exhibited.

DW1 (appellant) testified that he was born on the suit land and used to live on the suit land where he claimed to still be living as at the time of the trial. I find it difficult to believe that the appellant/ defendant who claims that he have lived on the suit kibanja since the 1980s would not have witnessed his purported mother's land being surveyed and subsequently getting a title deed.

In addition, DW3 who claimed that he had lived in Lugala village since the 1980s and was the sitting LC1 chairman during the trial court case could not confirm the

land in dispute. It was counsel for the appellant's submission that the above mentioned titles relate to two different plots of land.

As already stated above, the appellant was unable to prove that the Late Nassimbwa was his biological mother or that he lived with her for that matter. Furthermore, the appellant was not able to produce his sister Teddy Namagembe in court so as to ascertain the appellant's interest in the suit land.

According to IDI P1, National Housing and Construction Corporation (herein after referred to as N.H.C.C) entered into a lease agreement with the Kabaka of Buganda on 1st October 1996. In annexture "B" attached to the appellant's written statement of defence, the Commissioner for Housing directed the Commissioner Lands to survey the 23 people's land and issue them their respective title deeds. Annexture "B" was not exhibited and is no evidential value in this matter.

How then would N.H.C.C have issued a lease to the late Margarita Nasimbwa if N.H.C.C had not yet been given its lease by the Kabaka of Buganda. If anything, I find that this is proof that the land that was owned by the Late Nassimbwa Margarita is different from the land the appellant is laying a claim to.

According to the locus proceedings, locus was conducted at Kigobe zone Lugala. DW1 (the appellant) also told court that he is resident on the suit land and he lives in Lugala LC 1 Lubya Parish Rubaga Division yet, the kibanja that the appellant is claiming is located in Lugala Namungoona.

It is evident that the appellant's assertions and the other defence witnesses' assertions relating to the location of the suit land are all semantics and the appellant is being selective as to which parts of the location he can raise in his claim and what he can exclude. According to the above evidence, the suit land is located in Kigobe zone, Lubya Parish, Rubaga Division, situated at Namungoona.

In accordance with the above I agree with the Trial Chief Magistrate's analysis that the evidence adduced indeed proved that the late Nassimbwa acquired a title exhibited as PE5 from Urban Authority Kampala City Council.

Therefore grounds 2 and 6 fail.

Ground three: *The Learned Trial Chief Magistrate erred in law and in fact when she based her decision on a document which was null and void.*

Counsel for the appellant submitted that the Trial Chief Magistrate erred in law when she relied exhibit PE5 which showed that the Late Nassimbwa was issued with a title deed in 1991 and yet she died in 1988 and a such the said document is null and void.

PW2 who was aged 90 years when her testimony was taken testified that her late sister Margarita Nassimbwa died in 1988. PW3, and PW4 who are Margarita Nassimbwa's biological children testified that the Late Margarita Nassimbwa died in 1989 and she was buried at Kasubi Tombs.

On the other hand DW1 (appellant) testified that Margarita Nassimbwa died in 2000 and was buried in Mubende.

It is very surprising that the appellant is quick to change goal posts when it suits him in as far as the date of Nassimbwa's death is concerned. What is very clear is that neither party adduced any proper documentary evidence to prove the actual date on which the Late Nassimbwa died.

The only admissible documentary evidence that was admitted by the Trial court is exhibit PE5 which proves that Margarita Nassimbwa was registered on the suit land in 1991. Therefore, this ground equally fails.

Ground four: ***The Learned Trial Chief Magistrate erred in law and in fact when she held that the Appellant does not have any kibanja interest in the suit land***

Counsel for the appellant submitted that the respondent has never been in occupation of the suit land. Counsel further submitted that the appellant on the hand has been in occupation of the suit land and has built three houses on the suit land.

In reply, Counsel for the respondent submitted that the appellant lacks any interest in the suit land since the same was owned by N.H.C.C who later sold to the respondent.

According to **Section 29 (1) and (2) of the Land Act**, a kibanja interest can either he held by a lawful occupant or a bona fide occupant. The appellant claimed that he gained his interest in the suit land from his late mother Margarita Nassimbwa who bequeathed him the same. As earlier decided, the appellant failed to discharge his burden of proving that the Late Nassimbwa was his biological mother. Furthermore, the land currently occupied by the PW4 and registered in PW3's names on which Margarita Nassimbwa built a house and lived is comprised in Block 203, plot 3881 at Kigobe.

In addition, according to IDI P2, the company secretary of N.H.C.C confirmed that the land that the Late Nassimbwa occupied is now comprised in plot 3881 block 203.

On the other hand, the respondent bought land comprised in Folio 24 volume 2707 LRV 2828 Namungona Kigobe. The respondent bought the suit land from N.H.C.C on the 12th of November 2001 as per exhibit PE2 and a transfer was executed as per exhibit PE3.

PW1 testified that she visited the suit land in 2001 before she bought the same and it was vacant and encroached by a bush. She further testified that when she returned

in 2010 to commence development of her plot, she found out that the appellant had put up developments on the suit land.

DW1 testified that he has three houses on the suit land which he built in 1998 and 2002. In the Trial court, counsel for the appellant raised the issue of the appellant being in adverse possession and as such the appellant has a kibanja interest.

Hon Justice Andrew Bashaija, in the case of ***Hope Rwaguma V Jingo Livingstone Mukasa (CS No 508 of 2012***) considered this principle of adverse possession at length and he defined this principle as follows;

> *"Adverse possession is basically possession of land by other persons without consent of the registered owner if the registered owner does not enforce his right of possession and allows the adverse possessor to continue in occupation for a period of twelve years".*

Furthermore, in the case of ***Moses Mukwaya & ors versus Wilson Sebalamu & ors H.C.C.S No. 583 of 2013,*** Hon. Justice Henry Kawesa stated that, *it is trite law that a claim by adverse possession has two elements including;*

1) *The possession of the Defendant should become averse to the Plaintiff and*
2) *The Defendant must continue to remain in possession for a period of 12 years thereafter. Animus possdendi as is well known is a requisite ingredient of adverse possession.*

He further noted that, *"It is now settled principle of law that mere possession of land would not ripen into possessory title for the said purpose. Possessor must have animus possdendi and hold the land adverse the title of the true owner. For the same purpose not only not only animus possdendi must be shown to exist at the commencement of the possession. He must continue in the said capacity for the*

prescribed period under the Act. Mere long possession for a period of more than 12 years without anything more do not ripen into a title.

This principle is further expounded in the case of ***Trueman and 5 Ors versus Kilama and Another; Civil Appeal No. 24 of 2017 CA 24/2017*** where *J Mubiru* held that:

> *"Possession does not become adverse until the intention to hold adversely is manifested"*
>
> *"A person holding land by way of adverse possession must publish his or her intention to deny the right of the real owner. The intention of the adverse possessor must be with notices or knowledge of the real owner. Unless employment of the land is accompanied by adverse animus, mere possession for a long period, is not sufficient to mature the title to the land by adverse possession".*

In the instant case, the appellant testified that he started living on the suit land since 1975 with his late mother Margarita Nassimbwa. Owing to the fact that the appellant failed to prove that Margarita Nassimbwa is his mother and also the fact that Margarita Nassimbwa ever lived on the suit land with the appellant, how then can the appellant claim to be an adverse possessor who draws his interest from Nassimbwa. According to the "***nemo dat quod non habet" rule,*** you can only give what you have.

In addition to the above, the appellant cannot be an adverse possessor because the Late Nassimbwa was allowed to stay on the project land and later on she was registered on the suit land and it is a known fact that an adverse possessor must hold possession to the detriment of the true owner. More to that, the respondent proved

on a balance of probabilities that the Late Nassimbwa use to live on plot 3881 and not the suit land.

Therefore, I agree with the trial Chief Magistrate that the appellant is not in adverse possession and as such does not have a kibanja interest in the suit land. Therefore, this ground equally fails.

Ground five: ***The Trial Chief Magistrate erred in law and in fact when she held that the appellant is a trespasser.***

Counsel for the appellant submitted that the respondent has never been in actual possession of the suit land while the appellant has proved that he is in actual possession of the suit land and as such he cannot be a trespasser.

In response, counsel for the respondent argued that the respondent is the registered proprietor of the suit land. Counsel further submitted that the appellant refused to adhere to the interim injunction given by court and proceeded to construct on the suit and the same was proved by the photos which were taken in 2011.

Trespass has been defined in several cases. In the landmark case of **Justine E M N Lutaaya versus Sterling; Civil Eng. Appeal No.11 of 2002***; it was held that;*

> ***"Trespass to land occurs*** *when a person makes an unauthorized entry upon another's land and thereby interfering with another's person lawful possession of the land".*

In Adrabo Stanley versus Madira Jimmy HCCS No. 24 of 2013, court stated that;

> *Trespass is an unlawful interference with possession of property. It is an invasion of the interest in the exclusive possession of land, as by entry upon it. It is an invasion affecting an interest in the exclusive possession of property.*
>
> *The cause of action for trespass is designed to protect possessory, not necessarily ownership, interests in land from unlawful interference.*

Therefore, only one whose right to possession has been violated may technically maintain an action for trespass.

The gist of a suit for trespass to land is violation of possession, not a challenge to title. ***Such possession should be actual and this requires the plaintiff to demonstrate his or her exclusive possession and control of the land.***

*The entry by the defendant onto the plaintiff's land must be unauthorized in the sense that the defendant should not have had any right to enter onto plaintiff's land. In order to succeed****, the plaintiff must prove that; he or she was in possession at the time of the defendant's entry;*** *there was an unlawful or unauthorized entry by the defendant; and the entry occasioned damage to the plaintiff.*

In the instant case, the respondent's averment that she is a registered proprietor of the suit land was not contested by the appellant.

Section 59 of the Registration of Titles Act provide that;

*No certificate of title issued upon an application to bring land under this Act shall be impeached or defeasible by reason or on account of any informality or irregularity in the application or in the proceedings previous to the registration of the certificate, and every certificate of title issued under this Act shall be received in all courts as evidence of the particulars set forth in the certificate and of the entry of the certificate in the Register Book, and shall be conclusive evidence that the person named in the certificate as the proprietor of or having any estate or interest in or power to appoint or dispose of the land described in the certificate is seized or possessed of that estate or interest or has that power. (****Emphasis on the underlined part)***

In the case of **Adrabo Stanley versus Madira Jimmy (supra), Justice Mubiru** held that,

"Under the principle of indefeasibility, a title that is indefeasible cannot be defeated, revoked, or made void. The technical meaning of indefeasibility is indestructibility or inability to be made invalid. The person who is registered as proprietor has a right to the land described in the title, good against the world. There are a limited number of exceptions to this principle of indefeasibility and these are listed in sections 64, 77, 136 and 176 of The Registration of Titles Act; which essentially relate to fraud or illegality committed in procuring the registration. The concept of indefeasibility is,

however, not defined in the Act. An explanation of the concept can be found in ***Frazer v. Walker [1967] AC 569*** *as:* ***the expression is a convenient description of "the immunity from attack by adverse claim to the land or interest in respect of which he is registered, which a registered proprietor enjoys.***

In trespass cases, the issue of possession is paramount over the issue of ownership. I am persuaded by Justice Mubiru's findings in **Adrabo Stanley versus Madira Jimmy (supra),** where he stated that, t*respass when pleaded as part of a suit for recovery of land, requires the plaintiff to prove either actual physical possession or constructive possession, usually through holding legal title. There must have been either an actual possession by the plaintiff at the time when the trespass was committed, either by himself or by his authorized representative, or a constructive possession with the lands unoccupied and no adverse possession. In essence, an action for recovery of land is founded on trespass involving a wrongful dispossession.*

PW1 (respondent) testified in the trial court that she bought the suit land in 2001 and was registered on the same in 2002 and she only came back in 2010 to begin developing her land only to find that the appellant had put up structures on the suit land.

As earlier stated the appellant is not an adverse possessor on the suit land. I agree with the Trial Chief Magistrate that a certificate of title is indefeasible and it can only be impeached on account of fraud. The appellant did not plead fraud and neither did he prove the same.

The appellant claimed that he drew his interest from his late mother's interest who had bequeathed him the same. It has already been proved that the Late Nassimbwa has never occupied or lived on the suit kibanja.

Therefore, I agree with the trial Chief Magistrate that if the appellant's mother owned a kibanja, it is not located on Block 203 plot 2828 and as such appellant trespassed on the respondent's land who had the registered interest in the suit land.

This ground equally fails.

Ground seven: ***The Learned Trial Chief Magistrate erred in law and in fact when she failed to apply the correct the correct principles governing the award of general damages.***

Counsel for the appellant submitted that the trial Magistrate granted the appellant general damages to a tune of fifteen million Uganda shillings without proving how the respondent was inconvenienced. It should be noted that the trial Chief Magistrate awarded general damages of Uganda Shillings 9,000,000 and not Uganda Shillings 15,000,000 as alleged by Counsel for the appellant (page 25 of the trial court judgment).

PW1 testified that when she came to develop her land in 2010, she found the appellant living on the same and he was putting up structures on the suit land. Notwithstanding my findings above, the appellant has been in occupation of land that has never been owned by his purported mother Nassimbwa.

As earlier stated, the appellant has been trespassing on the respondent's land and that in itself is an inconvenience. Having to institute the trial court case vide Civil Suit 110 of 2011 so as to protect her interest is in itself an inconvenience to the respondent.

It is trite that general damages are granted at the discretion the court for any emotional support suffered by the aggrieved party. The aggrieved party has the duty to prove any loss suffered as a result of the defendant's actions.

I find that the respondent suffered inconvenience as a result of the fact the appellant trespassed on the respondent's land. Therefore, I agree with the Trial Magistrate's award of Uganda Shillings 9,000,000 as general damages.

In light of the above, I find that the appeal lacks merit and I therefore make the following order;

a) ***Civil Appeal No. 7 of 2016 is dismissed.***
b) ***The Judgement and orders of the Learned Trial Chief Magistrate (as she then was) in Chief Magistrate Court of Mengo Civil Suit No. 110 of 2011 are hereby up held.***
c) ***The appellant shall meet the costs of this appeal and costs in the lower court.***

Judgment delivered at High Court Land Division on the 12th day of May, 2023.

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Immaculate Busingye Byaruhanga

Judge

12-05-2023