

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(LAND DIVISION)**

**CONSOLIDATED CIVL SUITS NO.998 & 999 OF 2020**

**1. GOMBA MOTORS (ISUZU SALES) LIMITED**

**2. CENTPROP LIMITED ::::::::::::::::::::::::::::::::::::::: PLAINTIFFS**

***VERSUS***

**ATTORNEY GENERAL ::::::::::::::::::::::::::::::::::::::: DEFENDANT**

**BEFORE: HON. LADY JUSTICE NALUZZE AISHA BATALA**

**RULING ON A PRELIMINARY OBJECTION.**

**Introduction:**

**1.** This is a ruling in respect of a preliminary objection that was raised by the defendant when the file came up for mention on the 24<sup>th</sup> of October 2023. The objection is based on a claim that the plaintiffs' suit is time barred. Both parties were directed to file submissions regarding the preliminary objection and only the plaintiff complied with the same.

**Background:**

**2.** The first plaintiff was formerly the registered proprietor of land comprised in LRV 214 Folio 19, Plot 10 Old Port Bell Road,

Kampala. Following the expulsion of Asians in 1972, the directors of the 1<sup>st</sup> plaintiff who are of Asian descent were affected by the said order and left the country, vesting the suit property in the departed Asians property custodian board. The first plaintiff was later issued with a certificate of repossession by the minister of finance but the same went missing along with the entire file from the departed Asian's custodian board.

3. The first plaintiff avers that the issuance of the certificate of repossession by the minister of finance to the 1<sup>st</sup> plaintiff made him believe that the suit property had been repossessed by the 1<sup>st</sup> plaintiff whereas not and as such this prevented the 1<sup>st</sup> plaintiff from filing the suit within time.
4. By Instrument No.87-4, the suit property was listed as property No.2371 among the properties to be sold in the manner stipulated in the Expropriated(repossession and disposal)(No.1) by the defendant where by the minister of finance then issued a certificate of purchase in respect of the suit property which formerly belonged to the 1<sup>st</sup> plaintiff.
5. On the 16<sup>th</sup> of July 1991, general machinery limited registered the certificate of purchase with the registrar of titles and subsequently

acquired the legal title in the suit property, the 1<sup>st</sup> plaintiff learnt of the developments regarding the suit property through a probe instituted by parliamentary committee on statutory and state enterprises into the acquisition of Asian properties sometime in July 2019 and on learning of the developments, the 1<sup>st</sup> plaintiff through his lawyers applied for compensation in respect of the suit property but till date the 1<sup>st</sup> plaintiff has never received his compensation.

**Representation:**

**6.** The plaintiffs were represented by Mr. Emmanuel Baluti of M/S Baluti & Co. Advocates whereas the defendant was represented by Mr. Moses Mugisha from the Attorney General's chambers. Only the plaintiffs filed submissions which I have considered in the determination of this application.

**Issues to be determined by court:**

**i) Whether suit is barred by the law on limitation?**

**ii) What are the remedies available to the parties?**



## **Resolution and determination of the issues**

### **Issue 1: Whether the suit is barred by the law on limitation?**

7. By the reading of the complaints under paragraph 2, it is mentioned that; "***The Defendant is sued in his representative capacity acting as the Chief Legal Adviser to Government of Uganda for compensation pursuant to Section 12(1) of the Expropriated Properties Act Cap.87 of the Laws of Uganda, following the actions of the Minister of Finance to wit dealing with the expropriated property the subject of this Suit....***"

8. The above paragraphs speak to the fact that the plaintiffs' suits are one brought under the Expropriated Properties Act Cap.87 of the laws of Uganda and specifically Section 12(1) of the same Act which states that the government shall pay compensation to any former owner, not being a citizen of Uganda whose property or business is affected by section 9 of the act. Section 9 of the Expropriated Properties act lists the different situations where there is failure of claim.

9. The aspect of whether the plaintiffs fall within the description of former owners is a fact that is to be ascertained by court in the

determination of this suit and further in both suits (now consolidated), the Plaintiffs state that they are the former Owners of the listed Properties which were dealt with by the Minister of Finance and that the Plaintiffs are entitled to compensation from the Government of Uganda by virtue of section 12 (1) of the Expropriated Properties Act.

**10.** The Attorney General raised a preliminary point of law that the instant suit is barred by law on limitation, yes it is a principle of law that parties to a suit can at any stage of proceedings before determination of the suit raise a preliminary point of law that is most likely to dispose off the entire suit. **(See; Order 6 Rules 29 & 30 of the Civil Procedure Rules)**

**11.** I concur with the submissions of the plaintiff that one of the canons of Statutory Interpretation is that a Specific Legislation over a subject matter takes precedence over a General Legislation. This is also known as the Generalia Specialibus Rule. **(See; Amrit Goyal vs Harichand Goyal, Misc.App No. 649 of 2001)**

**12.** I would wish to bring it to the attention of the parties that the expropriated act is by its nature a remedial statute which was



enacted for the rectification of previous wrongs, in recognition of the sanctity for the protection of properly rights.

**13.** It should be noted that the right of the plaintiff to apply as a former owner to claim for compensation for expropriated property is not only a statutory right but may become a constitutional right to property.

**14.** A claim for compensation in this case may be brought notwithstanding the statutory limitations imposed by the law since it is a vested right under the expropriated properties act. **(See; Chimanlal Patel Vs Attorney General, civil suit no.105 of 2002)**

**15.** The action of the plaintiffs in the circumstances cannot be taken to be time barred by the law on the limitation with reference to the above cited authorities.

**16.** In the final result, I don't find it necessary to resolve the second issue. It is the findings of this honorable court that the plaintiffs' suit is not barred by the law on limitation, the suit is to proceed on its merit and therefore the preliminary objection stands overruled by this court with no orders as to costs.



**I SO ORDER.**



**NALUZZE AISHA BATALA**

**JUDGE**

**29th/11/2023**