

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
LAND DIVISION
MISCELLANEOUS APPLICATION NO. 524 OF 2021
(ARISING FROM CIVIL SUIT NO.422 OF 2011)

GLOBAL BUSINESSLINES LTD ::::::::::::::::::::::::::: APPLICANT

VERSUS

1. AKRIGHT PROJECTS LTD

2. THE REGISTRAR OF TITLES ::::::::::::::::::::::::::: RESPONDENTS

BEFORE: HON. LADY JUSTICE NALUZZE AISHA BATALA

RULING.

Introduction;

1. This was an application by notice of motion brought under Section 98 of the Civil Procedure Act, Section 33 of the Judicature Act Sections 70,71,177 of the registration of titles Act, Order 52 rules 1 & 2 of the Civil Procedure Rules (CPR) that: -

- i) A consequential order be issued ordering the 2nd respondent to cancel the name of the 1st respondent from the Certificate of Title to the land comprised in Busiro Block 383 Plot 1.618 land at Musaale, Kakungulu Housing

Estate Executive Village 11 and replace the same with the Applicant's name.

- ii) The 2nd respondent recalls the said Certificate of Title from the 1st respondent and or cancels it and issues a new title to the applicant.
- iii) In the alternative, the 2nd respondent issues a special certificate in respect of the suit land in the name of the applicant.
- iv) Costs of the application be provided for.

Background;

2. By agreement dated 24th October, 2008 the applicant purchased from the 1st respondent land comprised in Busiro Block 383 Plot 1618 situate at Musaale, Kakungulu. The Applicant duly paid the entire purchase price in the sum of Ugx. 25,000,000/= to the 1st respondent. Under the said agreement it was agreed that upon receipt of the purchase price the 1st respondent would execute a Transfer of the said land in favor of the applicant and handover



the said signed Transfer and the duplicate Certificate of Title to the applicant.

3. However, the 1st respondent breached the said agreement and failed to handover the duplicate Certificate of Title to the applicant. As a result of the said breach, the applicant instituted Civil Suit No. 422 of 2011 against the 1st respondent. The suit was determined in favor of the applicant by judgment dated 30th November, 2015. The 1st respondent was ordered by this Honorable Court to handover the duplicate Certificate of Title and duly signed Transfer Forms for the subject land to the applicant. In spite of the applicant's demand that the 1st respondent complies with the said judgment, the 1st respondent refused or neglected to do so. Hence, the present application.

Applicant's evidence;

4. The application is supported by an affidavit deponed by Mr. Byaruhanga Julius from the applicant's lawyers which briefly states as follows;
 - i) That a civil suit was instituted against the 1st respondent for breach of contract for sale of land comprised in Block 383



Plot No.1618 at Musaale Kakungulu vide civil suit No.422 of 2011

- ii) That the suit was decided in favor of the applicant with the orders that the 1st respondent hands over a duplicate certificate of title and duly signed transfer forms to the applicant.
- iii) That the applicant has demanded for the duplicate certificate of title from the 1st respondent but the same has failed in vain.
- iv) That it's in the interests of justice that the application be granted.

Representation;

5. The applicant was represented by Mr. Specioza Tayebwa of H&G Advocates whereas the 2nd respondent was represented by Ms Nakaziba Zuhura from the office of the 2nd respondent, there was no representation from the 1st respondent despite being served. The applicant filed his affidavit and submissions which I have considered in the determination of this application.



Issues for determination;

Whether there are any grounds for this honorable court to grant the consequential orders prayed for by the applicant?

Resolution and determination of the issues;

6. I have carefully perused the affidavit in support of the application.

I also have to emphasize the position that the respondents did not file affidavit in reply to the application thereby rendering the application uncontested. **(Samwiri Massa Vs Rose Achen 1978 HCB 297).**

7. The High Court is vested with powers to order the cancellation of a certificate of title upon recovery of land in any proceedings as evidenced in Section 177 of the Registration of Titles Act Cap 230 which provides as follows; ***Upon recovery of any land, estate or interest by any proceeding from the person registered as proprietor thereof, the High Court may in any case in which the proceedings is not herein expressly barred, direct the Registrar to cancel any certificate of title or instrument, or any entry or memorial in the Register book relating to that land, estate or interest, and to substitute such certificate or***



entry as the circumstances of the case require; and the Registrar shall give effect to that order."

- 8.** Where land has been recovered from proceedings of court, the successful party may apply to the High Court for a consequential order under the aforesaid section.
- 9.** In the case of **Re Ivan Mutaka (1981) HCB 28** it was held that "in order to rely on the provisions of section 177 of the Registration of titles Act and have the register book rectified by cancellation, the applicant who invokes it has to satisfy court that he or she has recovered the land by any proceedings from any person registered as the proprietor of the land.
- 10.** In the instant application, the applicant has demonstrated in his affidavit in support that the trial court entered the judgement in civil suit No. 422 of 2011 in his favor with the following orders; that the defendant/1st respondent shall handover the duplicate certificate of title and duly executed transfer forms in respect of Block 383 plot 1628 at Masaale Kakungulu to the plaintiff/applicant.



11. The applicant further has demonstrated that the land was recovered from the proceedings in civil suit No.422 of 2011 from the registered proprietor to the suit land as required by the law.

12. Parties should take note that the role of high court in an application for consequential orders is to breathe life into the orders of court and ensure that the same are effected.

13. In the final result, I am satisfied and convinced that the Applicant has proved the grounds of his application against the 1st respondent. I therefore grant the application with the following orders as prayed for: -

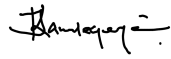
- i) The commissioner land registration to recall the duplicate certificate of title from the 1st respondent.
- ii) The commissioner land registration to have the names of the 1st respondent cancelled as the registered proprietor to the suit land and reinstate the applicant as the registered proprietor to the suit land.
- iii) In the alternative, the commissioner land registration cancels the 1st respondent's certificate of title and have the same



substituted with a certificate title in the names of the applicant as the registered proprietor to the suit land.

- iv) The Applicant to meet the costs of this application.

I SO ORDER.



NALUZZE AISHA BATALA

JUDGE

12/02/2024