

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
MISCELLANEOUS CAUSE NO. 349 OF 2023**

REAGAN KIMBUGWE JOHN ::::::::::::::::::::::::::::::: APPLICANT

VERSUS

**SAJJALYABENE RHODA KAWUKI :::::::::::::::::::::::
RESPONDENT**

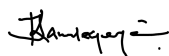
BEFORE: HON. LADY JUSTICE NALUZZE AISHA BATALA

RULING.

Introduction;

1. Reagan Kimbugwe John hereinafter referred to as the applicant brought this application against **Sajjalyabene Rhoda Kawuki** herein after referred to as the respondent under Section 140(1), 142, 145 and 188 of the Registration of titles Act and Order 52 rule 1 and 3 of the Civil Procedure Rules) for orders that;

- i) The Respondent shows cause why the caveat lodged on the Applicant's land comprised in Busiro Block 314 plot 1976 land at Buloba should not lapse.
- ii) The caveat lodged by the Respondent be removed.
- iii) Costs of this Application be met by the Respondent.



Background;

2. The applicant is the registered proprietor of Land Comprised in Busiro Block 314 Plot 1976 land at Buloba which he acquired in 2013. The applicant alleges that the respondent lodged a caveat on the said land without any justifiable claim on the same. It is against this background that the applicant brought this application.

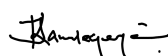
Representation;

3. The Applicant was represented by Mr. Onene Solomon of M/s Arinaitwe Peter & Co. Advocates and there was no representation from the Respondent. The applicant filed his affidavit in support of the application which I have considered in the determination of this application.

Applicant's evidence;

4. The grounds on which the application is based are contained in the notice of motion and the affidavit deponed by Reagan Kimbugwe John the applicant. In summary the grounds are as follows;

i) That the applicant is the registered owner of the land described as Busiro Block 314 Plot 1976 land at Buloba which he acquired and was the registered owner thereof



in 2013.

- ii) Immediately upon registration, the applicant was given vacant possession and started developing and utilising the same.
- iii) That sometime in 2017, the applicant was shocked to find that the respondent had put a caveat on his land without any justifiable claim on the same.
- iv) That the applicant requested the respondent to remove the caveat in vain which has since been there for now 8 years encumbering the Applicant's title and causing him unnecessary inconvenience.

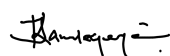
Issues for determination;

- i) Whether the caveat should be removed?

Resolution and determination of the issues;

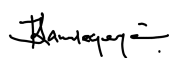
Issue 1; Whether the caveat should be removed?

5. It is a settled principle of law that for one to lodge a caveat he or she ought to have a legal or equitable interest in the land or any other caveatable interest that he or she seeks the caveat to protect otherwise the caveat would be invalid
(See; Sentongo Produce and Coffee Famers Limited &



***another Vs Rose Nakafuma Muyisa HCCM
No.690/1999)***

6. The primary objective of a caveat is to give the caveator temporary protection, it is not the intention of the law that the caveator should relax and sit back for eternity without taking actions and steps to handle the controversy so as to determine the thoughts of the parties affected by the existence of the caveat.
7. I need to emphasize, the Applicant must discharge the burden of proof and present a meticulous case to the satisfaction of court to discharge the legal burden that must be met on which courts usually grant the reliefs sought herein.
8. In actions where parties tend to rely on affidavits, it should be noted that the affidavits are purely evidence and parties ought to rely on them to establish their cases to the satisfaction of court to **warrant determinations in their favor. (See Mutembuli Yusuf V Nagwomu Moses Musamba & Anor EP Appeal No. 43 of 2016).**
9. In the instant case, the applicant in her affidavit in support does not describe the said caveat, there is no instrument number to the said caveat neither the date when the same

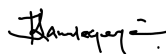


caveat was filed at the land registry leaving court with the question as whether the said caveat really exists or not.

10. This court has held that when it comes to affidavit evidence sworn by a party and the facts sworn are capable of being verified by some documents from the public records or from an authentic source, parties to the said affidavit ought to furnish proof of the same as an annexure to the said affidavit, mere statement of information contained in such documents that can be verified and presented before court does not suffice and will in most cases affect the party's case. **(See Kimbowa Jane v Henry Mugabi MC No 331 of 2023)**

11. Therefore, this court cannot make a decision when it is not even sure that indeed the caveat exists and even if it existed, the applicant has failed to establish any reasons for its removal. The affidavit of the applicant and its attachments are not convincing in this regard and court cannot proceed any further.

12. In the premises, the application fails and is hereby dismissed with no orders as to costs.



I SO ORDER.

Handwritten signature

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NALUZZE AISHA BATALA

JUDGE

15/01/2024