

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGANDA AT KAMPALA**

**MISC. APPLICATION NO.3/91**

**SAM RUKUBA.....APPLICANT**

**VERSUS**

**THE REGISTRAR OF TITLES.....RESPONDENT**

**BEFORE: THE HONORABLE MR. JUSTICE G.M. OLLO**

**RULING:**

This application was brought by Notice of Motion under section 190 of the RTA and O. 48 r. 1 of the CPR. In it the applicant, a registered proprietor of a piece of land comprised in a Freehold Register Volume 141 Folio 2 Block 82 plot 2 at Mwenge in Kabarole District, sought an order (a) that the Chief Registrar of Titles furnish grounds or substantiates the grounds for refusing the applicant's application to have his re-entry on his said land noted in the Register,

(b) that the chief Registrar of Titles notes the said re-entry on the Register without further delay and

(c) that cost of this application be provided for.

The application is grounded on the fact that the applicant who is the registered proprietor of the said land comprised in Freehold Register Volume 141 Folio 2 Block 82 plot 2 at Mwenge had in 1988 re-entered upon a Lease to one Deryck Vanghan Broad head William and took physical possession of the land. That this land was by operation of the law brought under the Management of the DAPCB, that when the applicant applied to the Chief Registrar of Titles to note the said Re-entry in the Register, the latter refused and subscribed no reasons for the refusal.

The application was supported by an affidavit which was sworn on 20/12/90 by Sam Rukuba.

At the commencement of the hearing of the application, counsel for the applicant appeared but the Chief Registrar of Titles did not appear. He was otherwise duly served and there is on the file evidence of service to that effect. Instead he sent a non advocate as a representative with instruction to apply for adjournment of the case. The reason given for his non- appearance and for the adjournment sought was that the Chief registrar of Titles was engaged with representatives of the World Bank and therefore could not attend court. After hearing counsel for the applicant, I refused to entertain the request for adjournment firstly because the so-called representative was not an authorised person to represent the Chief Registrar. He was not an advocate. I was not informed that he was a Registrar. Secondly no sufficient ground to justify the grant of adjournment was given. I therefore ordered that the hearing of the Application proceeds exparte as requested by counsel for the applicant.

In her address to me, Counsel for the applicant expressed fear that if the re-entry of the applicant the lease made to one Deryck V.B. Williams as not noted in the Register of Freehold, there was a danger, of the land being sold out by the DAPCB. There is an affidavit in support of this application. This affidavit is not challenged. . The Chief Registrar of Titles did not file in any affidavit in reply to the supporting affidavit. Counsel declined to secure the attendance of the CR. of Titles to court to substantiate his refusal.

Section 190 of the R.T.A empowers this court at the instance of an aggrieved proprietor, upon hearing the parties to make appropriate orders regarding the Chief Registrar of Titles conduct complained of.

Now having heard counsel for the applicant upon this application and after perusing the supporting affidavit and the Notice of motion, I allow the application. It is therefore ordered that the Registrar of titles notes the Re-entry of the applicant on the said lease as prayed. The defendant is to pay cost of this application.

**G.M. OKELLO**

**JUDGE**

**30/1/92.**

