

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA AT KAMPALA

MISCELLANEOUS APPLICATION NO.1274 OF 1999 “O.S.”

(Arising out of the Sale and Purchase of Kyaddondo Block 213 Plot 497 formally part of Plot 154 at Bukoto by Abdu Kikomeko from one Muhamad Kasakya Sekimwany deceased)

ABDU KIKOMEKO:.....: PLAINTIFF

Versus

AISA NALWEYISO):.....: DEFENDANTS

ALIZIKI KALIBATANYA)

ORIGINATING SUMMONS (EX PARTE)

(UNDER 0.34 r 3 & 7 CPR)

BEFORE: THE HON. MR. AG. JUSTICE MUGANBA

RULING

This ex parte application under Order 34 rules 3 and 7 of the Civil Procedure Rules was brought by Abdu Kikomeko represented by his counsel, Mr. Mbogo. Five issues were to be determined by the Court.

1. Whether the Plaintiff after having paid the full purchase price to Muhamad Kasakya, the then beneficial owner of part of the estate of ABUDALAH SSEKIMWANYI is

entitled to the transfer of the land in his names.

2. Whether the Defendants as successors to Muhamad Kasakya's Estate have any beneficial interest in the land already sold to the plaintiff?
3. Whether the said Defendants are entitled to any additional purchase price before the, transfer of the said land into the Applicant's names.
4. Whether the Defendants can recover the land in effective occupation of plaintiff since 1973?
5. Whether a vesting order ought to be made by the Registrar under S.175 R.T.A.

I have looked at the application as presented on behalf of the plaintiff. I have also heard the arguments of plaintiff's counsel. Needless to say my attention has been drawn to Order 34 rule 7 which states inter alia:

“An originating summons shall be in Form 13 of Appendix B, and shall specify the relief sought. The person entitled to apply shall present it ex parte to a judge sitting in Chambers with an affidavit setting forth concisely the facts upon which the right to the relief sought by the summons is founded...”

The bed rock of the application is an affidavit. The application before me is not accompanied by an affidavit as is required by law. Instead counsel in his wisdom attached a document entitled 'Affirmation' to the originating summons. Clearly the application is incurably defective as it begs the primary component, an affidavit. It is hereby struck out.

7/3/2000

