

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

FAMILY CAUSE NO. 143 OF 2009

**IN THE MATTER OF AN APPLICATION FOR LEGAL GUARDIANSHIP OF
CHARITY ATUKEI**

AND

**IN THE MATTER OF SECTION 4, 7 AND PARAGRAPH 1(b) OF THE FIRST
SCHEDULE TO THE CHILDREN ACT CAP 59**

BEFORE: HON. LADY JUSTICE MARGRET C. OGULI OUMO

RULING

The applicant brings this application by Notice of motion for the following orders:-

1. That he be appointed the legal guardian of his minor child Charity Atukei for purposes of selling the property comprised in Kyadondo, Block 196, plot 1051 at Komamboga and dealing with the property as the registered proprietor.
2. That costs of the application be provided for.

The application is supported by the affidavit of the applicant dated the 8th October, 2009 and that of Annet Nanduga, the minor's biological mother dated 26th October, 2009.

The grounds of the application are:

1. That the child Charity Atukei is a minor aged 14 years.
2. That the property is registered in the names of Charity Atukei who is a minor.
3. That the applicant wishes to sell the said property in order to invest in a profitable venture and have some money for the welfare (maintenance and school fees) for the minor as well as starting a business to generate money to cater for her welfare.

At the hearing of the application, the applicant was represented by Mr. John Kabagambe.

Counsel for the applicant submitted that the mother of the infant Annet Nanduga who works in JCRC was at the court premises earlier but had to report on duty. She consented to the husband's application for guardianship by swearing an affidavit to that effect.

The child is 14 years of age — see her Birth Certificate on the court file and is thus a child within the meaning of section 2 of the Children Act.

In making any decision concerning a child, the welfare of the child is of paramount consideration.

See — section 3 and Paragraph 1(b) of the First Schedule to the Children Act Cap 59.

The court has in a number of cases held that in making any decision concerning a child and in a matter such as this, the welfare of the infant is of paramount consideration. ***See: In The Matter of Sarah Namakula & Alex Katende (minors) and in The Matter of An Application by Nakalika Namazi Madina to be appointed legal guardians. Misc. Application No. 91/93.***

Counsel submitted that the minor cannot legally execute a transfer yet the applicant wishes to sell this property for her welfare and educational needs. That the applicant has no adverse or prejudicial interest to that of the child and that this is purely for the welfare and best interest of the minor.

Having satisfied myself that the child is a minor and the registered proprietor and cannot legally execute any transfer and that the application is for the welfare of the child and that the applicant has no interest which is adverse or prejudicial to that of the child, court is satisfied that the application is for the welfare the best interest of the child.

Consequently, the application is allowed in the following terms and conditions:

1. The applicant, **John Mukula**, is appointed the legal guardian of the child Charity Atukei.

2. The applicant is permitted to sell the property, comprised in Kyadondo, Block 196, plot 1051, and land at Komamboga registered in the name of the child as per the attached copy of the title deed on the court record.
3. The court makes no order as to costs.

Margaret C. Oguli Oumo

JUDGE

1/11/09

Present: -

1. John Kabagambe for the applicant
2. Applicant
3. Nalongo Nandaula- court clerk
4. Elizabeth Nyakwebara — Research Assistant.