

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT JINJA
CIVIL SUIT NO. 95 OF 2015**

**1. NASSUNA MILLY
2. KAYEMBA MOSES :::PLAINTIFFS
VERSUS**

**1. KIWANUKA GEORGE
2. CATHERINE NANTONGO:::DEFENDANTS**

**BEFORE:HON. LADY JUSTICE FARIDAH SHAMILAH BUKIRWA
NTAMBI**

JUDGMENT

Introduction

Nassuna Milly and Kayemba Moses (hereinafter referred to as the “Plaintiffs”) instituted Civil Suit No. 92 of 2015 against Kiwanuka George and Catherine Nantongo the 1st, and 2nd Defendants jointly and severally (hereinafter referred to as the “Defendants”) seeking for revocation of the letters of administration granted to the 1st and the same be granted to the plaintiffs, an order directing the 1st Defendant to give a comprehensive inventory and render an account of the proceeds from the estate, an order that the entries on the certificate of title to the 1st and 2nd Defendants be cancelled and the title be put back in the names of the deceased or into the names of the plaintiffs. A permanent injunction restraining the defendants from further dealing with the estate of the deceased especially Block 29 Plot 85 at Kamwokya-Kampala, General damages for mismanagement, inconveniences, mental torture, anguish anxiety and embarrassment and the costs of the suit.

Background.

The Plaintiffs claims are that they are the biological children and the beneficiaries to the estate of their late mother Nakalanzi Margaret who died intestate in 1998. That the said Nakalanzi Margret was a niece to and the heir and the beneficiary to the estate of the late Aunt Abisagi Namukasa who died intestate in 1978. That the late Abisagi Namukasa who left no children was buried at her parent’s home now under the care of her nephew Tadeo Kamyia in Namawunde East LC1 Malangala Sub County, Zigoti Parish, Mityana District. That the deceased Abisagi Namukasa left behind several properties including the land comprised in Kamwokya Block 29 Plot 85 with the title in her names. That the deceased Nakalanzi Margret who was the heir and the beneficiary to the estate of her late Aunt Abisagi Namukasa died before she could obtain letters of administration to her estate and before she could properly be registered on the said certificate of title. That the 1st defendant illegally, fraudulently

and unlawfully applied for and obtained a certificate of no objection from the Administrator General vide Mengo AG Cause No.3197/2014. That the 1st defendant after fraudulently acquiring the certificate of no objection from the Administrator General, applied to and obtained letters of administration from Jinja High Court vide Administration Cause No. 18 of 2014. That after the grant of the letters of administration, the 1st defendant fraudulently used the said letters of administration to register his name on the certificate of title comprised in Block 29 Plot 85 land at Kamwokya. That furthermore through connivance and misrepresentation transferred the certificate of title into the names of the 2nd defendant fraudulently. That the 1st defendant's actions and applications to the Administrator General were done fraudulently to defraud the plaintiff of their rightful share in the estate of the late Abisagi Namukasa. The plaintiffs pleaded the particulars fraud by the 1st defendant

- a) That the 1st defendant stating to the Administrator General Kampala that he was the grandson of the late Abisagi Namukasa whereas not.
- b) That the 1st defendant presenting fictitious and fake persons to the Administrator General on the 6/12/2012 as Abisagi's relatives.
- c) That the 1st defendant declaring to the Administrator General that the late Abisagi Namukasa left one issue to wit Sekadde Okaliab whereas she left no children at all.
- d) That the 1st defendant declaring that the late Abisagi Namukasa was buried in Buikwe District whereas she was buried in Mityana, at her father's ancestral home after a long illness and was under the care of her nephew Tadeo Kamyia.
- e) That by the 1st defendant declaring that at the time of Abisagi's death he was staying with her whereas she was staying at her father's place in Mityana where she died and was buried.
- f) That by the 1st defendant presenting only 2 Local Chairpersons officials to the Administrator General officials to comprise of a village committee to conform that he was a grandson to the late Abisagi Namukasa and falsely that he was the only child of the late Sekadde Okaliab.

That after fraudulently and illegally obtaining the certificate of no objection from the Administrator General that the 1st Defendant applied and obtained letters of administration from Jinja High Court which a applications were tainted with fraud and falsehoods. The plaintiffs pleaded the particulars of these fraud to include: -

- a) By the 1st defendant stating he was the grandson to the late Abisagi Namukasa whereas not.
- b) That the deceased left property comprised in Block 29 Plot 85 within the jurisdiction of Jinja High Court whereas the land is in Kampala.
- c) That the deceased at the time of her death was staying in Nyemerwa, Lugongo Ngogwe Buikwe District, whereas not.

- d) That the 1st defendant not disclosing to court the plaintiffs' interests in the deceased's estate as the legal beneficiaries.

That upon the 1st defendant obtaining letters of administration from Jinja High Court, he went to register himself on the certificate of title as the sole administrator of the estate of the late Abisagi Namukasa vide Instrument No. KCC000069152. That the 1st defendant did connive with the 2nd defendant to have the said certificate of title transferred into the 2nd defendant's name on the 19/5/2014 vide Instrument No. KCCA00011676 despite a subsisting caveat by a one Tejani Ahmed, the lessee. That the defendants connived between themselves to have the title transferred into the 2nd Defendant's name on the 19/5/2014 before a notice to remove the caveat was made or sent out to the caveator on the 25/8/2014. That the 2nd Defendant connived with the 1st defendant to have the title transferred into her names before payment of stamp duty on 30/10/2014 long after the transfer of the title into the 2nd Defendant's names were made. That the 2nd Defendant connived with the 1st defendant to submit a transfer form without any consideration mention where the Registrar of titles acted upon to transfer the said title in to the 2nd Defendant's name. That as a result of the above illegalities and unlawful actions the plaintiffs were minors when their grandmother Abisagi Namukasa died and have been deprived of their due share and legal interest in the property and have suffered mentally, financially and physically. That the plaintiffs averred that ever since the 1st defendant obtained the letters of administration he failed and refused in his duty to produce and file a full and true inventory to court contrary to the laws.

The 1st Defendant in his Written Statement of Defence contended that the plaintiffs have locus bring the suit. The 1st defendant contended that his not the proper defendant to be sued in that aspect and shall raise a preliminary objection. The 1st defendant contended that there no other beneficiaries knee to him. The 1st defendant averred and contended that the contents in the plaint were denied and would put the plaintiffs to strict proof.

The 2nd defendant in her Written Statement of Defence contended that the she would raise a preliminary objection that the plaint raised no reasonable cause of action against her. She contended that there were no grounds pleaded for cancellation of the entry into her names. The 2nd defendant contended that for valuable consideration she purchased the land from the 1st defendant and registered herself on the said land as the registered proprietor after complying with all the requirements of the sale. The 2nd defendant contended that at the point of registration as the proprietor on the title there was no caveat on the said land and the plaintiffs shall be put to strict proof thereof. The 2nd defendant contended that she would raise a Preliminary Objection that suit is frivolous and abuse of court process.

Representation

At the hearing, the Plaintiff was represented by Counsel Ruyondo Edison and Wadada Rogers.

Order for exparte hearing.

On court record, on the 16th May 2023 when the matter came up for hearing the Plaintiffs' counsel submitted to this court that the 1st Plaintiff was very sick and could not attend court. That the defendants and their counsel were absent yet the matter was fixed for hearing interparty on the 15/2/2022. That the 2nd defendant had never appeared in court. Counsel also submitted that they had also served the defendants and they had also filed an affidavit of service in court that day. That on the 15/12/2022 that the defendants were directed to file their witness statements and trial bundle, however the plaintiffs had never been served with any witness statements and trial bundle. Counsel submitted that this was an old case of 2015.

That the defendants were not serious with the matter. That on 22/8/2016, the matter was granted to proceed exparte against the 2nd defendant. That on the 11/10/2016 the judge ordered that the matter proceed against both the parties. That PW1 gave evidence on the 28/3/2017. However later the defendants made an application to set aside the exparte order and that the application was not objected and was allowed on the 12/12/2017. That the defendants were supposed to file their written statements by 21/01/2018, five years ago. Counsel for the plaintiff submitted that the defendants were again directed to file their witness statements on the 15/12/2022 before the hearing. That the defendants had neither filed their witness statements nor appeared in court that day. That this being 9 years since the matter was filed.

Counsel submitted that the plaintiffs witness always traveled to court and they were elderly (Tadeo Kanya and Sempebwa John and were also present in court. That they were frustrated with the prolonging of the matter. Counsel prayed that the matter proceeds exparte so that the witnesses give their evidence and close the plaintiffs' case. Court in its ruling stated that the defendants had been given an opportunity to be heard and that they had clearly shown lack of interest in the matter and this being an old case which needed to be heard and determined, court granted the order for the plaintiffs to proceed exparte and the plaintiffs' witnesses give their evidence and close their case.

Burden and standard of proof

The general rule is that he or she who alleges must prove and the burden of proof therefore rests on solely on that person who must fail if no evidence at all is given on either side. The standard of proof required to be met by either party seeking to discharge the legal burden of proof is on a balance of probabilities.

Sections 101, 102, 103, 104 and 106 of the Evidence Act Cap 6 is to the effect that he who alleges the existence of a fact must prove. Specifically, **Section 101 (1) of the Evidence Act Cap 6** provides that; *“Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he or she asserts must prove that those facts exist.”*

The case of **Sebuliba Versus Co-operative Bank Ltd [1982] HCB 129** considered the above sections where it was held that *the burden of proof in civil proceedings lies upon the person who alleges.*

In Miller V Minister of Pensions [1947]2 ALL E R 372 Lord Denning stated:

“That the degree is well settled. It must carry a reasonable degree of probability but not too high as is required in a criminal case. If the evidence is such that the tribunal can say, we think it more probable than not, the burden of proof is discharged but if the probabilities are equal, it is not.”

This being a civil suit, the burden of proof lies with the plaintiffs. To decide in the Plaintiffs’ favor, Court has to be satisfied that the plaintiffs has furnished evidence whose level of probity is such that a reasonable man might hold that the more probable conclusion is that for which the plaintiffs contend. The standard of proof is on balance of probabilities/preponderance of evidence (**See Ssebuliba Vs Cooperative Bank Ltd (1982) HCB 130 and Lancaster Vs Blackwell Colliery Co. Ltd 1918 WC Rep 345.**)

In the case of **Oloka-Onyango & 9 Ors v Attorney General (Constitutional Petition No. 8 of 2014) [2014] UGSC 14 (1 August 2014)** the Supreme Court stated that;

“The law applicable to determine what happens when there is no specific denial is the Civil Procedure Act, cap 71 and the Civil Procedure Rules, S.I 71-1. Rule 23 of the Constitutional Court (Petitions and References) Rules, S.I 91 of 2005 empowers this court to apply the Civil Procedure Act and Rules there under to regulate the Practice and procedure in Petitions and References with such modifications as the Court may consider necessary in the interest of Justice.

“Order VIII Rule 3 of the Civil procedure rules provides; “Every allegation of fact in the plaint, if not denied specifically or by necessary implication or stated to be not admitted in the pleading of the opposite party, shall be taken to be admitted except as against a person under disability but the court may in its discretion require any facts so admitted to be proved otherwise than by that admission”.

“In view of the above Rule and in the absence of a specific denial by the respondent in his pleadings with regard to issue one, we are unable to accept the submission of learned counsel Patricia Mutesi that the petitioners had a burden to do more than

what they did. The evidence contained in the affidavit (including the annexure of the Hansard), of Hon. Fox Odoi stood strong and unchallenged. In the case of H.G. Gandesha & another Vs G.J Lutaya SCCA NO. 14 of 1989, Court observed that where facts are sworn to an affidavit, the burden to deny them is on the other party. Failure to do that, they are presumed to have been accepted.” (emphasis added)

The defendants, in the instant suit, by virtue of their failure to appear in court to contest the claims in the plaint in effect admitted to all the plaintiffs’ claims. Be that as it may, Court will determine if the plaintiffs’ evidence satisfies the required standard.

Determination of Court:

The following issues were proposed for determination by Counsel for the plaintiffs as per their written submissions and I will adopt them as the issues for determination in the order of their proposition by Counsel for the plaintiffs;

1. Whether the 1st defendant’s acquisition of the letters of administration to the estate of the late Abisagi Namukasa was lawful.
2. Whether the plaintiffs are entitled to administer the estate of the late Abisagi Namukasa.
3. Whether the 1st defendant’s transfer of the certificate of title in dispute into his name was done legally.
4. Whether the 2nd defendant’s transfer of the certificate of title in dispute into her name was done lawfully
5. What remedies are available to the parties

ISSUE 1 & 2:

Whether the 1st defendant’s acquisition of the letters of administration to the estate of the late Abisagi Namukasa was lawful & Whether the plaintiffs are entitled to administer the estate of the late Abisagi Namukasa.

That although counsel for the plaintiffs made separate submissions for issue 1 and 2, Court found that in determining issue 1 the same would hence resolve issue 2 and hence combining the said issues. Also analysis of the submission of the plaintiffs’ submissions the same issues seemed to be combined.

Counsel for the plaintiffs submitted that the plaintiffs brought this suit before court in their capacity as the legitimate beneficiaries under the estate of their mother the late Nakalanzi Margret who was heiress to the estate of her Aunt Abisagi Namukasa. This therefore means the plaintiffs are grand children to the late Abisagi Namukasa who was the registered proprietors of the suit land comprised in Kibuga Block 29 Plot 85, land at Kamwokya Kampala. That upon the death of Abisagi Namukasa, Nakalanzi Margret the mother of the plaintiffs was appointed as her heiress. When Nakalanzi

Margret died, the 1st plaintiff Nasuna Milly was appointed heiress to her mother's estate which by necessary implication included the estate of the late Abisagi Namukasa. The said Nakalanzi Margret had not obtained Letters of Administration to the estate of the late Abisagi Namukasa.

Counsel for the plaintiffs further submitted that the Plaintiffs' mother was a daughter of the late Kasajja Paulo. The said Kasajja Paulo was a brother to the late Abisagi Namukasa and therefore the plaintiffs were the rightful claimants under the estate of Abisagi Namukasa. That Abisagi Namukasa was a widow to the late Abusolomu Mutamira formerly a resident of Nyomerwa in Buikwe who had through a will PEX1 bequeathed Block 29 Plot 85, land at Kamwokya-Kampala to his wife Abisagi Namukasa and had the same transferred into her name. That the plaintiffs therefore protested the grant of letters of Administration by this Court to the 1st defendant Kiwanuka George who was a stranger to the lineage of the late Abisagi Namukasa who died in 1978 at the home of PW3-Tadeo Kamyia in Mityana. That is argument was corroborated by all the witnesses in their witness statements.

Counsel for the plaintiffs also submitted PW4 has made it clear in paragraph 12 of his witness statement that the 1st defendant Kiwanuka George was his relative and has no blood relations with the late Abisagi Namukasa and that according to their Kiganda culture, Kiwanuka George was barred from interfering with the estate of an in-law. That to the best of PW4's knowledge in paragraph 13 of his witness statement, the rightful people to lay a claim on the estate of the late Abisagi were the plaintiffs. Counsel for the plaintiffs submitted that this argument was buttressed by paragraph 9 of PW4's witness statement that the late Abisagi Namukasa was succeeded by her late brother's daughter in the names of Nakalanzi Margret who is the biological mother to the plaintiffs. Counsel for the plaintiffs also submitted that they had attached a letter marked "C" to the plaint from the local Council Chairman confirming the plaintiffs as the legitimate children of the late Nakalanzi Margret. The same letter confirmed that the said Nakalanzi was the heiress to the estate of her late Aunt Abisagi Namukasa. The 1st Plaintiff was therefore a customary heiress to her mother Nakalanzi Margret who was also the heiress to the estate of the late Abisagi Namukasa.

Counsel for the plaintiffs submitted that Section 2(e) of the Succession Act defines a customary heir as a person recognized by the rites and customs of the tribe or community of the deceased person as being the customary heir a living relative nearest in degree. Counsel submitted that the nearest person to Abisagi Namukasa through Nakalanzi Margret is the 1st plaintiff who wished to administer the late Abisagi Namukasa's estate with her brother the 2nd plaintiffs. Counsel for the plaintiffs submitted that PW1 appealed to this court under paragraph 13 of her witness statement that the letters of Administration granted to the 1st defendant should be revoked in favour of the plaintiffs and that the land title for Block 29 Plot 85 land

at Kamwokya should be cancelled in favour of the plaintiffs since they are the rightful claimants in the lineage of Abisagi. That this therefore meant the 1st defendant impersonated in calling himself a grandson to the estate of the late Abisagi Namukasa whereas not.

Counsel for the plaintiffs submitted that according to PEX2 which was a certified copy of the letters of administration granted to Kiwanuka George, that the 1st defendant misrepresented and misled this court to believe he is a grandson to the deceased Abisagi Namukasa whereas not. That to make matters worse, that the 1st defendant chose to obtain a grant outside the local jurisdiction of the area where the one and only property under the estate of the late Abisagi is located. Counsel for the plaintiffs submitted that during the hearing of Civil Suit No. 162 of 2015- High Court of Uganda at Kampala Land Division- Ahmed Tejani Vs Nantongo Catherine, Kiwanuka George and Commissioner Land Registration, the 1st defendant told court that the estate of the late Abisagi had only one property and that property is Block 29 Plot 85 land at Kamwokya-Kampala. The 1st defendant could not justify to court why he applied for letters of Administration in Jinja well aware that the one and only property under the estate was in Kamwokya in Kampala.

Counsel for the plaintiffs submitted that the 1st defendant's intention was to go through the process undetected in Jinja far from the family of the late Abisagi. That the 1st defendant could not rely on unlimited jurisdiction of the High Court to justify his actions since there was only one property belonging to Abisagi. There were no special circumstances that warranted seeking a grant out of the local jurisdiction.

Counsel for the plaintiffs submitted and invited court to look at the written statement of Defense of the 1st defendant wherein he presented a number of documents he relied on for the grant of the letters of administration and where he lied and referred to himself as a grandson to the late Abisagi Namukasa. That same documents were attached to the plaint to wit a petition marked "G", a declaration marked "I" administration bond, a Certificate of No objection marked F.6 where he referred to himself as a grandson whereas not. In all the above documents, he claimed that the late Abisagi Namukasa left behind one child called Sekadde Okaliab which claim was disputed by his own relative PW4 in paragraph 5 of his witness statement. That 1st defendant in actual sense committed perjury by lying on oath.

That he also provided a falsified death certificate from Buikwe in total disregard to the fact that the late Abisagi Namukasa died from her ancestral home in Mityana as seen in the witness statement of PW3- a nephew to the deceased Abisagi as well as the Witness statement of the 1st plaintiff- PW1 in Paragraph 4 and the 2nd Plaintiff- PW2 in Paragraph 4 of his witness statements. The death certificate was attached to the plaint and marked "B". Counsel to the plaintiffs submitted that all the above documents as attached to the plaint pointed to nothing but fraud on the part of the 1st

defendant aware that he was not a relative or a next of kin, his intentions pointed to nothing but an abuse of the due process of court to enrich himself by obtaining letters of administration to an estate where he had no claims/benefit. That above arguments were clearly brought out in the judgment of court in Kampala Land Division Vide Civil Suit No.162 of 2015. Counsel for the plaintiffs prayed to this court that invoke the law under Section 235(5) of the succession Act as amended in 2022.

Resolution

Section 202 of the Succession Act as amended provides that: -

“Subject to section 4 of the Administrator General’s Act "and section 201A of this Act, administration shall be granted to the person entitled to the greatest proportion of the estate under section 27.”

Section 201A of the Succession Act as amended gives priority to the surviving spouse of the deceased to be granted letters of administration over another person. However, in this case this could apply as the alleged spouse to Abisagi Namukasa before her demise, was Abusolumu Mutamira who was also deceased and had left a will (PEX1) and the same was confirmed as per the sworn statements of PW1Nasuna Milly, PW3 Kamyia Tadeo, PW2 Kayemba Moses and PW4 Sempebwa John.

Section 27 of the Succession Act as amended, gives four class of people who are entitled to the apportion of the deceased’s property and the same class of people who can apply for letters of administration and that is the spouse, dependent relatives, lineal descendants and customary heir.

Section 2 of the Succession Act as amended defines *“customary heir or heiress ” means a person recognized under the rites and customs of a particular tribe or community of a deceased person as being the customary successor of that person”;*

Section 2g of the Succession Act as amended defines dependent relatives to include: - *“a parent, a brother or sister, niece or nephew, a grandparent or grandchild who, on the date of the deceased's death, was wholly dependent on the deceased for the provision of the ordinary necessities of life suitable to a person of his or her station;”*

It would seem clear to me from the above cited laws, the plaintiffs and the 1st defendant do not fall into the category of customary heir/heiress and dependent relatives under the estate of the Late Abisagi Namukasa this leaving one category of lineal descendants.

Section 2ma of the Succession Act as amended lineal descendants to mean: - *“a person who is descended in a direct line from the deceased and includes a child, a*

grandchild of the deceased and any person related to the deceased in a direct descending line up to six degrees downwards;"

Section 20 of the Succession Act as amended defines Lineal consanguinity as: -

(1) Lineal consanguinity is that which subsists between two persons, one of whom is descended in a direct line from the other.

(2) For avoidance of doubt, every generation constitutes a degree, either ascending or descending."

Section 22 of the Succession Act as amended provides for persons held for purposes of succession to include who are—

(a) related to the deceased by the full blood and those who are related to the deceased by the half-blood; or

(b) born during the deceased's lifetime and those who are conceived in the womb at the date of death and subsequently born alive.

(c) being male or female relatives of the Deceased person.

Section 23 and the First Schedule of the Succession Act as amended provide for the degrees of kindred.

Therefore, for the 1st defendant and the plaintiffs to have any claim or interest in the estate of the late Abisagi Namukasa they had to show that they are related to the deceased by blood and also come from her direct line and fall under the six recognized degrees.

Counsel for the plaintiffs submitted to this court that the 1st defendant obtained the certificate of no objection from the Administrator General and hence letters of Administration from this court under HCT-03-CV-018 of 2014 fraudulently as the 1st defendant was granted the same on the basis was the grandson of the late Abisagi Namukasa, who was survived by one issue Sekadde Okaliab and that the 1st defendant was also only child of Sekadde Okaliab. The plaintiffs also pleaded the particulars of fraud by the 1st defendant in obtaining the certificate of no objection and also hence letters of Administration.

Fraud was well defined and settled by the Supreme Court of Uganda in **Fredrick J. K. Zaabwe Vs Orient Bank Ltd. and Others. Civil Appeal No. 04 of 2006** where Hon. Justice Bart Katureebe quoted the definition of fraud in Black's LAW DICTIONARY 6th Edition, Pg. 660 as:-

"Intentional perversion of truth for the purposes of inducing another in reliance upon it to part with some valuable thing belonging to him or to surrender a legal right. A false representation of a matter of fact, whether by words or by conduct, by false or

misleading allegations, or by concealment of that which deceives and is intended to deceive another so that he shall act upon it to his legal injury. Anything calculated to deceive, whether by a single act or combination, or by suppression of truth, or suggestion of what is false... A generic term, embracing all multifarious, means which human ingenuity can devise, and which are resorted to by one individual to get advantage over another by false suggestions or by suppression of truth..."

The above definition of fraud adequately covers the elements of fraud that the Plaintiffs pleaded against the 1st defendant. In the sworn statement of Kamyia Tadeo (PW3) aged 72 years stated that he was the nephew to the late Abisagi Namukasa who was the elder sister to his father the late Paul Kasajja. He also stated that he personally knew the late Abisaji Namukasa who was married to the late Abusolumu Mutamira and they were living in the place called Nyorerwa in Buikwe District with his Sister Nakalanzi Margret and that the two did not have children. He stated that when Nakalanzi got married Abisagi was left with no one look after her and she was later transferred to Mawudde, Busujju, Malagawa, Mumyuka within Mityana district where she lived until her demise. Kamyia Tadeo further stated that before Abisagi passed she told them of her properties and she had emphasized that that Nakalanzi takes from her.

Also in the sworn statement of Sempebwa John aged 69 years (PW4) stated that the late Abusolumu Mutamira was his paternal uncle and married one wife Abisagi Namukasa. That before Abusolumu Mutamira's death he had through his will bequeathed his land in Block 29 Plot 85 located in Kamwokya to his wife Abisagi Namukasa. That however the said Abisagi Namukasa died without a child and also left no will. That the plaintiffs had approached him sometimes in 2015 and informed him that the 1st defendant had obtained letters of administration to estate of Abisagi Namukasa and Nakalanzi Margret without their consent. That the said 1st defendant Kiwanuka George was his relative and not a relative of Abisagi and that according to the Kiganda culture he had no right to interfere with the estate of the late Abisagi Namukasa since she belonged to a different clan.

I do believe the sworn testimonies of Tadeo Kamyia (PW3) and Sempebwa John (PW4) who are elderly and were actually adults at the time of the demise of Abisagi Namukasa. That PW3 was a nephew to Abisagi Namukasa and Sempebwa John was also a nephew to Abusolumu Mutamira the husband to the late Abisagi Namukasa. That both witnesses clearly indicated to court that the late Abisagi Namukasa did not have any children. These statements are clearly supported by the copy of the will and its translation of Abusolumu Mutamira dated 12th July 1956 which was tendered in court marked as PEX1 attached to Kayemba Moses's(PW2) sworn statement. The said will of Abusolumu Mutamira clearly indicated that he did not have any children.

According to the letters of administration that were granted by this court dated 10th April 2014 and marked as PEX2 and attached to PW2 Kayemba Moses's sworn statement, indicated that the 1st defendant was granted the letters of administration for the estate of the late Abisagi Namukasa on the basis that he was the grandson to the deceased. Also according to the application for letters of administration filed by the 1st defendant in this court attached to the plaint as annexure 'G', indicated that the 1st defendant as the petitioner that he was a grandson of the late Abisagi Namukasa.

All these were false representations to court by the 1st defendant. PW4 clearly stated to court that the 1st defendant was his relative and hence he was coming from the lineage of Abusolumu Mutamira, hence the 1st defendant had no direct blood line of Abisagi Namukasa in order to apply for her letters of administration. Therefore, the 1st defendant's assertions to court that he was a grandson to Abisagi Namukasa were full of falsehoods and thus were fraudulent in nature and on this basis the 1st was granted the letters of administration.

Also Counsel for the plaintiffs argued that 1st Defendant fraudulently chose to obtain a grant outside the local jurisdiction of the area where the one and only property under the estate of the late Abisagi is located which is Kamwokya.

As regards to the Jurisdiction of High Court, the High Court has unlimited jurisdiction as enshrined in Article 139 of the Constitution of the Republic of Uganda as amended and Section 14 (1) of the Judicature Act Cap 13. That in exercising this jurisdiction, the High Court does with other factors into consideration as per Section 14(2) of the Judicature Act. That also Section 19 of the Judicature Act provides for high Court circuits in handling of civil and criminal matters and these are supported up by the Chief Justice's Statutory Instrument. In a recently decided case of **THE AIDS SUPPORT ORGANISATION (TASO) (U) LTD Vs WATAKA JOHN Misc. Application No. 116 of 2023**, I observed that: -

“Jurisdiction of court is determined in three categories, namely;

(a) subject matter jurisdiction, i.e. whether the particular court in question has the jurisdiction to deal with the subject matter in question;

(b) territorial jurisdiction, i.e. whether the court can decide upon matters within the territory or area where the cause of action arose; and,

(c) pecuniary jurisdiction i.e. whether the court can hear a suit of the value of the suit in question.

These three categories of jurisdiction are prerequisite to the assumption of a court's jurisdiction.

In the instant case before this court, the 1st defendant while applying for the letters of administration for the late Abisagi Namukasa, indicated in his petition attached to the

plaint as annexure 'G', under paragraph 5 that at the time of Abisagi Namukasa's death she was the registered owner of a plot of land at Mulago comprised in Kibuga Block 29 Plot 85 within the Jurisdiction of his Honorable Court. Under paragraph 6, that the deceased at the time of her death had a fixed place of abode at Nyemerwa, Lubongo, Ngogwe in Buikwe District.

According to the evidence adduced the plaintiffs in this court indicated that these assertions by the 1st defendant were full of falsehoods and misrepresentation. PW1 Nasuna Milly and Kayemba Moses PW2 in their sworn statement indicated that when their mother Nakalanzi Margret got married to their father Kawunye Erismus, that Abisagi Namukasa was left with no one to look after her and because she did not have children of her own this led to her relatives to transfer her to Mawundwe in Mityana District for better care and treatment until her death in 1978. Also PW3 Kamyia Tadeo in his sworn statement indicated That when Nakalanzi Margret (mother to PW1 and PW2) got married she left Abisagi Namukasa and due to the old age and sickness, they transferred her to Mawundwe, Busujju, Malangala, Mumyuka within Mityana where she lived until her death.

That also all the plaintiffs' witnesses PW1, PW2, PW3 and PW4 indicated to this court that the late Abisagi Namukasa was bequeathed land by her late husband comprised in Mulago Volume 185 Folio 8, Plot 8 as per his will annexed PEX1 and also described as Kibuga Block 29 Plot 85 at Mulago. See PEX3 attached to PW2 Kayemba Moses's sworn statement.

It seems clear to me that according to the will of Abusolumu Mutamira as PEX1 the said deceased bequeathed Kibuga Block 29 Plot 85 at Mulago to Abisagi Namukasa his wife. That the said land is located in Mulago Kampala which is not within the local jurisdiction of this court. That the 1st defendant in his petition indicating that the said land was within this court's jurisdiction was a blatant lie. That also the 1st defendant informing court that the deceased had a permanent place of abode fixed place of abode at Nyemerwa, Lubongo, Ngogwe in Buikwe District where she was lived until her demise was also false information as the plaintiffs and their witnesses clearly showed to court that the deceased was transferred to Mityana at time of her death. Also according to the will of Abusolumu Mutamira as PEX1 indicated that he bequeathed his house to Eva Namukasa and directed the heir to build his own on the upper side of the land. This clearly showed that there was no fixed place of abode for Abisagi Namukasa in Nyemerwa, Lubongo, Ngogwe in Buikwe District as indicated by the 1st defendant.

Therefore, it's without a doubt that the plaintiffs have indeed proved to this court that the 1st defendant obtained the letters of administration to the estate of the late Abisagi Namukasa unlawful and illegally as he was not a lineal descendant to Abisagi Namukasa.

On the issue whether the plaintiffs are entitled to administer the estate of the late Abisagi Namukasa.

Section 234(1) of the Succession Act as amended is to the effect that court can revoke the letters of administration for just cause. **Section 234(2)(b)** give the circumstances of just cause where the grant was obtained fraudulently by making a false suggestion, or by concealing from the court something material to the case.

Further under Section 234(5) of the Succession Act as amended provides that: -

“Court may, in the same process for revocation of letters of administration, grant letters of administration to another person where court determines that such a person is a fit and proper person to be granted letters of administration under this Act.”

That this court having found that the 1st defendant obtained the said letters to the estate of Abisagi Namukasa fraudulently the question to be determined by this court is if the plaintiffs are fit and proper persons to obtain the letters of administration to the said estate.

In the case of **Michael Mulyanti & Anor v Jackeline Batalingaya & 3 Ors (Civil Suit No. 434 of 2008) [2009]** Court held that the Plaintiff must prove that she is one of the nearest relatives of the deceased. Further the same court defined a beneficiary where it stated: -

*“According to **Osborn’s Concise Law Dictionary, 8th Edition**, a beneficiary is defined as one for whose benefit property is held by a trustee or executor. Under Section 28 (now 27) of the Succession Act when a male person dies intestate as in the instant case, those who are entitled to his property are the following: -*

- (1) Customary heir*
- (2) Wife (or wives)*
- (3) Dependant relatives*
- (4) Lineal Descendants.*

Section 27 (1) (b) of the Succession Act as amended provides that: -

“where the intestate leaves no surviving spouse or dependent relative under paragraph (a) (i) or (ii) capable of taking a proportion of his or her property the-

(i) lineal descendants shall receive 99 percent; and

(ii) customary heir shall receive 1 percent.

As to whether the plaintiffs are lineal descendants of the late Abisagi Namukasa. PW1 Nasuna Milly and PW2 Kayemba Moses in their sworn statements adduced to court indicated that they are children of late Kawunye Erimus and Nakalanzi Margret. That their mother Nakalanzi Margret was a daughter to Kasajja Paulo , who was a brother to the late Abisagi Namukasa . That they are the rightful beneficiaries to the estate of the late Abisagi Namukasa. PW1 Nasuna Milly further informed this court that she was the customary heir of the late Nakalanzi Margret. PW3Kamya Tadeo a nephew to the late Abisagi Margret, and a bother to Nakalanzi Margret whose father was Paulo Kasajja informed this court that in his sworn statement that the late Abisagi lived together with her husband and her sister Nakalanzi Margaret. That before the demise Abisagi informed them of her properties and emphasized that Nakalanzi Margret would take over from her. That the said Nakalanzi Margret died in 1998 and that she left her children Kayemba Moses PW2 and Nasuna Milly who are the rightful people to benefit from the estate of late Abisagi Namukasa whose assets and liabilities were inherited by their mother the late Margret Nakalanzi. PW4 Sempebwa John also informed this court that he was informed that the late Abisagi Namukasa was succeeded by her late brother's daughter in the names Nakalanzi Margret who took up the assets and liabilities of the late Abisagi Namukasa.

It is without a doubt that regarding the evidence adduced, the plaintiffs are lineal descendants of the Abisagi Namukasa as their mother Nakalanzi Margret was her nephew and that under Section 23 and First Schedule of the Succession Act as amended fall under the 4th degree of kindred as daughter and son to the nephew of Abisagi Namukasa or Abisagi Namukasa brother's grandchildren and therefore they are fit and proper persons to be granted letters of Administration to Abisagi Namukasa's estate.

That as this court granting letters of Administration to the plaintiffs to administer the estate of the late Abisagi Namukasa for property that is outside the local jurisdiction of this court. Section 98 of the Civil Procedure Act empowers this court to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the court. In the exercise of this discretion, court must act judiciously and according to settled principles, bearing in mind that the decision must be based on common sense and justice. **See Standard Chartered Bank (U) Ltd V Ben Kavuya & Barclays Bank (U) Ltd [2006] HCB Vol 1 p.134.**

This Court observes that this is an old matter that was filed in 2015, however the said matter also was stayed by this court in a ruling dated 23/6/2021 pending the final determination of the of Civil Suit No. 162 of 2015 Vide Ahmed Tejani Vs Catherine Nantongo& two others High Court Land Dvisison, which case was disposed of on

22nd day April 2022. That it's also on record that Counsel for the plaintiff informed this court that the 1st plaintiff could not attend court anymore as she was so sick. That court looks at the peculiar circumstances in which it would order the plaintiffs to begin afresh to apply for letters of administration in High Court in Kampala, vis-a-vis the plaintiffs having waited for the long court process, also the financial implications and other special circumstances such as sickness of the 1st Plaintiff. That in the Interest of justice this court with under Article 139 of the Constitution and Section 14 of the Judicature Act and Section 234(5) of the Succession Act as amended grants the Plaintiffs letters of Administration to the estate of Late Abisagi Namukasa and revoke the ones that the 1st defendant obtained previously from this court.

That also Counsel for the plaintiff prayed to this court that under **section 234 (3) and (4) of the Succession Act as Amended**, that court having found that the 1st defendant provided it with false information upon which this court proceeded to grant letters of administration, that court to invoke any or both of the punishments provided for above against the 1st defendant. However, I disagree with submissions of counsel for the plaintiffs on this matter these Sections are applicable where a criminal matter has been brought against the 1st defendant and he is convicted on the same after the letters of administrations have been revoked.

ISSUE3: Whether the 1st defendant's transfer of the certificate of title in dispute into his name was done legally.

Section 180 of the Succession Act as amended provides that:-

“The executor or administrator, as the case may be, of a deceased person is his or her legal representative for all purposes, and all the property of the deceased person vests in him or her as such.”

Section 189 of the Succession Act as amended provides that:-

Except as hereafter provided, but subject to section 4 of the Administrator General's Act, no right to any part of the property of a person who has died intestate shall be established in any court of justice, unless letters of administration have first been granted by a court of competent jurisdiction.

Section 192 of the Succession Act as amended further provides that:-

Effect of letters of administration Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration has been granted at the moment after his or her death.

In the case of **Anecho v Twalib & 2 Ors (Civil Suit 9 of 2008)** Hon. Justice Stephen Mubiru stated that;

“Letters of administration entitle the administrator to all rights belonging to the intestate as effectually as if the administration has been granted at the

moment after the death of the deceased (see section 180 of The Succession Act).”

Therefore, since this court already found that the 1st defendant obtained letters of administration to the estate of the late Abisagi Namukasa fraudulently, the transfer of the certificate of title in his names as envisaged under PEX3 was done illegally.

Whether the 2nd defendant’s transfer of the certificate of title in dispute into her name was done lawfully

Section 59 of the Registration of Titles Act is to the effect that a certificate of title issued under the Act cannot be impeached or defeated and wherever it is presented it shall be conclusive evidence that the person named in the certificate is the owner of the land described in the certificate.

The principle of conclusive ownership has been decided in many cases such as in **Kampala Bottlers Ltd Vs Damanico (U) Ltd Civil Appeal No. 22 of 1992 [1993]** where the principle of conclusive ownership was observed by Wambuzi CJ that the production of the certificate of title in the names of the appellant is sufficient proof of ownership of the land in question.

In the case of **Adrabo v Madira (Civil Suit No. 24 of 2013) [2017] UGHCLD 102 (22 December 2017)** Justice Stephen Mubiru observed that: -

“Under the principle of indefeasibility, a title that is indefeasible cannot be defeated, revoked, or made void. The technical meaning of indefeasibility is indestructibility or inability to be made invalid. The person who is registered as proprietor has a right to the land described in the title, good against the world. There are a limited number of exceptions to this principle of indefeasibility and these are listed in sections 64, 77, 136 and 176 of The registration of Titles Act; which essentially relate to fraud or illegality committed in procuring the registration. The concept of indefeasibility is, however, not defined in the Act. An explanation of the concept can be found in Frazer v. Walker [1967] AC 569 as: the expression is a convenient description of “the immunity from attack by adverse claim to the land or interest in respect of which he is registered, which a registered proprietor enjoys. This conception is central in the system of registration.”

Further, under **Section 176 (c) of RTA** a registered proprietor of land is protected against an action for ejectment except on ground of fraud. The relevant part provides as follows:

“No action of ejectment or other action for the recovery of any land shall lie or be sustained against the person registered as proprietor under this Act, except in any of the following cases- the case of a person deprived of any land by fraud as against the person registered as proprietor of that land through fraud or as against a person deriving otherwise than as a transferee bonafide for value from or through a person so registered through fraud.....”

In the cases of **Kampala Bottlers versus Damanico (U) Ltd, S. C. Civil Appeal No. 22 of 1992** and **H. R. Patel versus B.K. Patel [1992 - 1993] HCB 137** Courts observed that the Certificate of Title can only be impeached on grounds of illegality or fraud, attributable to the transferee.

However the Succession Act protects the purchasers who purchased land from the administrator the before the letters of administration are revoked. In specific **Section 266 of the Succession Act as amended provides that:-**

‘Where any probate is or letters of administration are revoked, all payments bona fide made to any executor or administrator under the probate or administration before its revocation shall, notwithstanding the revocation, be a legal discharge to the person making the payments; and an executor or administrator who has acted under any revoked probate or administration may retain and reimburse himself or herself in respect of any payments he or she made, which the person to whom probate or letters of administration shall be afterwards granted might have lawfully made.’

This is also in line with **Section 181 of the Registration of Titles Act which provides that: -**

‘Nothing in this Act shall be so interpreted as to leave subject to an action of ejectment or to an action for recovery of damages as aforesaid or for deprivation of the estate or interest in respect to which he or she is registered as proprietor any purchaser bona fide for valuable consideration of land under the operation of this Act, on the ground that the proprietor through or under whom he or she claims was registered as proprietor through fraud or error or has derived from or through a person registered as proprietor through fraud or error; and this applies whether the fraud or error consists in wrong description of the boundaries or of the parcels of any land or otherwise howsoever.’

In the case of **Katende -vs- Haridar & Company Ltd (2008) 2 E A 173** the Court of Appeal stated what amounts to a bonafide purchaser for value without notice in real property as a person who honestly intends to purchase the property offered for sale and does not intend to acquire it wrongly.

Therefore, the core issue here is whether the doctrine of bonafide purchaser for value without notice can acquire a good title over a parcel of land from a person who had fraudulently acquired title over the land and thereby defeat the claim by the original owner of the proposed issue.

Counsel for the Plaintiff submitted and attributed fraud on the 2nd defendant and stated the 2nd defendant did not visit the suit property, did not open boundaries with the help of a Surveyor, talk to the local council officials or Lessee who occupied the house on the suit land. Counsel wondered what the 2nd defendant feared to know that compelled her not to do what she ought to have done, as due diligence under the law was considered part of the obligation of an interested purchaser. Counsel further submitted that the 2nd defendant did not tell court in her written statement of Defense whether or not the 1st defendant took her to the land or refused to do so. That the 2nd defendant's conduct was wanting as she abstained from making inquiries for fear of learning the truth and that she was well aware or she was negligent in not doing what she ought to have done to be sure of the circumstances surrounding the property she was buying. Counsel argued that the 2nd defendant cannot blanket herself under the law that she was a purchase for value without notice as she was part and partial of the fraud. Counsel for the plaintiffs also argued that 2nd defendant was guilty of fraud in her acquisition of the suit property. That it was clear that the 2nd defendant did not carry out a due diligence by way of a search at the ministry of land at the time of her registration as was confirmed by the case at High Court of Uganda at Kampala Land Division Civil Suit No.162 of 2015.

Also Counsel for the plaintiffs submitted that the 2nd Defendant never carried out any due diligence by visiting the suit land. That this was still confirmed in the judgment of Civil Suit No.162 of 2015 where she was the 1st Defendant. That she did not know the name of the Lessee and did not even know the number of bedrooms in the house on the suit land. That she did not even make any inquiries from the neighbours or even the area local council. That the entire transaction seemed to have been stage managed and done in office. Counsel submitted that this was a case of a voluntary assumption of risk not to carry out an in-depth due diligence.

Counsel for the plaintiffs also submitted that the 2nd defendant did not attach a copy of the sale upon which she would allege to be a bonafide purchaser without notice as proof that she purchased the suit property. Counsel argued that it appeared that the 2nd defendant's name was only used as a cover-up to justify a sale whereas not and to justify that the suit property was now in the hands of a third party who on her own motion did not come out to defend herself during the hearing.

Counsel for the plaintiffs submitted that the 2nd defendant did not verify the Letters of Administration and confirming their validity and the fact the 1st defendant had a valid certificate of title in his names were not the only obligation of the 2nd defendant. That

as a prudent purchaser that the 2nd defendant would have taken steps to ensure that the measurements reflected on the land title are the same measurement on the ground to rule out physical encumbrance on the land. That this would have only been possible with a visit to the land. That all this was not done for reasons that were not mentioned. And that further that the transfers were done on the same day i.e 19th May, 2014.

Counsel submitted that was therefore unmistakably clear from the evidence shown above, that there is a clear unimpeachable nexus between the 1st and 2nd defendant. That there was no doubt whatever the 1st defendant did, it was with the knowledge and involvement of the 2nd defendant. That the two defendants were closely connected to the fraud complained of, they were accomplices. Counsel argued that since the plaintiffs had demonstrated that the defendants were one and the same person in orchestrating the fraud and in transferring Kibuga Block 29 Plot 85 into their respective names, the 2nd defendant cannot claim to be clean as her hands are stained with fraud. That clearly she participated in the fraud, or had knowledge of it, and thus no good title passed to her. that fraud had been proved to the standard required of the plaintiffs and accordingly counsel invited court to agree with their submissions that a case of fraud has been proved pinning both defendants.

That I agree with the submissions of counsel for the plaintiffs that fraud has been attributed to the 2nd defendant. That in the case of **Sir John Bageire vs. Ausi Matovu CACA No.07 of 1996, at page 26** where Okello J.A as he then was in emphasizing the value of land property and the need for thorough investigations before purchase stated;

“Lands are not vegetables that are bought from unknown sellers. Lands are valuable properties and buyers are expected to make thorough investigations; not only of the land but of the sellers before purchase.”

The question of conducting a search is further discussed in **Uganda Posts and Telecommunications v Lutaaya CA 36 of 1995** where *Court held that a mere search on the register is not enough. The person ought to inquire beyond the register. That the law is very clear that if a person purchases an estate which he knows to be in the occupation of another other than the vendor, he is bound by all the equities which the parties in such occupation may have in the land.*

The failure to inspect the land for purposes of being brought under the Registration of Titles Act is a fatal irregularity and the purchaser would be found to have acted fraudulently by processing the title well knowing he had not followed proper procedure. The title could be impeached and cancelled for lack of an inspection report

that is so crucial in the process of obtaining a title. **See Asimwe &Anor v Mukirania HCT – 01 – LD – CA – 002 OF 2017.**

In the instant case the 2nd defendant did not appear before court to defend herself on how she acquired the certificate of title for Plot 85 Block 29 Mulago without due diligence or proof that she acquired the same for valuable consideration as she stated in her written statement of defence. In the absence of a valid title from the 1st defendant from whom the 2nd defendant's interest was purportedly derived, or for such proof that valuable consideration was such paid, or that there was good faith in the transaction, the defence for bonafide purchaser for value is not applicable. **See David Sekajja Vs Rebecca Musoke SCCA No. 12 of 1985.**

Further still fraud on the imputed on 2nd defendant in acquiring the certificate of title of the disputed land. That I have studied the decision of my brother Justice John Eudes Keitirima in **the case of Ahmed Tejani Vs Catherine Nantongo & Zors HCCS No. 162 of 2015(Land division)** where a certified true copy of the said judgement was availed to this court and is on court record, regarding the said land in dispute. I will reproduce the same. Justice John Eudes Keitirima found that: -

“The transactions of 1st defendant (who is the 2nd Defendant in this matter) and the 2nd defendant (who is the 1st defendant in this matter) were done when the plaintiff's caveat was still subsisting. That it did not matter whether the caveats had been lodged legally or illegally. That there had to be due process for its removal. That to show that the said transaction was fraudulently done, it shows that the vendor who is the defendant was registered on the title after the 1st defendant and hence implies that the buyer was registered first on the title before the vendor. That this is clumsy that in the process of perpetuating a fraud the defendants clearly fell in their own deception. Their actions were tainted with fraud, and to defeat the interests of the plaintiff who still had a legal interest in the suit land as his lease was still subsisting. That as seen in Exhibit D6, which was a letter of the 1st defendant's counsel, the plaintiff had been given notice to vacate the suit property and yet his lease was still subsisting at that time.

That the plaintiff discharged the burden to prove that the actions on the 2nd and 3rd defendants in transferring the suit land to the 1st defendant were tainted with fraud as they were meant to defeat his interest in the suit land.

With the above evidence I accordingly find that the 2nd defendant's transfer of the certificate of title in dispute into her name was unlawful and tainted with fraud and hence the 2nd defendant did not acquire any better title from the 1st defendant.

ISSUE 5: What are the available remedies to the parties?

Relief prayed for

The Supreme Court in the case of **MS Fang Min v Belex Tours & Travel Ltd (Civil Appeal No. 6 of 2013) [2015] UGSC 12 (8 July 2015)** stated that its now well established that a party cannot be granted relief which it has not claimed in the plaint or claim. That it's clear therefore, that the Court of Appeal erred in granting reliefs which were not sought by the respondent in its plaint.

The learned Justices of the Supreme Court continued in the case of **Attorney General Vs Paul Ssemwogerere & Zachary Olum Constitutional Appeal No.3 of 2004 (SC) Mulenga JSC stated as follows:**

“It is a cardinal principle in our judicial process that in adjudicating a suit, the trial court must base its decision and orders on the pleadings and the issues contested before it. Founding a court decision or relief on unpleaded matter or issue not properly before it for determination is an error of law.”

In the instant case the Plaintiffs made several prayers in their plaint which were reiterated in their submissions and has also articulately made submissions to the said prayers to which submissions I am in agreement with. Resultantly therefore, the suit by the Plaintiffs succeeds. I therefore enter judgement in favour of the Plaintiffs against the Defendants with the following orders:

1. An order for revocation and cancellation of the Letters of Administration granted to Kiwanuka George in respect of the estate of the late Abisagi Namukasa vide HCT-03-CV-AC-018 of 2014.
2. An order is here by granted for declaration that the Plaintiffs are the rightful Administrators to the estate of the late Abisagi Namukasa and that consequential order for the amendment of the Letters of Administration vide HCT-03-CV-AC-018 of 2014 into the names of the Plaintiffs.
3. An order is here by granted directing the 1st defendant to give a comprehensive inventory and render a true account of the proceeds from the estate of the late Abisagi Namukasa.
4. An order is her by granted for Cancellations of the names of the 1st and 2nd Defendants from the title vide Kibuga Block 29 Plot 85 land at Mulago-Kamwokya- Kampala District and the land title be reverted to the name of Abisagi Namukasa.
5. A permanent injunction is here by granted restraining the defendants, their agents or any other person or entity claiming under them from further dealing or interference with the estate of the late Abisagi Namukasa.
6. General damages worth UGX 50,000,0000 is granted against the defendants for mismanagement, inconvenience, mental torture, anguish, anxiety and embarrassment to the plaintiffs.

7. Costs of the suit to the plaintiffs.

I so order.

Dated, signed and delivered on this 28th day of February, 2024.

.....
FARIDAH SHAMILAH BUKIRWA NTAMBI
JUDGE

Right of Appeal explained