

**THE REPUBLIC OF UGANDA  
IN THE HIGH COURT OF UGANDA AT JINJA**

**CIVIL SUIT NO. 076 OF 2012**

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- 1. OLOWO EDITH NAKYESA**
- 2. OLOWO SARAH NALUBEGA**
- 3. OLOWO LOVINA ACHIENG**
- 4. RITICHIE EMERY OSINDE OYO ::::::::::::::::::::::::::::::: PLAINTIFFS**

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**VERSUS**

- 1. OLOWO EDWARD**
- 2. MUGABI JULIUS**
- 3. MAPERA ANTHONY ::::::::::::::::::::::::::::::::::::::: DEFENDANTS**

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**BEFORE: THE HON. JUSTICE GODFREY NAMUNDI**

**JUDGMENT**

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The Plaintiffs filed this suit seeking declarations that the contract of sale between the 1<sup>st</sup> Defendant, the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants is null and void.

They also seek orders for cancellation of the Registration of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants from the Certificate of Title of the suit property comprised in  
25 volume 1565, Folio 11, Plot 32 and 34 Kutch Road, Jinja District.

Other claims are for General Damages for mental anguish, special damages for loss of income, and costs of the suit.

The Plaintiffs' case is that the suit land/property is their matrimonial home, where most of their children with the 1<sup>st</sup> Defendant were born from and still reside and relocate to during holidays. That the 1<sup>st</sup> Defendant being the  
5 head of the family was solely registered onto the Title for the said land, and that the money that was used to purchase and build the same was raised by the 1<sup>st</sup> - 3<sup>rd</sup> Plaintiffs out of proceeds from their commercial farming in Buyungirizi, Kayunga District.

10 The Plaintiffs further claim that the 1<sup>st</sup> Defendant has never dealt with the suit property in any other way and only got to learn of the sale/mortgage when the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants tried to evict the tenants on the premises. The 1<sup>st</sup> - 3<sup>rd</sup> Plaintiffs conducted a search and discovered the transaction between the 1<sup>st</sup> Defendant and the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

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They lodged a Caveat to protect their interest in the suit property.

The 1<sup>st</sup> Defendant's case is that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants tricked him into signing a sale agreement when the transaction was a loan.

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Secondly that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants took advantage of his semi illiteracy and made him sign documents he did not understand.

The case for the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants is that they are joint registered  
25 proprietors of the suit land. They acquired the property by purchase from the 1<sup>st</sup> Defendant, upon clearing the sums due under the mortgage in favour of Barclays' Bank.

They claim they carried out due diligence by search at the Land Office and inspected the suit property before acquisition and confirmed that the suit property was not in occupation of any of the Plaintiffs and was not even  
5 subject of a Caveat. The suit property had also been subject of previous mortgages with Banks.

They claim the suit property was not jointly owned and was not matrimonial and hence not subject to spousal consent. The suit land was subject of a  
10 lease between the 1<sup>st</sup> Defendant and Jinja Municipal Council. The 2<sup>nd</sup> and 3<sup>rd</sup> Defendants are therefore bona fide purchasers for value.

Upon purchase, they took effective occupation of the suit premises and have a tenant from whom they collect rent.

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Both parties in their joint Scheduling Memorandum agreed that:

1. The suit property is as described in the Plaint.
2. The property was formerly registered in the names of the 1<sup>st</sup> Defendant  
20 as proprietor and lessee.
3. The 1<sup>st</sup> Defendant had mortgaged the suit property to Barclays' Bank.
4. The first Defendant sold off the said property to the 2<sup>nd</sup> and 3<sup>rd</sup>  
25 Defendants to set off the mortgage.

The Defendants had filed a suit (48/2011) in the Chief Magistrate's Court against Waiswa Yowasi, Godfrey Inoby and Oketcho Willy for trespass.

At the hearing of the instant suit, the parties agreed that the said suit be  
5 stayed pending the outcome of the instant suit.

Secondly, the 4<sup>th</sup> Plaintiff withdrew his claims against the Defendants.

Issues agreed upon:

- 10 1. Whether the Plaintiffs are entitled to the reliefs sought in the Plaint.
2. Whether the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants fraudulently registered as proprietors of the suit land/property.
- 15 3. Whether the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants are entitled to the reliefs sought in the counterclaim.

**Issue No.1:**

**Whether the Plaintiffs are entitled to the reliefs sought in the Plaint.**

20 The Plaintiffs' action is based on the claim that they are the wives of the 1<sup>st</sup> Defendant.

Secondly that they contributed substantially to the construction of the suit property as a family investment which the 1<sup>st</sup> Defendant alienated without  
25 their consent.

The above claims are supported by the evidence of PW1 Sarah Nalubega whose evidence is that she customarily married the 1<sup>st</sup> Defendant around 1969/70. The ceremony took place at her father's home at Masajja-Busabala. PW4 and the 1<sup>st</sup> Defendant confirmed that the said marriage  
5 indeed took place.

PW5 Lovina Achieng also testified that she is the first wife of the Defendant No.1 and that also married the 1<sup>st</sup> Defendant in 1966 customarily at her father's home at Kasawo in Mukono.

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Both witnesses claimed that the family collectively contributed towards the construction of the building with proceeds from their farms at Buyungirizi in Kayunga and Masindi.

15 The house according to the two witnesses is for business but also has provision for accommodation where the Plaintiffs and the Defendant No.1 used to reside with their children. DW1 Olowo Edward denied selling the property but admitted pledging or mortgaging the same to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants without the knowledge of his wives, and that Court should allow  
20 him to refund the money from the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

Further, that he is a P.6 dropout and could not understand English and that he was given very many documents whose contents he did not understand.

25 In support of the above evidence, it is submitted that the Plaintiffs are customarily married to the 1<sup>st</sup> Defendant and that the said marriages are still subsisting.

It is submitted that a customary marriage in Uganda will be recognised if it is proved that such marriage was celebrated according to the rights and traditions of an African Community in Uganda. Further that contribution of a woman to the development of the family must be recognised. Reference was made to the case of **Julius Rwabinuni Vrs. Hope Bahimbisomwe; Court of Appeal CA. No. 30/2007.**

**Section 39 and 38A of the Land Act (as amended)** were cited as giving a spouse security of occupancy on family property and access and residence therein. That family property is defined to mean land on which is situated the ordinary residence of a family and inclusive of where the family derives sustenance. Further, that **Section 39 of the Land Act (as amended)** provides that no member of the family shall sell, exchange, transfer, pledge, mortgage or lease any family land without consent.

It is also submitted that the property is a family house since the wives used to come and stay with the 1<sup>st</sup> Defendant in the property in turns. That the apartment where the family stays is on the ground floor.

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For the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants, it is submitted it is upon the Plaintiffs to prove that they are spouses and therefore have an interest in the suit land/property.

25 Further, that the property is the ordinary residence of the Plaintiffs at the time of purchase and that the Plaintiffs ordinarily derive sustenance

therefrom. Ref: **Lamulat Ssanyu Nakanwagi Vrs. Haji Asuman Jjumba HCCS No. 18/2005.**

5 The discrepancy in the pleadings and the oral evidence of the Plaintiffs was attacked.

10 Whereas the pleadings claim the marriages of the 3 Plaintiffs to the 1<sup>st</sup> Defendant took place in 1974, 1979 and 1964, the evidence of PW5 is that the marriages were between 1969 and 1971 respectively. The contradictions are also evident in Exhibit PE.2 (a sworn Statutory Declaration) that the marriages took place in 1960s, 1970s and 1980s.

15 There is also a variance in the evidence of DW1 Olowo and that of PW1 Nalubega as to when the marriages are supposed to have taken place. It is therefore submitted that there is no proof or evidence that the **Customary Marriages Registration Act** was complied with or that any formal or customary ceremonies were carried out in celebration of the said marriages.

20 It has also been submitted that the Plaintiffs conceded that the property was registered in the names of Edward Olowo as borne out by Exh. P3.

It is also submitted that the Plaintiffs (PW1, PW4 and PW5) that the family residence is at Buyungirizi in Kayunga District where the Plaintiffs carry out commercial farming.

25 The suit property on the other hand is a business premises with 3 shops on the ground floor, stores and a lodge on the 1<sup>st</sup> and 2<sup>nd</sup> floors rented out to an Asian.

The Plaintiffs it is submitted failed to prove marriage to Defendant No. 1 and that they ordinarily reside in the suit property.

- 5 The 1<sup>st</sup> Defendant was solely registered as proprietor and therefore lawfully sold the said property to Defendants No.2 and 3.

Regarding joint ownership and alleged contribution to construction, the suit property is the subject of a lease between Defendant No. 1 and Jinja  
10 Municipal Council. There was no evidence led as to the extent the Plaintiffs contributed to the construction if any.

In any case the Caveat by the Plaintiffs was lodged long after the transfer of the suit property to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants. It is submitted that the claim  
15 of marriage and joint ownership is just collusion between the Plaintiffs and the 1<sup>st</sup> Defendant in order to repossess the property. Reference was made to the case of **Busomya and 2 others Vrs. Ebeke and Another HCCA 104/2009** where such collusion was rejected by the Court.

20 Looking at the evidence, submissions, and the law, this Court has to determine whether the suit property was:

- (i) Family property within the meaning of **Section 39 (4) of the Land Act (as amended)** and
- (ii) Whether spousal consent was necessary and
- 25 (iii) Whether the 3 Plaintiffs are wives to the 1<sup>st</sup> Defendant.



On question (iii) above, the Plaintiffs and the Defendant No. 1 concede that they are married, with several children and that each of them was married after some ceremony where gifts were given to each of the Plaintiffs' parents. (Evidence of PW1, PW4 and PW5 as well as Defendant No.1).

5

There is variance as to the exact years the said ceremonies took place. No Certificates of Registration of the said marriages were exhibited. This would have been proof and cleared the variance in dates.

10 The Customary Marriages Registration Act, requires that a marriage must be registered within 6 months of its occurrence. **Section 6 thereof refers.**

In **Steven Buyara Vrs. Polly Twegye Buyara CA. No. 81/2002**, it was held that failing to register a customary marriage does not make such  
15 marriage invalid.

The law requires that a customary marriage be registered as soon as may be but in any case not later than 6 months after the completion of the ceremonies of marriage. In other words, there has to be evidence of  
20 customary ceremonies of the community or tribe having been performed before one can legally consider himself/herself customarily married.

The validity of a customary marriage is governed by **Section 11 of the Customary Marriages Registration Act** which lays down instances when  
25 a customary marriage is considered void. Failure to register is not one of those instances.

In the instant case, it was up to the Plaintiffs to prove to Court that the customary ceremonies of the Community or tribe were carried out by the parties. This was not done.

- 5 What is on record is that Defendant No. 1 visited the 3<sup>rd</sup> Plaintiff's home and took gifts. This was at Masajja. PW5 also claimed the 1<sup>st</sup> Defendant visited her home at Kasawo and took presents. PW4 claims he accompanied the first Defendant on both occasions.
- 10 Both the 1<sup>st</sup> and 3<sup>rd</sup> plaintiffs as well as the first Defendant and PW4 all state different years as to when the alleged ceremonies took place. The Plaintiff also has its own different dates/years. The only reality is the fact and length of co-habitation without proof of any customary marriage ceremonies or Registration as evidence that any took place. The variance in the dates by
- 15 each witness brings into doubt whether any ceremonies were held.

It may be painful to the three Plaintiffs but it is a fact that the three Plaintiffs cannot be considered lawful spouses of the first Defendant in the absence of proof thereof. They cannot claim the reliefs in the Plaintiff on the basis that

20 they are wives of the first Defendant.

The other question to resolve is whether the property in issue can be considered family property.

- 25 I have considered the evidence and submissions by both parties. Firstly, it is a fact that the property was registered in the names of Defendant No.1 - Edward Olowo. It was not in the joint names of Olowo and the three

Plaintiffs. Secondly, the property was the subject of a lease between the first Defendant and the controlling authority. Thirdly, the evidence of the 3<sup>rd</sup> and 1<sup>st</sup> Plaintiffs and that of Defendant No. 1 is that they have the principal home and residence at Buyungirizi in Kayunga where they reside and carry out commercial farming. There is no evidence adduced that the Plaintiffs and the first Defendant ordinarily reside in the suit property and derive their sustenance therefrom. The premises from the testimonies of the Plaintiffs and what was observed by Defendant No.2 and Defendant No. 3 and DW3 is clearly a commercial premises with shops, stores and a Guest house.

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Family property is defined as land on which the person ordinarily resides with his/her spouse and from which they derive their sustenance. Ref: **Lamulate Ssanu Nakanwagi Vrs. Haji Asumani Jjumba & 2 others Masaka High Court Civil Suit No. 18/2005.**

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Since the Plaintiffs are not legally married to the 1<sup>st</sup> Defendant, they cannot claim interest in the property as spouses and therefore **Section 39 (4) of the Land Act (as amended)** requiring spousal consent is not applicable in the instant case. Similarly, the Plaintiffs cannot seek solace in the case of **Rwabinuni Vrs. Bahimbisomwe; CA No. 30/2007** which states that property acquired by spouses at or during their subsisting marriage is jointly owned by the spouses.

In the instant case, as I have held before, there is no legally subsisting marriage under the Law.

**Issue No.2:**

**Whether the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were fraudulently registered as proprietors.**

The Plaintiffs' allegations of fraud are listed in paragraph 7 of the Plaint and the following are the particulars:

- 5 (a) Deliberately ignoring and or ignoring the family consent knowing that the property was a family home.
  
- (b) Coercing the 1<sup>st</sup> Defendant into signing a sale agreement instead of a loan agreement under the pretext that it was just security for their  
10 repayment.
  
- (c) Ignoring the spousal consent.
  
- (d) Including their inflated interest charge for the loan as a balance on  
15 the purchase price.
  
- (e) Coercing the 1<sup>st</sup> Defendant into writing to one tenant that he had sold the suit property.
  
- 20 (f) Uttering false documents at the Land Registry so as to get registered on to the Title.
  
- (g) Not getting vacant possession at the execution of the sale since the  
25 2<sup>nd</sup> and 3<sup>rd</sup> Defendants knew their registration on to the suit property was through fraud.

Apart from the submissions on the lack of spousal consent, there was no submission on the rest of the allegations by the Plaintiffs' Counsel.

In the oral evidence, there was an attempt during the examination in chief of Defendant No. 1 to portray him as an innocent, ignorant and illiterate person who was taken advantage of by the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants. The 1<sup>st</sup> Defendant's evidence was that he did not sell the property but mortgaged it to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants without the knowledge of his wives. That he is a P.6 drop out who was made to sign many documents which were written in English which were not explained to him.

Counsel for the 1<sup>st</sup> Defendant has submitted that while the sale agreement was executed on 9/2/2011, the transfer in favour of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants is dated 8/2/2011.

Further that the negotiations between the 1<sup>st</sup> Defendant and the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants were for a mortgage transaction where they agreed on a loan of Shs.233,202,214/= to help him pay off an outstanding loan to Barclays Bank which Bank was threatening to foreclose the suit property.

The said loan was to be repaid within 3 months at an interest of 25%. The total amount would all add up to Shs.408,103,874/= which according to the 1<sup>st</sup> Defendant coincides with the sum indicated in the sale agreement.

Further that he was called to Kampala by the 3<sup>rd</sup> Defendant who made him sign a batch of documents which were not translated to him since he only stopped in Primary Five. That he was hood linked into signing documents of sale as opposed to the loan negotiations earlier held.

That he only got to know that he had been hood linked when he was confronted by the Plaintiffs about the sale.

It is further submitted that the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants did not carry out a  
5 search to establish that the property was also a family residence.

That the above incidents of fraud justify the cancellation of the Title and transfer in accordance with **Sections 77 and 177 of the RTA.**

10 It is also submitted:

(a) No stamp duty was paid in respect of the sale agreement thus contravening **Section 42 of the Stamps Act.** Ref: **Proline Soccer Academy Ltd Vrs. Lawrence Mulindwa**

15 (b) The sale agreement breached Sections 2 and 3 of the Illiterates protection Act, since the documents were not read and translated to the 1<sup>st</sup> Defendant who claims to be illiterate.

(c) There was no written consent of the spouses.

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It is submitted for the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants that the Certificate of Title in the names of the two said Defendants is sufficient proof of ownership in accordance with **Sections 54 and 59 of the RTA** and the said Title can  
25 only be impeached under **Section 176 RTA.** The burden of proving the said fraud is on the Plaintiffs and that the standard of proof is that of balance

of probabilities. Ref: **Kampala Bottlers Ltd. Vrs. Damanico (U) Ltd - SCCA 22/92.**

5 It is also submitted that the transaction of sale was completed on 9/2/2011 and that is when Olowo Edward delivered the duly signed transfer forms (dated 8/2/2011) to the 3<sup>rd</sup> Defendant. That these are formalities that would not lead to the impeachment of the Title.

10 It is also submitted that there is no evidence that there was any loan agreement between the 1<sup>st</sup> Defendant and Defendants No. 2 and 3.

The joint Scheduling Memorandum clearly provides that Olowo sold the suit property to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants to offset the mortgage with Barclays Bank. Reference was made to the case of **Administrator General Vrs. James Bwanika & 9 others CA No. 7/2003.** Therein, it was held that the purpose of Scheduling is to enable parties to agree on non-contentious evidence. The said evidence thereafter becomes part of the evidence on record so that they are evaluated along with the rest of the evidence before Judgment is given.

20

It is submitted therefore that in the absence of any loan agreement (as purported) the 1<sup>st</sup> Defendant is estopped from denying that the transaction was a sale.

25 Further according to the evidence of DW3 Jamil Ssonko, he acted as a Broker between Defendant No. 1 and the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants in the transaction for sale of the suit property. The only operational document before the Court

therefore is the sale agreement. Ref: **Wakanyira George David Vrs. Kanya Ben HCCS 560/2006.**

5 It is also submitted that the evidence on record is that the 1<sup>st</sup> Defendant had earlier carried out various transactions including leases, subleases, mortgages all reflected on the Certificate of Title. There is no evidence that he did not understand those earlier transactions that were in English or that there was any Certificate of translation to the effect.

10 He cannot turn around and claim that when it came to this particular transaction he ceased to understand English. He never took any action once it came to his **“knowledge”** that he had been hood linked e.g. by reporting the alleged fraud, or filing a Caveat or a suit in Court on further transactions on the suit property.

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On the authority of **Hannington Wasswa & another Vrs. Mania Onyango Ochola & others SCCA 22/93**, fraud cannot be presumed or inferred. It must be proved and mere suspicion or speculation is not proof.

20 I have carefully considered the submissions and the Law on this issue of fraud. The operational document is the Certificate of Title duly transferred in the names of the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants. This was after a sale agreement also duly exhibited.

25 On the contrary, the 1<sup>st</sup> Defendant has come up with a lot of allegations, not supported by any documentary evidence.



He has no witness to support the allegations that the transaction was a loan and not a sale. He does not for example claim to have tried to repay the loan or any part thereof and it was rejected. He lodged no Caveat on the property neither did he report the **“fraudsters”** to any authority. His  
5 conduct in filing his defence long after the case had progressed is also very suspicious. This is not the conduct of an innocent and concetious person who has been taken advantage of. There is even no evidence that he cannot read and write or that he complained to that effect when the transactions took place.

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His conduct is that of a very dishonest person who thought he would get away with his shady dealings.

I am intrigued at how he intended to pay off a loan of Shs.400 million in 3  
15 months when he had failed to pay half of the said amount to the Bank?

In **Busonya & 2 others Vrs. Ebeke & another - HCCA 104/2009** such conduct was found to be dishonest.

20 In conclusion, I find that the suit by the Plaintiffs cannot stand since they have failed to prove their interest in the suit property or that they even contributed to its acquisition and construction. The claims by the 1<sup>st</sup> Defendant whose defence sounds more like a collusion with the Plaintiffs is also disallowed as unsupported by evidence and a concoction of lies which  
25 have not assisted him. He sought to have his cake and eat it at the same time. The suit by the Plaintiffs is accordingly dismissed.

### **Issue No. 3:**

#### **Whether the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants/Counter-claimants are entitled to the reliefs sought.**

The 2<sup>nd</sup> and 3<sup>rd</sup> Defendants' claim in the Counter-claim is based on  
5 proprietorship, founded on both oral and documentary evidence and their  
Certificate of Title as a conclusive evidence. They claim they acquired the  
same for valuable consideration. Reference has been made to **Justice  
E.M.N Lutaya Vrs. Sterling Civil Engineering Co. Ltd. SCCA 11/2002.**  
Therein, it was held that a person holding a Certificate of Title has by virtue  
10 of that Title, legal possession, and can sue for trespass. The Counter -  
claimants seek order for:

- Eviction
- Vacant possession of the suit property
- Removal of Caveats lodged by the Plaintiffs
- 15 - Mesue profits
- General damages for inconvenience

They claim that the Plaintiffs/Counter-claim Defendants having failed to  
prove their interest in the suit property, they are entitled to the reliefs above.  
20 They claim they have been subjected to inconvenience and have been  
deprived of the use of the suit property. Reference has been made to **Dr.  
Demis Rwamafa Vrs. Attorney General (1992) KARL.** Therein it was  
held that where the Plaintiff suffers damage to a wrongful act of the  
Defendant he/she must be put in the position he would have been had  
25 she/he not so suffered. The Counter-claimants claim for General damages of  
Shs.50,000,000/= . They also claim Shs.5,000,000/= as mesue profits per  
month from June 2011 to date. They do not however show how they have at  
that figure which I consider speculative and therefore disallow.

Regarding the counter claim it is my finding that the Counter-claimants have established their claim against the Counter-claim Defendants who have failed to prove their interest in the suit property (Plaintiffs 1-3) and the 1<sup>st</sup> Defendant Edward Olowo having failed to prove his claims of fraud or illegal activities by the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants/Counter claimants.

Judgment is accordingly entered in respect of the Counter-claim in favour of the Counter-claimants.

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In conclusion, it is the Judgment of this Court that:

1. The head suit filed by Olowo Edith Nakeyesa, Sarah Nalubega and Olowo Lovinsa Achieng against the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Defendants is dismissed. It is specifically ordered that the 1<sup>st</sup> Defendant's defence of fraud against the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants is unsustainable as it amounts to connivance with the Plaintiffs as against the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.
2. The Counter claim by Mugabi Julius and Mapera Anthony is upheld and Judgment is entered in their favour in that respect.

20

The following orders are made:

1. An Eviction Order is to issue against the 1<sup>st</sup> Defendant together with his agents and the 3 Plaintiffs who are to render vacant possession of the suit premises to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants/Counter-claimants.
2. The Commissioner for Land Registration is to remove the Caveats lodged by the Plaintiffs on the suit property.

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3. The 1<sup>st</sup> Defendant/Counter-claim Defendant No. 4 is to pay General damages of Shs.50,000,000/= to Defendants No. 2 and No.3 (Counter-claimants).

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4. The Plaintiffs and the 1<sup>st</sup> Defendant are to pay the costs of both the head suit and Counter-claim to the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants.

10 **Godfrey Namundi**

**Judge**

**1/12/2014**