THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA SITTING AT GULU

CIVIL APPEAL No. 0020 OF 2013

(Arising from Gulu Grade One Magistrate's Court Civil Suit No. 009 of 2009)

OJERA JOSEPH …… APPELLANT

VERSUS

LABEJA PIRIMINO …… RESPONDENT

Before: Hon Justice Stephen Mubiru.

JUDGMENT

The respondent sued the appellant for a declaration that he is the owner of land under customary tenure, measuring approximately 624,422 square metres, situated at Amoyo Komo village, Pagak Parish, Amuru District, an order of eviction, permanent injunction, general damages for trespass to land, interest and costs. His case was that he inherited it from his late father in 1971. In 1965, the appellant's mother a one Lakite was permitted to live on the land temporarily, for refuge. In 1976, the appellant's wives vacated the land and apart from the appellant who remained behind, the rest of his family migrated further to Wi-okuk in Okungedi Parish. The insurgency forced the appellant to migrate further to Bweyale, Masindi District. During the year 2003, after the end of the insurgency, instead of returning to Wi-okuk, the appellant resettled on the land in dispute. He unlawfully sold off part of the land to the Northern Uganda Social Action Fund (NUSAF).

The appellant's defence was that during the year 1959, his father migrated to the disputed land and undertook agricultural activities thereon. The appellant stayed on the land even when his wives fought and abandoned him. He vacated the land only due to insurgency in 1987, first migrating to Ongeracan Pailyec Parish, then to Wi-okuk in Okungedi Parish in 1988 and later to Bweyale in 1996. On his return to the land during the year 2000, he found the respondent had occupied it and stopped him. With the consent of the local community and the clan, he permitted

NUSAF to utilise part of the land and they have since constructed a technical school thereon. He made a counterclaim for a declaration that he is the owner of land under customary tenure, an order of eviction, permanent injunction, general damages for trespass to land, interest and costs.

P.W.1 Odongtoo Kenneth, a son of the respondent, testified that his grandfather settled on the land with his family in 1960. In 1965, the appellant's mother sought temporary refuge on that land and was later in 1967 joined by the appellant's father, Matiya Obur. In 1982, the appellant moved his mother from the land to Okungedi. In 2005, the appellant returned to the land without consent of the respondent. He has since sold off three acres. P.W.2 Ochan Josua testified that in 1967, the appellant's father joined his wife who two years before had been allowed temporary settlement onto the land in dispute by the magnanimity of the respondents' family, as his in-laws. The appellant has since exceeded the boundaries of that land.

P.W.3 Otto Anthony Gem testified that the appellant's mother fled from Pabo after her husband having committed a sexual criminal offence there with an underage niece and sought refuge on the respondent's land as they are his in-laws. Later she was joined by the appellant's father. Following the death of his father, who was buried on that land, the appellant took his mother away to Onyeralam. During the insurgency, they lived in a camp at Karma where the appellant's mother died. After the insurgency, the appellant returned to the land without the consent of the respondent, and has even exceeded the two gardens that his mother had been allowed to cultivate in the past. The respondent closed his case.

In his defence as D.W.1 Ojera Joseph, the appellant, testified that his father, Oburu Matiya, settled on the land in dispute in 1959 and remained there until 1987. His parents have never lived in Pabo. He inherited the land following the death of his father. He left the land during the insurgency and returned in the year 2000 only to find the respondent occupying it. In the year 2007, the respondent began restricting his activities on the land. His deceased father, two of his wives and his child are buried on that land. He offered part of the land to NUSAF. He admitted though having written a letter of apology to the respondent on 19th April, 2009 for having allowed NUSAF to undertake construction on that land.

D.W.2 Obwoya Otwacha, testified that the appellant's father was one of the early settlers on that land. Later, the respondent too came and settled in the area. The two were separated by the road to Pabbo. The two families are not related. D.W.3 Lokoli Santo testified that the appellant settled on the land with his father, Matiya Oburu in 1958. In 1967, the respondent's father too came and settled in the area. There was no dispute over the land until their return from the camps at the end of the insurgency. It was caused by the respondent occupying land that did not belong to him. The appellant then closed his case.

The court proceeded to visit the *locus in quo* where it recorded evidence from a one Kaci Ali, a neighbour. The court then prepared a map. In his judgment, the trial magistrate found that the two families had lived together peacefully as neighbours to one another. The two parties had distorted the truth with the intention of taking from each other the entire land. None of the parties was entitled to a decision in his favour and consequently an order would be made for the sub-division of the land since each of them acquired an interest in the land by reason of a long period of occupation and use. The road leading to the primary school was to form the boundary between the two henceforth. Each party was to bear their own costs.

Being dissatisfied with the decision, the appellant appealed to this court on the following grounds;

1. The trial Magistrate grossly erred in law when he ignored the evidence and testimony of D.W.2 in reaching his conclusion.
2. The trial Magistrate grossly erred in law when he ignored the minutes and attendance list of the meeting held on 5th August, 2004 in reaching his judgment.
3. The trial Magistrate grossly erred in law when he imported evidence not on record at locus in reaching his judgment.

In their submissions, counsel for the appellant M/s Donge and Co. Advocates argued that the trial magistrate simply reproduced the evidence of D.W.3 without evaluating it. The trial magistrate further ignored evidence of the minutes of the meeting at which the appellant openly gave land to NUSAF in the presence of the local community. The record of proceedings at the *locus in quo* is missing yet the magistrate relied on evidence collected threat to reach his

decision. He relied on the testimony of persons who had not been called as witnesses. It was wrong for the court to create a new boundary. The appeal should therefore be allowed. Counsel for the respondent, Mr. Patrick Doii never filed his submissions in reply.

As a first appellate court, this court is under an obligation to re-hear the case by subjecting the evidence presented to the trial court to a fresh and exhaustive scrutiny and re-appraisal before coming to its own conclusion (see *Father Nanensio Begumisa and three Others v. Eric Tiberaga SCCA 17of 2000*; *[2004] KALR 236*). In a case of conflicting evidence the appeal court has to make due allowance for the fact that it has neither seen nor heard the witnesses, it must weigh the conflicting evidence and draw its own inference and conclusions (see *Lovinsa Nankya v. Nsibambi [1980] HCB 81*). The appellate court may interfere with a finding of fact if the trial court is shown to have overlooked any material feature in the evidence of a witness or if the balance of probabilities as to the credibility of the witness is inclined against the opinion of the trial court. In particular this court is not bound necessarily to follow the trial magistrate's findings of fact if it appears either that he or she has clearly failed on some point to take account of particular circumstances or probabilities materially to estimate the evidence or if the impression based on demeanour of a witness is inconsistent with the evidence in the case generally. This duty may be discharged with or without the submissions of the parties as the court proceeds to do now.

Before addressing the merits of the appeal, it is necessary to make observations regarding counsel for the appellant's expressions in the memorandum of appeal. Litigation etiquette and decorum requires of counsel to exercise restraint in the language used while criticising findings of a court against which they have lodged an appeal because counsel can always make their points without casting aspersions on a trial magistrate and without the use of intemperate language. Consequently, words such as "grossly erred" in reference to a trial court's opinion should, if possible, be avoided as the trial magistrate concerned has no direct opportunity to defend his or her stand.

With regard to the third ground of appeal, the trial magistrate has been criticised for the manner in which he conducted proceedings at the *locus in quo*. It was contended by counsel for the

appellant that the entire record of proceedings thereat is missing, but on perusal of the trial record I found that the record is available. It was an omission by whoever prepared the certified record of appeal not to include it.

That aside, the trial magistrate was further criticised for having recorded evidence at the *locus in quo* from a person who was not called by either party as a witness, and to have relied on the evidence of that witness. Visiting a *locus in quo* is meant to enable a trial court to check on the evidence by the witnesses, and not to fill gaps in their evidence for them or lest Court may run the risk of turning itself a witness in the case (see *Fernandes v. Noroniha [1969] EA 506, De Souza v. Uganda [1967] EA 784, Yeseri Waibi v. Edisa Byandala [1982] HCB 28* and *Nsibambi v. Nankya [1980] HCB 81*). It was therefore erroneous of the trial magistrate to have recorded the evidence of a one Kaci Ali, a neighbour to the land in dispute, who had not testified in court.

That notwithstanding, according to section 166 of *The Evidence Act*, the improper admission or rejection of evidence is not to be ground of itself for a new trial, or reversal of any decision in any case, if it appears to the court before which the objection is raised that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision. I have therefore decided to disregard the evidence of the Kaci Ali, since I am of the opinion that there was sufficient evidence on basis of which a proper decision could be reached, independently of the evidence of that witness.

Grounds one and two will now be considered concurrently, as they relate to evaluation of evidence by the trial court. the appellant's contention is that the trial magistrate did not evaluate the evidence at all. It is trite that there is no particular method of evaluation of evidence. The task may be carried out in different ways depending on the circumstances of each case since judgment writing is a matter of style by individual judicial officers. A Judgment will be valid once it is the court’s final determination of the rights and obligations of the parties based on the evidence adduced and gives reasons or grounds for the decision (see *British American Tobacco (U) Ltd v. Mwijakubi and four others, S.C. Civil Appeal No. 1 of 2012*; *Bahemuka Patrick and*

another v. Uganda S.C. Criminal Appeal No. 1 of 1999 and *Tumwine Enock v. Uganda S.C. Criminal Appeal No. 11 of 2004*).

Whereas variations in the style of evaluation of evidence by a court are inevitable, assessment of evidence is an evaluation of its logical consistency, and this should be reflected in the judgment. The hallmarks of a good evaluation of evidence adduced in a civil trial are unmistakable. It should evince two key elements; - (i) a qualitative assessment of the truth and / or inherent probabilities of the evidence of the witnesses, where the veracity of witnesses may be tested by reference to contemporaneous evidence that does not depend much upon human recollection, such as objective facts proved independently of their testimony; (ii) and, secondly, an ascertainment of which of two versions is the more probable. The court will accept one of the two versions which is supported by more probative evidence and will reject the other version with less probative evidence to back it.

In our legal system, there cannot be a "draw" in litigation, court must make a finding in favour of one of the parties, against the other. If a judicial officer finds it more likely than not that something did take place, then it is treated as having taken place. If he or she finds it more likely than not that it did not take place, then it is treated as not having taken place. A judicial officer is not allowed to sit on the fence. He or she has to find for one side or the other. Generally speaking in most cases a judicial officer is able to make up his or her mind where the truth lies without expressly needing to rely upon the burden of proof. However, in the occasional difficult case, sometimes the burden of proof will come to his or her rescue. "If the evidence is such that the tribunal can say "we think it more probable than not," the burden is discharged, but if the probabilities are equal it is not" (see *Miller v. Minister of Pensions [1947] 2 All ER 372*). When left in doubt, the party with the burden of showing that something took place will not have satisfied the court that it did.

For example in *Rhesa Shipping Co v. Edmunds [1985] 1 WLR 948*, the trial judge, Bingham J, was faced with two competing causes for the sinking of a ship in calm weather. It was established that the cause of the sinking was a large hole in the hull of the ship, but the cause of the hole was very much in dispute. One theory, propounded by the owners, was that it was struck

by an unidentified, moving, submerged submarine, which was never detected, never seen and which never surfaced. The other theory, propounded by the insurers, was that the hull had simply opened up through prolonged wear and tear over many years. Having considered a mass of evidence, the trial Judge concluded that the wear and tear theory was "virtually impossible," while on the other hand the submarine theory was "extremely improbable." He found, therefore, that on the balance of probabilities the cause was the unidentified submarine. He was upheld in the Court of Appeal but reversed in the House of Lords. The House of Lords held that if the judge, as he appeared to do, regarded both competing causes as improbable, then it was perfectly appropriate for him to hold that the claimant had failed to establish his case on the balance of probabilities.

An appellate court will be reluctant to reject findings of specific facts by a trial court, particularly where the findings are based on the credibility, manner or demeanour of a witness. However, an appellate court will far more readily consider itself to be in just as good a position as the court below to draw its own inferences from findings of specific facts where such findings are not based on demeanour of the witnesses. When a finding of fact depends on a matter such as the logical consistency of the evidence rather than the manner of the witness, an appellate court may be more readily willing to reject a finding of a specific fact (see *Benmax v. Austin Motor Co. Ltd [1955] AC 370* and *Faryna v. Chorny [1952] 2 D.L.R. 354*). It appears to me in the instant case that the trial court did not undertake an acceptable evaluation of the evidence for its logical consistency and it behoves this court to undertake one.

In undertaking a qualitative assessment of the truth or inherent probabilities of the evidence, the court makes a determination of which forms of evidence are more reliable than others, weighing the value of particular pieces of evidence against each other, interpreting the evidence in a rational manner consistent with the specific theories presented in the case, and drawing sound conclusions from the evidence. The trial Court has to take into account, as damaging the witness' credibility, any behaviour which is designed or likely to conceal information, mislead, or obstruct or delay the determination of the suit, such as a hesitation or failure, without reasonable explanation, to answer a question asked. If the witness has adduced manifestly false evidence in

support of his or her claim or has otherwise made false representations either orally or in writing, this will affect a credibility assessment.

Although an appellate court is not in position to assess the demeanour of witnesses or parties and the overall impression of their character and motivations, it is in just as good a position as the court below to assess any demonstrated inconsistencies or consistence with facts incontrovertibly established, such as contemporaneous documentation or records, any circumstantial evidence tending to support one account rather than the other, etc. In any event, too much reliance on demeanour in court may be misleading. A witness may not tell the truth about some matters, may exaggerate the story to make his or her case better, or may be simply uncertain about matters, but still the court may be persuaded that the centre-piece of their story stands. Truthful witnesses may make mistakes because of nerves or forgetfulness or because of the experiences that they have suffered. A trial Court should be mindful of the fact that a witness who falters over what might appear to be peripheral matters to the issues for determination may be a truthful witness while a person who has made up their story may be a convincing one, able to get the central elements correct. The presence of discrepancies in a witness' account may result from the fallibility of human memory and may justifiably be excluded from the assessment of credibility.

When it comes to the determination of which of the two versions is more plausible, this may be arrived at by way of abductive reasoning, deductive reasoning or inductive reasoning. These are forms of logical inference which start with an observation or set of observations and then seeks to find the simplest and most likely explanation. Plausibility then is a measure of how good the either party's proposition is in explaining the available facts. It can also be related to how much of the requirement for sufficiency has been satisfied.

Deductive reasoning may be illustrated by the supposition that a bag contains only red marbles, and an individual is asked take one out. It may then be inferred by deductive reasoning that the marble is red. A deductive argument is valid if and only if it is logically impossible that its conclusion is false while its premises are true. With inductive reasoning, suppose the individual does not know the colour of the marbles in the bag, and takes one out and it is red. The individual may infer by inductive reasoning that all the marbles in the bag are red. An inductive

argument is strong if and only if it is improbable that its conclusion is false given that its premises are true. Lastly, with abductive reasoning, suppose an individual finds a red marble in the vicinity of a bag of red marbles. The individual may infer by abductive reasoning that the marble is from the bag. In abductive reasoning, one usually looks for the most natural explanation. The abductive type of inference tends to be the weakest of the three kinds. A conclusion drawn by abductive inference is an intelligent guess, because it is tied to an incomplete body of evidence. It is more or less a suggestion or hypothesis tentatively adopted which, as new evidence comes in, could be shown to be wrong. This is because the theory of probability is nothing less than the logic of inference under uncertainty. It is a kind of guessing by a process of forming a plausible hypothesis that explains a given set of facts or data. The hypothesis stands for as long as there are no other hypotheses that are more plausible. In the example given, the hypothesis is plausible for as long as there are no other relevant facts suggesting any other plausible hypothesis that would explain where the red marble came from.

Using either approach, the evidence must be subjected to the test of plausibility. The plausibility standard is lower than the probability standard (focusing on the statistical likelihood of what happened in a given case). Plausibility does not have to do with the statistical likelihood of what happened in a given case. It has to do with the way things are normally expected to go in a type of situation that is familiar to the litigants, the onlookers, or judges of the situation. Something is plausible if it appears to be true and is consistent with other things that appear to be true and passes the evidentiary test. If something is plausible, it does not follow that it is known to be true, or even necessarily that it is believed to be true. Plausibility is not a theory of knowledge or belief. It is a guide to rational decision-making.

The court makes that determination by way of an assessment for qualities in the evidence that make it apparently valid, likely, or acceptable, such as;- whether it is true, convincing, logical, coherent, consistent, plausible, reliable, honest, sound, concrete, verifiable, authoritative, vivid and credible. Since the burden of proof rests on the plaintiff, the question is whether there are sufficient factual allegations to make the plaintiff's version plausible. It requires court to draw on its judicial experience and common sense (anchors as external benchmark i.e. for apparent reasonableness or truthfulness of the version). There are two parts to plausibility; one is the

establishing of the plausibility of a proposition, and the other is the testing of that plausibility by subsequent process of examining it, i.e. whether there is sufficient evidence to support the factual allegations. The magnitude of the probability of the argument may either decrease or increase, according the weight of evidence. An accession of new evidence increases the weight of an argument.

When making a plausibility determination, the court may be guided by the question whether or not the version presented by either party is logical in the way it summarises what went on in a clear time sequence, whether the explanation is simple but consistent. A party who is unable to present his or her version in a chronological sequence of events, risks their account being less likely to be believed or seen as plausible. The court will also check for internal inconsistencies and external inconsistencies, i.e. inconsistencies between the party's factual account and the objective evidence.

That done, the court will then be in a better position to make a determination of which version is the more probable. This is based on deductive reasoning or inductive probability. An inductive probability measures how probable the conclusion is, given that the premises are true. Arguments with strong premises tend to have a higher inductive probability than arguments with weak premises. For example; Argument 1. Premise: "Some of the referrals we receive are for people with a substance abuse problem."Therefore the Conclusion: "The next referral we receive will be for a person with a substance abuse problem." Argument 2. Premise: "Most of the referrals we receive are for people with a substance abuse problem."Therefore the Conclusion: "The next referral we receive will be for a person with a substance abuse problem." Although they have the same conclusion, argument 2 with a strong premise has a higher inductive probability than argument 1 with weak premise. The strength of either premise is determined by examination of the quality of evidence adduced as proof the facts underlying each of the two theories. The court then decides in favour of the party presenting the version that best explains established facts and that fits together well with other known facts and accepted theories.

For mutually exclusive events, where the two events cannot have happened at the same time, if the court is left in doubt, the doubt is resolved by a rule that one party or the other carries the

burden of proof. If the party who bears the burden of proof fails to discharge it, the fact is treated as not having happened (see *In Re B (Children)[2009] 1 AC 11; [2008] 3 WLR 1*). As a matter of common sense it will usually be safe for a judicial officer to conclude, where there are two competing theories before him or her neither of which is improbable, that having rejected one it is logical to accept the other as the correct version on the balance of probabilities, provided it is not improbable (see *Ide v. ATB Sales [2008] EWCA Civ 424*).

The respondent's version was that his family are in-laws of the appellant's father. In 1965, the appellant's mother fled from Pabo after her husband, the appellant's father, committed a criminal offence there of a sexual nature with an underage niece and sought refuge on the respondent's land as. Later she was joined by the appellant's father. Following the death of his father, who was buried on that land, the appellant took his mother away to Onyeralam. During the insurgency, they lived in a camp at Karma where the appellant's mother died. After the insurgency, the appellant returned to the land without the consent of the respondent, and has even exceeded the two gardens that his mother had been allowed to cultivate in the past. If the respondent's version is believed, the implication would be that the appellant's family lived on the land as licensees of the respondent's family. If that be the case, use by express or implied permission or license cannot of itself ripen into ownership, however long the period of occupation may be.

The appellant's version on the other hand is that his father, Oburu Matiya, settled on the land in dispute in 1959 and remained there until 1987. His parents have never lived in Pabo and his family is not related to that of the respondent. He inherited the land following the death of his father. He left the land during the insurgency and returned in the year 2000 only to find the respondent occupying it. In the year 2007, the respondent began restricting his activities on the land. His deceased father, two of his wives and his child are buried on that land. He offered part of the land to NUSAF. If the appellant's version is believed, the implication would be that him and his family occupied the land under a claim of right, and hence in a manner adverse to the respondent's claim. A claim of right means nothing more than a user "as of right," that is without recognition of the right of the landowner.

The respondent's version to the effect that the appellant's family came to the land as licensees is based on a premise that;- (i) the appellant's father was their in-law, (ii) the appellant's family originally lived at Pabo; (ii) migration of the appellant's family from Pabo to the land in dispute in 1965 was prompted by a criminal act committed by the appellant's father; and that (iii) occupation was meant to be temporary and it ended in 1982. Although this is a plausible theory advanced to explain the appellant's presence on the land, it is weakened by the fact that none of its constituent elements is supported by credible evidence. None of the respondent's witnesses and himself testified as to their sources of knowledge. When court has to consider the inherent probability or improbability of an alleged occurrence, the principle to be followed is that the more serious the allegation the less likely it is that the event occurred and, hence, the stronger should be the evidence before the court concludes that the allegation is established on the balance of probability (see *In re H (Minors) [1996] AC 563 at 586*);

Built into the preponderance of probability standard is a generous degree of flexibility in respect of the seriousness of the allegation. This does not mean that where a serious allegation is in issue the standard of proof required is higher. It means only that the inherent probability or improbability of an event is itself a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. The more improbable the event, the stronger must be the evidence that it did occur. Ungoed-Thomas J expressed this neatly *In re Dellow's Will Trusts [1964] 1 WLR 451, 455*: "The more serious the allegation the more cogent is the evidence required to overcome the unlikelihood of what is alleged and thus to prove it." Where, therefore, as in the instant case, it was alleged that migration of the appellant's father to the land in dispute was occasioned by his having committed a criminal offence at Pabo, the seriousness of that allegation required more cogent evidence regarding such detail as the identity of the alleged victim, the circumstances in which the offence is alleged to have been committed, etc. There also is no evidence to explain why occupation that was meant to be temporary stretched from 1965 to 1982 (a period of seventeen years).

Where there is no proof of an express license or permission from the respondent in his assumed character of landowner, the court then has to resort to the character of the use enjoyed by the appellant to determine whether or not it was adverse or permissive. From the nature of that use, it

may then be determined by inference from the circumstances of the parties and the nature and character of the use, whether or not the appellant asserted a claim of right or was only permitted restricted user and enjoyment of the land.

The appellant's version to the effect that his family occupies the land as owners is based on a premise that;- (i) his family is related to that of the respondent by marriage; (ii) his family has never lived at Pabo; (ii) his father, Oburu Matiya, settled on the land in dispute in 1959 and remained there until 1987; (iii) there are graves of his deceased relatives on the land; (iv) he vacated the land only during the insurgency; (v) he returned in the year 2000 only to find the respondent occupying part of it; and that (vi) in the year 2007 the respondent began restricting his activities not to exceed Owe-wang stream, resulting in litigation before the L.C. Courts. This too is a plausible theory advanced to explain the appellant's presence on the land, but unlike that of the respondent, it does not depend entirely upon human recollection since it is supported by objective facts proved independently of testimony, by way of credible evidence of observations made at the *locus in quo*.

It was the testimony of D.W.2 Obwoya Otwacha, that the appellant's father was one of the early settlers in the area. Later, the respondent too came and settled in the area. The two were separated by the road to Pabbo. Similarly, D.W.3 Lokoli Santo testified that both the appellant's and the respondent's fathers settled on different tracts of land in the area and had no dispute over the land until their return from the camps at the end of the insurgency when the respondent occupied land that did not belong to him.

At the *locus in quo*, the court prepared a sketch map which shows Okwali Jackson, the respondent's deceased father's home that was inherited by the respondent, is to the left of the road. The respondent's "1986 home" too is to the left of the road while his current home since 2010 is to the right of the road. The appellant's home is to the right of the road. The appellant's mother's home too is to the right of the road. The map illustrates that it is the respondent who in 2010 crossed over from the left of the road to encroach on land occupied by the appellant to the right of the road. These facts fully support the inference that the use of this land by the appellant was under a claim of right and adverse until intrusion by the respondent in the year 2010.

That being the case, the trial court erred when it overlooked the testimony of D.W.2 Obwoya Otwacha to the effect that the boundary between the respondent's and the appellant's land is the road to Pabbo, a fact corroborated by observations at the *locus in quo* and instead created a new one, the road leading to the primary school, in respect of which no evidence at all had been led. In the final result, the appeal is allowed. The judgment of the court below is set aside.

Instead the suit is dismissed with costs and judgment entered in favour of the appellant against the respondent on the counterclaim, in the following terms;

a) A declaration that the appellant is the owner of the land in dispute.
b) An order of vacant possession against the respondent
c) A permanent injunction restraining the respondent, his servants, agents and persons claiming under him from further acts of trespass on the appellant's land.
d) The costs here and below.

Dated at Gulu this 25th day of October, 2018

Stephen Mubiru
Judge,