

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)
CIVIL SUIT NO. 046 OF 2011**

ROSEMARY NABUKENYA
(Administrator of the Estate of the late } ----- **PLAINTIFF**
Maria Lwize Nalongo Nanyonga) }

VERSUS

1. **GLADYS MUKULA**
2. **EMMANUEL B.B. LUMU**
3. **TERESA LUMU**
4. **BETTY LUMU**
5. **CHIEF REGISTRAR OF TITLES** } ----- **DEFENDANTS**

JUDGMENT BY HON. MR. JUSTICE JOSEPH MURANGIRA

1. Introduction

- 1.1** The plaintiff through her lawyers Madibo Mafabi Advocates & Solicitors brought this suit against the five (5) defendants jointly or /and severally seeking judgment in the following orders; that:-
- (a) A declaration that Block 9 plot 360 belong to the deceased's estate.
 - (b) An order directing cancellation of the defendants' names on the certificate of title by the Registrar of titles.
 - (c) An order directing the entry of the administratrix's names on the registrar of titles.
 - (d) A declaration that the second and third defendants' name was registered illegally.
 - (e) Costs of the suit.

(f) Any other relief as Court may deem fit.

1.2 The 1st defendant through her lawyers M/s Kayanja & Co. Advocates filed a written statement of defence to the suit. Whereas, the 2nd, 3rd and 4th defendants through their lawyers M/s Mugarura, Kwarisiima & Co. Advocates filed a joint written statement of defence to the suit. During the pendency of this suit the 3rd defendant passed on. Nobody applied for letters of administration in respect of the 3rd defendant's estate. Nor did anybody come up to apply to Court to be appointed the legal representative to the 3rd defendant in this suit. According to Order 24 rule 4 (3) of the Civil Procedure Rules, S.I. 71-1, the suit against her abated. The said sub-rule (3) of rule 4, Order 24 (supra) provides:-

“ Where within the time limited by law no application is made under sub-rule (1) of this rule, the suit shall abate as against the deceased defendant”.

The 5th defendant never filed a defence to the suit. The 1st and 5th defendants never prosecuted their respective defences. Thus this suit proceeded *ex parte* against them. However, this Court was mindful of the cardinal principle that the plaintiff has a duty to prove her case on the balance of probabilities. And that the burden of proof kept on shifting to the 2nd and 4th defendants who prosecute their case in opposition to this suit.

1.3 The defences are that the plaintiff's case has no merit and that the same be dismissed with costs.

2.0 Facts of the case

2.1 The plaintiff's facts

The plaintiff is the administratrix of the estate of the Late Maria Lwiza Nalongo Nanyonga. On the 3rd July 1953, the deceased purchased land at Makerere from one Eriyabu Nsubuga which was later demarcated into plots, namely; **351,352,353,354,355,356,357,358,359** and **360**. The plots were registered in the names of the late deceased under instruments No. **MRV. 201 Folio 12** as indicated in the microfilm copies from the department of surveys. Entebbe, following the registration and purchase of land to wit plot 360, the deceased Maria Lwiza Nalongo Nanyonga constructed a permanent house therein. However, the second defendant was fraudulently registered pursuant to the fraudulent registration of the 1st defendant's names on title, the second defendant transferred his interest to the third defendant being his wife and the third defendant transferred her interest to the fourth defendant being her daughter who later sold the land to the 1st defendant. Thereafter the 1st defendant forcefully wanted the plaintiff out of the land hence this suit

When this suit was served on the first Defendant, she contended that she is a bonafide purchaser for value without notice, as her major defence and prayed for the suit to be dismissed with costs (**See paragraph 5 of the WSD**). Following the continuous failure to appear in court by both the first Defendant and her lawyer, the court issued an order directing the matter to proceed *ex parte*.

The second, third and fourth Defendants filed a joint written statement of defence stating that the second Defendant purchased the said land from the late Eliab Nsubuga in the 1950s, and added that although the sale agreement got lost, the witnesses who witnessed the sale transaction would be produced.

Consequently, that on 15th April 1961 the second Defendant got registered as the proprietor of the suit land under Instrument **No. MRV-102 folio 12(it is the same number the plaintiff was registered as proprietor)**. That the plaintiff's claim is thus farfetched as well as *res judicata* and therefore, the third and fourth Defendants are the successive lawfully registered proprietors of the land known as Block 9 Plot 360.

2.2 The 2nd and 4th defendants' facts

The 2nd defendant purchased the suit property way back in 1950s from one Eliab Nsubuga (now deceased) .The Sale Agreement which was executed between him and late Nsubuga as the Vendor got lost during the period of February 1966 to January 1971 while the 2nd Defendant was in Political Detention in Karamoja and later Luzira maximum prison. However prior to 1966, the 2nd defendant had been registered on the Certificate of title for Kibuga block 9 Plot 360 on the 15th April, 1961 the 2nd Defendant got him registered as the lawful owner/proprietor of the suit land under instrument No. MRV-102 Folio 12 having purchased the said plot for value from the said Eliabu Nsubuga. At the scheduling six issues were agreed upon.

2.3 The agreed facts after scheduling conference;

- **The plaintiff is in possession of the suit land and has been on the suit land for over 30 years.**
- **The suit land has a very big old structure built thereon and the said structure belongs to the plaintiff.**
- **The defendants' names appear on the title and 1st defendant is currently the registered proprietor.**

3. Issues framed for trial by the parties and witnesses for the parties

3.1 (a) Whether the Plaintiff is the lawful owner of the suit land.

(b) Whether the 1st defendant fraudulently procured the suit land in her names or was privy to such fraud.

(c) Whether the 2nd, 3rd and 4th Defendants fraudulently procured registration of the suit land in their names.

(d) Whether the defendants' names are liable for cancellation from the certificate of title for kyadondo block 9 Plot 360.

(e) Whether the suit property is part of the Estate of the late maria Lwiza Nalongo Nanyonga.

(f) What remedies are available?

3.2 Witnesses for the parties

3.2.1 The plaintiff called two (2) witnesses who gave evidence for the plaintiff:-

- (i) PW1- Kibalama James -56 years, Resident of Kawempe, Kalule Zone.**

- (ii) PW2- Joseph M. Tumwesigye – 59 years, senior photographs, resident of Kiwafu, Entebbe.

The above stated witness's evidence was never challenged by the defendants in cross examination. I have evaluated their evidence and found that there are contradictions and inconsistencies in their evidence.

3.2.2 The 2nd and 4th defendants called one witness (to wit the 2nd defendant). His witness statement was admitted in Court as his evidence by Consent of Counsel for the plaintiff on ground that the witness was very old aged 98 years and unable to attend Court. Counsel for the plaintiff dispensed with the cross-examination of DW1 on his statement on oath. I put some evidence value to his evidence and evaluated the same together with the plaintiff's evidence.

I considered that evidential statement, and found that DW1's statement does not challenge the overwhelming evidence that was adduced by the plaintiff's witnesses.

4. Resolution of the issues by Court.

4.1 I will resolve the 1st and 5th issues together. Issues 2, 3 and 4th together and lastly issue 6.

4.2 Issues 1: **Whether the plaintiff is the lawful owner of the suit land.**

5: **Whether the suit property is part of the Estate of the late maria lwiza Nalongo Nanyonga.**

Counsel for the 2nd and 4th defendants submitted that Section 59 of the Registration of Titles Act provides that Certificate to be conclusive evidence of title:-

No certificate of title issued upon an application to bring land under this Act

Shall be impeached or defeasible by reason or on account of any informality

Or irregularity in the application or in the proceedings previous to the

Registration of the certificate, and every certificate of title issued under this

Act shall be received in all courts as evidence of the particulars set forth in

The certificate and of the entry of the certificate in the Register Book, and

Shall be conclusive evidence that the person named in the certificate as the

Proprietor of or having any estate or interest in or power to appoint or dispose

Of the land described in the certificate is seized or possessed of that estate or

Interest or has that power. (Underlining is mine for emphasis)

In other words the person whose names appear in and on the Certificate of Title is the owner of the land in issue. Right.

Counsel for the 2nd and 4th defendants further submitted that the plaintiff has never appeared on any certificate of Title Known as Kibuga Block 9 Plot 360. That it is therefore their submission that the rightful owner of the suit land is the 1st defendant having acquired it from the successive owners.

I agree with the provisions of Section 59 of the Registration of Titles Act, I wish to add that in **KASIFA NAMUSISI AND OTHERS V FRANCIS M.K NTABAAZI S.C.C.A No. 4 of 2004** Odoki CJ held that;

“The cardinal principle of registration of title is that a certificate of title is conclusive evidence of title. it is also well settled that a certificate of title is only indefeasible in a few instances which are listed in section 176 of the Registration of Titles Act. The section protects a registered proprietor against ejectment except in cases of fraud, among others”

It is the submissions by Counsel for the 2nd and 4th defendants that the 2nd defendant had by 15 April 1961 been dully registered to the suit land and obtained a certificate of Title .However the plaintiff in her plaint alleged fraud.

The question that arises now is: whether the defendants are guilty of fraud?

In KAMPALA BOTTLERS LTD VS DAMANICO (U) LTD [1990-1994] 1 EA 141 the Supreme Court of Uganda at Mengo held that to impeach the title of a registered proprietor of land, fraud must be attributed to the transferee ,either directly or by necessary implication. The

transferee must be guilty of some fraudulent acts or must have known of some acts by somebody else and taken advantage of such act.

Under section 59 of the Registration of Titles Act, a certificate of title can be impeached for fraud. Odoki CJ, in **KAMPALA BOTTLERS LTD V DAMANICO (U) LTD [1990-1994]** 1 relied on the case of **WAIMIHA SAW MILLING Co. Ltd V WAIONE TIMBER Co. (1926) AC 101** and considered the Privy Council's simpler definition of fraud as "Implies some act of dishonesty".

Counsel for the 2nd and 4th defendants submitted that no act of dishonesty has been proved against the 2nd, the 3rd and the 4th defendants.

Counsel for the plaintiff does not agree with the submissions by Counsel for the 2nd and 4th defendants. He submitted that It wasn't disputed that a micro-film existed. Also, PW2's evidence showing that a micro-film is evidence of a certificate of title wasn't disputed.

Counsel for the plaintiff submitted that the said land had already been brought under the operation of the Registration of Titles Act under Instrument No. MRV 201 F12 (*see PW1 evidence page 2, 3rd last paragraph from bottom and PEX2*). By reason thereof the plaintiff was a lawful owner.

Further under the law, if one has been on the land for over 12 years uninterrupted, that person automatically gets legal possession under the principle of adverse Possession of the suit land.

The evidence shows that the plaintiff has been on the land for over 30 years and it is an undisputed fact. Even under the Land Act, Section 29 thereof, the plaintiff would be protected. The defendants cannot just wake up to evict the plaintiff who has been in occupation of the suit land for over thirty (30) years. The defendant's claims would be defeated by the period of limitation.

I therefore hold that, the plaintiff is a lawful owner.

I have noted that the submissions by the 2nd, 3rd and 4th defendants counsel submitted to the effect that the 1st defendant was the lawful owner, which issue wasn't framed and by reason thereof the same submissions hold no water at all. Also counsel cannot submit on behalf of a party where he has no instructions.

It is also important to note that the 1st defendant never prosecuted her defence. She never called any witness to support her case. The 2nd and 4th defendants never called other witnesses to collaborate the evidence of the 2nd defendant (DW1), the only witness for the defence. His evidence never challenged the plaintiff's witness's evidence. And certainly the law cited hereinabove is in favour of the plaintiff's case.

In the premises I find issues nos. 1 and 5 in the affirmative.

4.3 Issues nos:-

2: Whether the 1st defendant fraudulently procured the suit land in her names or was privy to such fraud.

3. Whether the 2nd, 3rd and 4th defendants fraudulently procured registration of the suit land in their names.

4. Whether the defendants' names are liable for cancellation from the certificate of title for kyadondo block 9 Plot 360.

4.3.1 Counsel for the 2nd and 4th defendants submitted that issue number two requires to be resolved by the very defendant for whom it is framed. That they will therefore not submit thereto. As indicated hereinabove that the 1st defendant never prosecuted her defence, it goes without saying that she did not challenge the plaintiff's evidence and the submissions against her. Wherefore issue no.2 is answered in favour of the plaintiff as against the 1st defendant.

4.3.2 Issue No. 3 whether the 2nd, 3rd and 4th defendants fraudulently procured registration of the suit land in their names.

Counsel for the 2nd and 4th defendants submitted that his clients' the 2nd, 3rd and 4th defendants are not guilty of any fraud. He contended that as a general rule, fraud must be specifically pleaded and proved. That though pleaded it is not proved by evidence that the 2nd 3rd and the 4th defendants committed any fraud. He submitted that no fraud was committed by the 2nd defendant, the 3rd defendant and later on the 4th defendant.

It is the opinion of Counsel for the defendants that the 4th defendant acquired title from the 3rd Defendant who had also acquired it from the 2nd

Defendant by way of Gift *intervivos* and therefore could not have been fraudulent whatsoever and by any reason.

Counsel for the 2nd and 4th defendants still contended that registration of titles is done by the land Registration office or the Registrar of titles. The person intending to bring his land under the operation of the Registration of titles Act only delivers instruments to be registered to the Registrar. Once satisfied with the instruments, the Registrar creates a title bearing the owners names/the registered proprietor and as such a registered proprietor simply receive a copy of ownership or a duplicate certificate upon submission of required instruments of transfer. That there is no evidence whatsoever both at the Land Registry or before this Court to suggest that the 2nd defendant committed any forgeries at the time of registration on 15 April 1961, neither the 2nd nor 4th defendants are in their successive registrations. I would not agree with his aforesaid submissions as I will show hereinafter in this judgment.

Counsel for the 2nd and 4th defendants further submitted that the 2nd, 3rd, and 4th Defendants never procured registration of the suit land in their names fraudulently. That according to him the above submissions answers issues 4 and 5 that is; Whether the defendants' names are liable for cancellation from the certificate of title for Kyadondo block 9 Plot 360 and whether the suit property is part of the Estate of the late Maria Lwiza Nalongo Nanyonga in the negative.

Counsel for the plaintiff contended in his submissions that there wasn't any response from the 1st defendant and he made prayer that this Court finds that the 1st defendant received proprietorship through fraud.

In response to issue 3, Counsel for the plaintiff submitted that the 2nd, 3rd and 4th defendant contend that evidence wasn't led to prove fraud. Counsel for the plaintiff reiterated his earlier submissions and submitted that fraud was proved necessitating cancellation of title of the 2nd, 3rd and 4th defendants from the certificate of title of the suit land.

The stating by the 4th defendant's consent application to transfer by the 3rd defendant that the land wasn't developed is a honest act but fraudulent. This alone is sufficient to cause cancellation of the 4th defendant's title. The stating that the 2nd defendant sold the land to the 3rd defendant is seen in the transfer from B.S. Lumu to Theresa Mary Lumu yet the evidence clearly states that it was a gift is not a honest act by the 2nd and 3rd defendants who signed the transfer forms. Using two different instrument numbers of **MRV 102 Folio 12** in 1961 for the 2nd defendant and KLA 33660 also in 1961 cannot be said to be a honest act by the land Registrars. That fact that none of their names existed in Entebbe Lands is further proof of the forgery or scrupulous certificate of title.

Even if I am to consider that the plaintiff's interest is unregistered, **under the a person who procures registration of land to defeat the interest of an unregistered person that amounts to fraud.**

The facts show that the Plaintiff purchased the said piece of land in 1953 from Eriab Nsubuga (see *pEx 1*), built a house in the said plot in 1954, aerial photographs taken in 1955 captured the said house (see *pw2's evidence on page 2 2nd & 3rd paragraphs*). 2nd and 3rd defendants were registered as proprietors in 1961 under two different designed instruments to wit MRV102 F12 & KLA 33660. The question is why not **either MRV 103 F12 or MRV I02 F13** and if the design had just changed why no KLA 1?

It is my considered opinion that the procuring of certificate of title by the 2nd defendant with the knowledge of the plaintiff's house on the suit land and or aware of the house of the plaintiff on the suit land, transferring it to the wife, the 3rd defendant, by gift, and later 3rd defendant transferred it to the daughter, the 4th defendant by gift is enough evidence of fraud. The 2nd defendant knew there was plaintiff's house on the suit land and so were the subsequent defendants. All those actions are not honest action and therefore render the said title in issue liable for cancellation.

It is also important to note that if the 2nd, 3rd and 4th defendants acquired interest in the suit land since 1961, then why did they not take possession of the suit land till to date?. From the 1950's up to date the estate of Maria Lwiza Nalongo Nanyonga has not been disturbed by my person until 2011 when the 1st defendant laid her claims over the suit property.

In the case of **Edward Rurangaranga Vs Mbarara Municipal Council and 2 others SCCA No. 10/96 [1997] Kalr.139: it was held: "The Appellant to have applied for the suit land stating that there was no**

building thereon except stones and sand, repeating the same in Court, whereas there was an erected building already occupied was evidence of guilty knowledge and fraud”.

In another case of **Omar Salim Mukasa Vs Haji Muhammed & another CACA NO 114 of 2003**; it was held: “In equity constructive Knowledge is deemed to constitute fraud. In the instant case, the second respondent saw the appellant’s house built on the suit land. ***If the second Respondent had inquired, they would have discovered the appellant’s interest on the suit land but did not do so.*** That was **evidence of fraudulent intension to defeat the Appellant’s interest.”**

In the instant case, the facts show:

- i)** All parties to the suit agreed that the plaintiff is in possession of the suit land and has been on the suit land for over 30 years. The suit land has a very old big structure built thereon and the said structure belongs to the Plaintiff.
- ii)** The agreed documents, to wit, PEX1 being the Sale Agreement, shows that the Plaintiff purchased land in 1953, PEX6 the LC1 Chairman’s Letter shows that there is an old house on Plot 360 Block 9 and that he found it there, PEX7 shows the photographs of the old structure.
- iii)** The evidence of PW1 Kibalama James on page 1, 4th paragraph from top shows that a permanent structure was built on Plot 360 Block 9 and is over 30 years old. PW2 Joseph M. Tumwesigye clearly shows in his evidence on page 2, the 2nd and 3rd

paragraphs show an aerial photograph of the house built as early as 1954 and the same has been in existence on the suit land for over 40 years.

These pieces of evidence were never challenged by the defendants.

- iv) The application for consent to transfer from Betty Lumu to Gladys Mukula and the same being an agreed document marked PEX3(ii) shows that the land *is not developed or has NIL development*. PW1 Kibalama in his evidence in chief on page 2, 5th paragraph testified and showed that 1st defendant stated in the application for consent to transfer that the land in issue is **underdeveloped**.**
- v) PW1 Kibalama further states that the first defendant never carried out a search in the land Registry of the Ministry of Lands, Housing and Urban Development.**
- vi) The Plaintiff stated in her Complaint paragraph 5(f) and (g) that the 1st and 4th defendants concealed vital information to government officials and thus misled them from lawfully assessing the stamp duty as well as procuring title through falsehoods and or lies. PEX3 (ii) stating that the land is undeveloped was a lie.**

Whereas the facts in the above authorities are not exact, the law and the principles applicable are the same. Failure to carry out search despite the

overwhelming evidence of an old structure amount to constructive knowledge and is evidence of a fraudulent intension to defeat the Plaintiff's interest in the suit land.

Counsel for the plaintiff submitted that the first Defendant's statement to the effect that the land is undeveloped, (which is manifested in PEX3 (ii) for the purposes of obtaining consent to transfer), was a lie; the truth being that the land was developed. PEX3 (ii) is signed by the first Defendant's agent for the benefit of the first Defendant and on the strength of the above evidence, amounts to fraud.

In the case of **Fredrick J.K. Zaabwe Vs Orient Bank Ltd and others SCCA No. 4 of 2006 [2007] ULR 98** – Fraud was defined to mean an intentional perversion of truth for purposes of inducing

Another.... Fraudulent means acting willfully, with the specific intent to deceive or cheat.

The first defendant's statement that the land is undeveloped or development **NIL** was a lie and intended to cheat and by reason thereof was fraudulent. The act was a clear dishonest and intended to defeat the Plaintiff's interest.

Further, even if I am to believe the first Defendant never carried out a search, that would amount to constructive notice and constructive notice is fraud.

Counsel for the plaintiff submitted that the first Defendant had constructive notice of fraud because she failed to carry out a search, lied to the government authorities and the rest of the world that the land was undeveloped. **In Zaabwe's case**, *ibid*, it was held that where an Advocate acts for a party and he/she has notice of the alleged fraud, that notice is imputed to his/her client. Counsel for the plaintiff submitted that fraud by an agent is fraud by the principal since the principal is the final beneficiary.

In the result I find that the first defendant procured registration by fraud or fraudulently. Issue no. 2 is answered in favour of the plaintiff.

Further, on issue no.3 I adopt the authorities as well my analysis on issue no 2 and add that by the 4th defendant stating that there was no building whereas there was, was evidence of fraud on her part.

The facts on court record and the evidence clearly show that:-

- i) The fourth Defendant's statement, in her application for consent to transfer Plot 360 Block 9 that the land was not developed, (see PEX3(iii) transfer from Theresa Mary Lumu to Betty Lumu), was a pure lie in light of the overwhelming evidence showing that Block 9, Plot 360 had a big developed house. This is clear evidence of dishonest dealing.

In Walmile Saw Milling Co. Ltd Vs Waone Timber Co. Ltd [1926] AC 101 Lord Buchmaster defined fraud at page 106 to be “...an act of dishonesty”.

In that regard, I make a finding that the 4th defendant that by stating that the Block 9, Plot 360 was not developed was a dishonest act which amounts to fraud. Since registration was based on that fact to cause government to register the same, the act was illegal. Also the fact of stating that the land was undeveloped yet it was is either clear evidence of failure to carry out a search which amounts to constructive notice or knowledge and procuring registration is evidence of fraud to defeat the Plaintiff's interest.

In the case of **Sejjaka Nalume Vs Rebecca Musoke SCCA No. 12/85 [1992] Kalr 132**, the dates were backdated to falsify the record to defeat and in allowing the appeal, the court said “**...not only was that unfair play but also fraud**”

In the instant case, the 4th defendant in her application for consent to transfer, it was stated by the 4th defendant's mother that the land was undeveloped, which was a lie. The mother was acting as the 4th defendant's agent and the one who gave the land in issue to the 4th defendant.

The law is to the effect that fraud by an agent is fraud by the principal. Since the 4th Defendant benefited from the fraud and the title was obtained through fraud, I hold that the same is found to have been procured fraudulently by the 4th defendant.

Though as I have held hereinabove that the 3rd defendant's suit against her abated, all the same it would be helpful for me to consider her actions in relation the conveyancing of the suit land in her favour before her death.

For the 3rd defendant; the evidence shows that she failed to carry out a search before acquiring the said land from B.S. Lumu, proof whereof can be seen from the application for consent to transfer where she stated that the land was undeveloped and further, signed it on behalf of her daughter, the 4th defendant.

The transfer forms have the inscription **KLA 33660** yet at that time the instrument numbers were **MRV 102 F.12** as per the instrument on the plaintiff's microfilm.

The said land in issue had a built house as at the time of acquiring the said property. The third Defendant stated that she had purchased the said property yet the second Defendant's evidence show it was a gift to his wife. These are not honest acts.

For the second defendant: the evidence on record shows that the second defendant did not carry out the search and therefore had constructive notice of which amounts to fraud.

The plaintiff built on the plot in issue a permanent house as early as 1955 and the second defendant aware of it procured a certificate of title to defeat the plaintiff's interest.

The 2nd defendant used the instrument number of the Plaintiff's mother to wit **MRV 102 F.12** to register himself. The evidence by PW2 shows that the Plaintiff was registered on 15th April 1961 under **MRV 102. F.12** and tendered in a microfilm to prove the same. PW2 further stated that no title would be released without the same being photographed and that is why the Plaintiff's microfilm exists. This piece of evidence was not challenged.

From my analysis of the facts, evidence and the law applicable I make a finding that use of the same instrument number by the 2nd defendant in acquiring registration while aware that the Plaintiff had been registered under the same on the 15th April 1961, wherein a microfilm demonstrated the same, is not an honest act. The 2nd defendant did not adduce any evidence of purchase, occupation, possession or otherwise in respect of the suit property.

In the result I hold that the second, third and fourth Defendants procured registration of the suit land by fraud. Wherefore, issues nos. 2, 3 and 4 are answered in the affirmative. Under S. 176 of the RTA certificate of title is liable for cancellation upon proof of fraud. S.177 of the RTA clothes this court with the powers to order for cancellation.

4.4 Issue no.6: What are the remedies?

Indeed having found issues nos. 1, 2, 3, 4 and 5 in favour of the plaintiff, certainly she is entitled to the reliefs being sought in the plaint. The plaintiff's prayers in the plaint were never challenged. The plaintiff

hereinabove proved her case to my satisfaction and she entitled to the claimed remedies in the plaint.

Accordingly, therefore, I find also issue no. 6 in the affirmative.

5 Conclusion:

In the result and for the reasons and the authorities cited hereinabove in this judgment, I enter judgment in favour of the plaintiff as against the defendants jointly or/and severally in the following orders:-

- (a) That Block 9 plot 360 belongs to the estate of Maria Lwiza Nalongo Nanyonga. The 1st defendant's certificate of title is hereby cancelled.
- (b) That an order directing cancellation of the 1st, 2nd, 3rd and 4th defendants' names on the certificate of title and in the Register Book by the Registrar of titles (the 5th defendant) is hereby granted
- (c) That an order directing the entry of the administratrix's names, the plaintiff on the certificate of title and in the register book by the 5th defendant is granted.
- (d) That the 1st, 2nd, 3rd and 4th defendants' names were registered by the 5th defendant illegally.
- (e) Order (a) (b) and (c) above shall be complied with by the 5th defendant, the Chief Registrar of Titles/Commissioner Land Registration as soon

as practicable but not later than 30 (thirty) days from the date of this Judgment.

(f) Costs of this suit are awarded to the plaintiff against the 1st, 2nd and 4th defendants.

Dated at Kampala this 19th day of June, 2013.

sgd

Murangira Joseph

Judge