THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA SITTING AT ARUA

CIVIL APPEAL No. 0026 OF 2016

(Arising from Paidha Grade One Magistrate's Court Civil Suit No. 0039 of 2012)

MIZA S/O BEKI (MIZA BHAKIT) …….…..…… APPELLANT

VERSUS

BRUNA OSOSI ……..…..…… RESPONDENT

Before: Hon Justice Stephen Mubiru.

JUDGMENT

In the court below, the respondent sued the appellant for recovery of land measuring approximately half an acre, situate at Aluka village, Dwonga Ward, Paidha Town Council in Zombo District, a declaration that she is the rightful owner of that land, a permanent injunction against further acts of trespass, and the costs of the suit. It was the respondent's case that in prior litigation with the appellant, the land in dispute was decreed to the respondent by the court of first instance and by the High Court on appeal, sitting at Gulu. Consequent upon the said decisions, the respondent entered into and enjoyed quiet possession of the land from the year 2004 until some time during the year 2012 when the appellant trespassed onto the land and took over an area the respondent had ploughed in preparation for planting. Her subsequent attempts to cause the appellant to vacate the land being unsuccessful, she filed the suit from which this appeal arises.

In her written statement of defence, the appellant refuted the respondent's claim and stated that the proceedings of the court of first instance referenced by the respondent were nullified on appeal to the High Court. She contended further that she is the rightful owner of the land in dispute having inherited it from her late father, Bakit Sururu who died during 1968. She was born on the land in dispute and her family has at all material time been in possession thereof. Being a minor at the time of her father's death, her mother Zam Zam Ociba took care of the land

until the appellant became of age and it is her mother who defended the impugned court proceedings.

In her testimony as P.W.1, the respondent, stated that she purchased the land in dispute from a one Maleu Bekit in 1984. She took possession of the land and began growing crops on it. She has coffee trees, a banana plantation, cassava, potatoes and other crops. She also built a house on the land. She had lived on the land for about ten years when the appellant trespassed on it, began harvesting her coffee and bananas and growing crops on the land. She filed a suit against the appellant before the Grade One Court at Paidha, which was decided in her favour. On appeal to the High Court, the decision was still in her favour.

P.W.2 Obote Mudashir, the respondent's son, testified that the appellant had since the year 2004 trespassed on the respondent's land by making bricks, planting maize, harvesting the respondent's coffee, bananas and sugarcane. The respondent purchased the land in dispute on 25th April, 1984 from a one Maleu Mbeki at a price of shs. 70,000/= and he was present and witnessed the transaction. Upon purchasing it, the respondent grew seasonal and perennial crops on the land. Some time during the past, the respondent had sued a one Zam Zam Ochiba, the appellant's step-mother and wife to her father, who had trespassed on that land and the decisions of court, up to the High court, were delivered in the respondent's favour.

P.W.3 Manasse Ososi, the respondent's husband, testified that the respondent purchased the land in dispute from a one Maleu during the year 1984. Later on, the appellant's step-mother, Zam Zam Ochiba, began claiming the land as hers. She demolished the respondent's house found on the land and the respondent sued her. She began the suit at the L,CI level up to the high Court and the decisions of all the courts were in the respondent's favour. The appellant's wrongful activities on the land include making bricks, harvesting the respondent's crops and taking over possession of the land since the year 2008. The witness was present when the respondent bought the land at the price of shs. 70,000/=. At the time Maleu sold the land to the respondent, the seller had a house and coffee trees on the land. That was the close of the respondent's case.

In her defence, the appellant who testified as D.W.1 stated that it is the respondent who trespassed on her land. The crops on the and were planted by her son. The land belongs to their family comprising about thirty people which they inherited from their late father in 1968. The respondent has ever been in possession. During the war of the 1980s, they migrated to Congo but their brother, Maleu who was mentally disturbed, remained behind and it is him who purported to sell the land to the respondent. They came to learn of this fact during the year 2004. Her mother Zam Zam Ochiba sued the respondent and the court of first instance decided in favour of the respondent. The decision was reversed on appeal to the High Court. As a result of that decision, the appellant took possession of the land during 2005, but the respondent continued to destroy their houses and crops on the land and received compensation for a road going through the land, against their protestations.

D.W.2 Sika Abdulai, the appellant's brother, testified that he is the one who in 1968 planted the perennial crops now existent on the land. The land formerly belonged to his father Bakit Sululu. Upon the death of their father, their mother Zam Zam Ochiba, took charge of the land. Whwen war errupted around 1980 they fled to Congo. Upon their return from exile around 1990 - 1994, they found the respondent had purchased the land from their brother Ayub Maleu who was by then mentally disturbed. Their mother Zam Zam Ochiba sued the respondent and the case was at first instance decided in favour of the respondent. The appeal to the High Court ended in a stalemate. D.W.3 Swaler Bakit, a member of the appellant's family, testified that the land formerly belonged to their father Bakit Sululu. Upon his death in 1968, their mother Zam Zam Ochiba, took charge of the land. When she too died, the children took over and it has since fallen vacant. A road traverses the plot. D.W.4 Abdulahami Bakit, another of the appellant's brothers, testified that there was a house on the land in dispute which belonged to Maleu but that it has since been demolished. Maleu sold the respondent the land during 1983. the crops on the land were planted by the appellant's father.

D.W.5 Abdulahami Oroga Jalngido, the Chiefdom Leader of Paidha Omua Clan, testified that the land in dispute belongs to the appellant. It formerly belonged to the appellant's father and upon his death in 1968, his children, including the appellant, took it over. The 1980 war forced them into exile and upon their return found the respondent had taken possession of the land. It is

one of the appellant's brothers, Maleu Bekit, who had become mentally disturbed, who sold the land to the respondent. They filed a case which went up to the High Court from where the respondent returned claiming it had been decided in her favour.

D.W.6 Sadik Angala, testified that the land in dispute belonged to the appellant's father. Upon his death his children took over the land. When war broke out, they fled to Congo but on their return they found the respondent in occupation, having bought it from one of their brothers, Maleu Bekhit. A case was initiated but he did not know in whose favour it was decided. The appellant then closed her case.

The court then visited the *locus in quo* on 1st September, 2016. The witnesses proceeded to show court the various crops and houses on the land which they had mentioned in their testimony in court. The court drew a sketch map of the land and recorded its observations. In his judgment, the trial magistrate found that it was not in dispute that the respondent had purchased the land in dispute from the appellant's brother, Maleu. At the time the respondent bought the land, there was nothing to indicate that any other person had any interest in the land, since the appellant and the rest of the family had by then fled to the Congo. There was no evidence to prove that Maleu was mentally disturbed. He had a house and crops on the land and for intents and purposes the land belonged to him and he had the capacity to sell it. He found that the decision of the Chief Magistrate in the previous proceedings involving Zam Zam Ochiba had been set side on appeal upon the finding of the High Court that the trial magistrate had wrongly exercised a jurisdiction which at the time was exclusively vested in District Land Tribunals. The respondent had been in peaceful possession of the land from 1984 until 1998 when the appellant attempted to recover the land. The respondent was this declared the rightful owner of the land, a permanent injunction was issued against the appellant and persons claiming under her, and the respondent was awarded the costs of the suit.

Being dissatisfied with the decision, the appellant appealed it on the following ground;

1. the learned trial magistrate erred both in law and in fact when he held that the sale of the suit land by the appellant's deceased brother Maleu to the respondent was valid and thus made a wrong decision that the respondent is the owner of the suit land.

Counsel representing the appellant, Mr. Paul Manzi submitted that the trial magistrate erred in law and fact when he held that sale of the suit land by the appellant's deceased brother was valid. Based on that wrong finding the court made a wrong decision that the respondent is the owner of the land. The trial magistrate is faulted on that finding because it went against the weight of the evidence. There was evidence on record to the effect that the crops on the land in dispute were planted by the son of the appellant called Swalleh. He said the land belongs to them as a family, 30 of them and they inherited it from their father Bakhit Suru in 1968 when he died. On basis of that evidence and that of DW2, DW3 who all said the land belonged to Bakhit the father of the appellant, the trial magistrate was not justified in finding that the land belonged to Maleu the brother of the appellant who sold it to the respondent.

DW5 Abdulai Rwoga said the land is for Bakhit Sururu the father of the defendant who was by then deceased. The defendants and other children took over the land. There was no evidence to support the finding of the trial magistrate that the land was owned by Maleu Bakhit. Instead it shows that it belonged to the late Bakhit Sururu. All defence witnesses were consistent. Apparently Maleu sold the land to the respondent when the rest of the family members had ran to exile in Zaire because of the war during the Obote II government. The issue then is whether this land which was sold by Maleu by the respondent belonged to Maleu Bakhit or to the estate of their father Sururu Bakhit. The evidence supports the latter position that the land belonged to the estate of the deceased father and that is why the family members when they returned from exile their mother the late Zam Zam Ociba filed a suit at Nebbi which did not resolve the matter of ownership and eventually there was an appeal at the Gulu High Court. The effect of the judgment was that the earlier suit at Nebbi was a nullity for want of jurisdiction because the Judge found it ought to have gone to a tribunal. He ordered that whoever was aggrieved as regards the ownership of the suit land should file a fresh suit in a competent court. The respondent seemed to base her claim to the land on that judgment of Nebbi.

The trial magistrate found that the land belonged to Maleu, the brother of the appellant. The respondent did not offer any other evidence to substantiate the ownership of Maleu. P.W.2 Obote Mudasiri who is related to the respondent said that Maleu got the land from Musa Mutoro. This was rebutted by all the defence witnesses. The Respondent never produced the agreement of sale

between her and Maleu. The rest of her witnesses; P.W.2 although he said he was present when the respondent bought the land and an agreement was signed he did not sign it. No photocopy or otherwise was produced to confirm the sale. When they returned from exile the appellant and his mother and brothers took over possession of the land. So it is not true that the respondent was in uninterrupted possession. While in possession they planted permanent crops on the land. Even if it were true that she bought the land from Maleu, he was not owner and had no title to pass to her. The court on re-evaluation should find that the land belonged to the appellant's father and his children inherited it with their brother and mother and the brother had no authority to sell it. He prayed that the appeal be allowed and the judgment of the trial court be set aside. A declaration be made that the land belongs to the estate of the appellant's mother and the costs of the appeal and of the lower court be awarded to the appellant.

The respondent appeared *pro se* and submitted in response that whatever the advocate had said was all false. She started by lodging a complaint before the L.C. and all the decisions thereafter were in her favour against the appellant. The elders, the L.C.II and the Magistrate at Nebbi decided in her favour. When they appealed to the High Court in Gulu all the decisions were in her favour. Maleu sold to her his own land given to him by his late father and he sold it because he had a sick child. She verified that the land belonged to Maleu not the estate of the deceased, before she bought it. Maleu sold her the land in the presence of the elders and the Parish Chief. There were witnesses at the time of the transaction and they testified in court. The decision of the magistrate was therefore correct since he was guided by the evidence. By the time she bought the land, the appellant had returned from exile but she did not take any step. She is the one who planted the bananas, sugar cane and constructed the four houses on the land. She had occupied the land for eight years when the appellant's family started disturbing her by cultivating the land. She prayed that the court should allow her to stay on the land because she is taking care of orphans.

In reply, counsel for the appellant submitted that the respondent's claim that the decision in Nebbi was in her favour and that she had won the appellant in Gulu High court was erroneous. She never won any of those suits and appeals. He reiterated his prayers.

This being a first appeal, 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. This duty is well explained in *Father Nanensio Begumisa and three Others v. Eric Tiberaga SCCA 17of 2000*; [2004] KALR 236 thus;

> It is a well-settled principle that on a first appeal, the parties are entitled to obtain from the appeal court its own decision on issues of fact as well as of law. Although 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.

This court therefore is enjoined to weigh the conflicting evidence and draw its own inferences and conclusions in order to come to its own decision on issues of fact as well as of law and remembering to make due allowance for the fact that it has neither seen nor heard the witnesses. The appellate Court is confined to the evidence on record. Accordingly the view of the trial court as to where credibility lies is entitled to great weight. However, 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 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.

Two versions were presented to the trial magistrate; the appellant's version was that the land in dispute belonged to the estate of her late father and that it is her son who had planted the perennial crops found on the land. That of the respondent was that her predecessor in title, a one Maleu Bakhit, brother of the appellant, had sold to her what constituted his share of that estate. It was therefore not in dispute that historically, the land in dispute formed part of the estate of the late Sururu Bakhit. In order to have a valid title to the land that he eventually sold, there had to be evidence that the Maleu Bhakit, from whom the respondent bought the land, acquired it by inheritance from the estate of his late father, Sururu Bakhit , or as a gift *inter vivos,* since Maleu Bhakit's title was rooted in the claim that it was Maleu Bakhit share of the estate.

To take by inheritance is defined as "to take as heir on death of ancestor; to take by descent from ancestor; to take or receive, as right or title, by law from ancestor at his demise" (see *Black's Law Dictionary, 8th edition*, 2004). Inheritance therefore denotes devolution of property under the law of descent and distribution. The process of devolution is regulated by the relevant law of descent and distribution which may be either customary, statutory or both. Under both systems, inheritance primarily and narrowly deals with the transmission of property, or of rights to such property, which by necessary implication excludes taking by deed, grant or purchase. Whether testate or intestate, inheritance entails a process guided by rules that govern the devolution and administration of a deceased person's estate. The common purpose of inheritance under both the customary and statutory legal regimes is that the property of the deceased intestate should be left to the use and benefit of his or her closest relatives or those who were dependent upon him or her during his or her lifetime. By virtue of the procedural requirements embedded in the concept of inheritance, it follows that an individual who claims property of a deceased person only by dint of social affiliation does not necessarily claim by inheritance unless and until it is proved that the devolution was in accordance with the relevant law of descent and distribution under custom or enactment.

Under the legislative regime, section 191 of *The Succession Act* provides that 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. Before the trial court, there was no evidence that any member of the family of the late Sururu Bakhit ever took out letters of administration. Therefore, the late Maleu Bakhit could not have acquired a share of the estate of his deceased father through such a process. That left only one other possibility, inheritance by custom.

Having traced the root of her title to a person who is said to have acquired it by inheritance, the burden was on the respondent to prove that Maleu Bakhit had acquired the land in dispute following rules that govern the devolution and administration of a deceased person's estate under a specific customary law, by adducing evidence clarifying or defining what those rules are within the customary context. Customary law concerns the rules, practices and customs of indigenous peoples and local communities. It is, by definition, intrinsic to the life and custom of indigenous

peoples and local communities. What has the status of "custom" and what amounts to "customary law" as such will depend very much on how indigenous peoples and local communities themselves perceive these questions, and on how they function as indigenous peoples and local communities.

Defining or characterising "customary law" typically makes some reference to established patterns of behaviour that can be objectively verified within a particular social setting or community which is seen by the community itself as having a binding quality. Such customs acquire the force of law when they become the undisputed rule by which certain entitlements (rights) or obligations are regulated between members of a community. According to one definition, "custom" is a "rule of conduct, obligatory on those within its scope, established by long usage. A valid custom must be of immemorial antiquity, certain and reasonable, obligatory, not repugnant to Statute Law, though it may derogate from the common law" (see *Osborne's Concise Law Dictionary*, Ninth Edition (Sweet and Maxwell, 2001). "Customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of a social and economic system that they are treated as if they were laws" (see *Black's Law Dictionary*, 8th edition, 2004).

Customary law is therefore "law consisting of customs that are accepted as legal requirements or obligatory rules of conduct; practices and beliefs that are so vital and intrinsic a part of a social and economic system that they are treated as if they were laws" (see *Black's Law Dictionary*, 8th edition, 2004). It is also defined by section 1 (1) (a) of *The Magistrates Courts Act* as "the rules of conduct which govern legal relationships as established by custom and usage and not forming part of the common law nor formally enacted by Parliament." Customary law is therefore generally conceived as locally recognised principles, and more specific norms or rules, which are orally held and transmitted, and applied by community institutions to internally govern or guide all aspects of life.

Section 56 (3) of the *Evidence Act* permits a court to take judicial notice as a fact, the existence of practices which are not subject to reasonable dispute because they are generally known within the trial court's territorial jurisdiction. Such judicial notice can be taken within the context of this

appeal to the extent that land held under customary tenure may be acquired by customary inheritance, usually by close relatives of the deceased owner of such land. That is as far as judicial notice may go. Under section 46 of *The Evidence Act*, when the court has to form an opinion as to the existence of any general custom or right, the opinion as to the existence of such custom or right of persons who would be likely to know of its existence if it existed, are relevant. Considering that the customary rules, formalities and rituals involved in general inheritance of property and specifically to inheritance of land may vary from community to community, a person asserting that he or she inherited land in accordance with the applicable customary rules must prove it as a fact by evidence in the event that such rules are not documented.

The former Court of Appeal for East Africa in the case of *Ernest Kinyanjui Kimani v. Muira Gikanga [1965] EA 735* held that where African Customary Law is neither notorious nor documented, it must be established for the court's guidance by the party intending to rely on it and also that as a matter of practice and convenience in civil cases, the relevant customary law, if it is incapable of being judicially noticed, should be proved by evidence of expert opinions adduced by the parties. The ascertainment of customary law requires that the court determines whether the alleged rule is indeed a law as defined by the community, as the source of living customary law is the community itself. It must then proceed to determine whether the specific customary rule satisfies the legal test to constitute enforceable customary law for as the gatekeepers of customary law, courts must ensure that the customary law relied on is not incompatible with the provisions of the constitution, any written law and is not repugnant to natural justice, equity and good conscience.

The onus of proving customary inheritance begins with establishing the nature and scope of the applicable customary rules and their binding and authoritative character and thereafter evidence of acquisition of the property of the deceased in accordance with those rules. Descent and kinship mould inheritance practices. The inheritance practices determine the settling of the estate and how the estate should devolve. They determine the person with responsibility for distributing the estate, the persons entitled to a share and the proportions to which they are entitled. The trajectory of inheritance in any society is usually associated with the cultural interpretation of kin and is thus not a term that can be applied universally to any situation of property transmission

without reference to structuring effects of kinship relationships. Inheritance is conditioned by how, culturally, people define to whom they consider themselves to be related and in what way.

In this case, apart from asserting that Maleu Bhakit acquired the land in dispute as his share of the estate of his late father Sururu Bakhit, the respondent did not adduce any evidence regarding the custom under which that devolution by inheritance occurred, the rules and practices of inheritance which determine the settling of estates of intestate deceased persons under that custom or how the estates should devolve, compliance with those established rules and practices of inheritance in his specific instance, and that those rules and practices are not incompatible with the provisions of the constitution, any written law and are not repugnant to natural justice, equity and good conscience.

The alternative possibility of Maleu Bhakit having acquired the land by way of gift *inter vivos* was not supported by any evidence. Whereas ownership of land under customary tenure may be acquired by gift, three elements must be established in order to have a valid gift (or to "perfect" the gift): (a) an intention to donate (sometimes referred to as donative intent, or *animus donandi*); (b) acceptance of the gift by the donee; and (c) a sufficient act of delivery or transfer. The intention to donate is ordinarily manifested by declaration of the gift by the donor. Acceptance of the gift must be expressed or implied from conduct by or on behalf of the donee, and there must be evidence of delivery of such possession of the subject of the gift by the donor to the donee. An *inter vivos* gift exists if the donor, while alive, intends to transfer unconditionally legal title to property and either transfers possession of the property to the donee or some other document evidencing an intention to make a gift and the donee accepts the gift (See *Standard Trust Co. v Hill, [1922] 2 W.W.R. 1003, 1004 (Alta. Sup. Ct. App. D*). None of these requirements were proved by the respondent.

That being the case, the trial court misdirected itself when it found as a fact that the land belonged to the late Maleu Bhakit before he sold it to the respondent. There was no evidence before the trial court establishing Maleu Bhakit's claimed root of title either as a share from the estate of his late father, Sururu Bakhit or as a gift *inter vivos* from him. The appellant did not adduce evidence of that nature. On basis of the *Nemo dat quod non habet* principle, in absence of

proof of a legal estate in the disputed land vested in Maleu Bhakit by gift, or inheritance as claimed by the respondent, he lacked capacity from the very beginning, to sell the land to the respondent.

That aside, the standard of due diligence imposed on a purchaser of unregistered land is much higher that that expected of a purchaser of registered land. In the instant case, before purchase of the land the respondent does not seem to have undertaken wide enough inquiries regarding the history of Maleu Bhakit's presence on the land. Had she done so, she would have discovered that Maleu Bhakit had before the war, lived on the land together with the rest of the family, the appellant inclusive, then living in exile and had she inquired further from that point she would have obtained notice of the appellant's adverse claim to the land as part of the estate of the late Sururu Bakhit.

A purchaser of unregistered land who does not undertake the otherwise expected lengthy and often technical investigation of title, which will often ordinarily involve her in quite elaborate inquiries, is bound by equities relating to that land of which she had actual or constructive notice. Constructive notice is the knowledge which the courts impute to a person upon presumption so strong of the existence of the knowledge that it cannot be allowed to be rebutted, either from her knowing something which ought to have put her on further enquiry or from wilfully abstaining from inquiry to avoid notice (see *Hunt v. Luck (1901) 1 Ch 45*). The respondent in arguing the appeal proceeded on a misconceived position that there was a valid previous decision in her favour that granted her possession and ownership of the land.

However, the respondent had been in adverse possession of the land since 1984. No suit was filed against her until the year 2012, about 28 years after she took possession of the land, when she herself filed a suit to assert her proprietary rights. Actions for recovery of land have a fixed limitation period stipulated by *section 5 of The Limitation Act,* provides that;

> No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the right of action accrued to him or her or, if it first accrued to some person through whom he or she claims, to that person.

This limitation is applicable to all suits in which the claim is for possession of land, based on title or ownership i.e., proprietary title, as distinct from possessory rights. Furthermore, *Section 11 (1) of the same Act* provides that;

> No right of action to recover land shall be deemed to accrue unless the land is in the possession of some person in whose favour the period of limitation can run (hereafter in this section referred to as "adverse possession"), and where under sections 6 to 10, any such right of action is deemed to accrue on a certain date and no person is in adverse possession on that date, the right of action shall not be deemed to accrue until adverse possession is taken of the land. (Emphasis added).

According to section 6 of the same Act, "the right of action is deemed to have accrued on the date of the dispossession." A cause of action accrues when the act of adverse possession occurs. In *F.X. Miramago v. Attorney General [1979] HCB 24, it was held* that the period of limitation begins to run as against a plaintiff from the time the cause of action accrued until when the suit is actually filed. Once a cause of action has accrued, for as long as there is capacity to sue, time begins to run as against the plaintiff.

If by reason of disability, fraud or mistake the operative facts were not discovered immediately, then section 21 (1) (c) of *The Limitation Act* confers an extension of six years from the date the facts are discovered. This disability though must be pleaded as required by Order 18 rule 13 of *The Civil Procedure Rules*, which was not done in the instant case. A litigant puts himself or herself within the limitation period by showing the grounds upon which he or she could claim exemption, failure of which the suit is time-barred, the court cannot grant the remedy or relief sought and must reject the claim (see *Iga v. Makerere University [1972] EA 65).* It is trite law that a plaint that does not plead such disability where the cause of action is barred by limitation, is bad in law. The appellant in the instant case did not plead disability.

It is trite law that uninterrupted and uncontested possession of land for a specified period, hostile to the rights and interests of the true owner, is considered to be one of the legally recognized modes of acquisition of ownership of land (see *Perry v. Clissold [1907] AC 73, at 79*). In respect of unregistered land, the adverse possessor of land acquires ownership when the right of action to terminate the adverse possession expires, under the concept of "extinctive prescription" reflected in sections 5 and 16 of *The Limitation Act.* Where a claim of adverse possession succeeds, it has

the effect of terminating the title of the original owner of the land (see for example *Rwajuma v. Jingo Mukasa, H.C. Civil Suit No. 508 of 2012*). As a rule, limitation not only cuts off the owner's right to bring an action for the recovery of the suit land that has been in adverse possession for over twelve years, but also the adverse possessor is vested with title thereto.

In the circumstances, although the trial court came to the wrong conclusion when it decided that the respondent had acquired valid customary interest in the land by purchase, I find that by reason of adverse possession extending over a period of 28 years, the appellant's claim to the land was extinguished by prescription. In the final result, I do not find merit in the appeal. It is accordingly dismissed. The costs of the appeal and of the court below are awarded to the respondent.

Dated at Arua this 21st day of December, 2017

……..
Stephen Mubiru
Judge,
21st December, 2017.