

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(LAND DIVISION)**

MISC APPLICATION NO. 081 OF 2016

SSEGIRINYA GERALD:.....APPLICANT

VERSUS

**MUTEBI
INNOCENT:.....RESPONDENT**

Before: HON. MR. JUSTICE HENRY I. KAWESA

RULING

The Applicant moved this Court by Notice of Motion for orders that:-

1. *The Respondent should show cause why the caveat which the Respondent lodged on the Applicant's Land comprised in Mailo Register Kyadondo Block 167 Plot 256 situate at Kiwale (Kyetume) Gayaza, should not lapse.*
2. *The Respondent's caveat be removed from the Applicant's land.*
3. *The Respondent pays compensation/damages to the Applicant for lodging the aforesaid caveat without lawful reasonable cause.*
4. *The Respondent pays costs of this application.*

The application is supported by the affidavit of Ssegirinya Gerald. The grounds of this application were that;

- 1) *The Applicant is the registered proprietor of Land comprised in Mailo Register Kyadondo Block 167 Plot 256 situate at Kiwale (Kyetume Gayaza).*
- 2) *That in December 2015, the Applicant conducted a search in the Land Office and he discovered that the Respondent had lodged a caveat on the said land.*
- 3) *That the Applicant through her Lawyers of M/s. Lutakoome & Co. Advocates wrote to the Registrar of Titles at Wakiso Land Office while requesting for the removal of the said caveat and also moving the Registrar to notify the Respondents accordingly.*

Grounds 4,5,6,7,8 and 9 show that the Respondent does not have any caveatable interest in the land and merely lodged the caveat for purposes of frustrating the Applicant and it is in the interest of justice that the application should be allowed.

From the file and submissions by Counsel for the Applicant, it is a fact that the Respondent did not file an affidavit in reply.

It has been shown by the evidence as per the affidavit in support of the application deponed by Ssegirinya Gerald, that the Applicant is the registered proprietor of the land comprised in Mailo Register Block 167 Plot 256 – (Kyetume) Gayaza. That that he mounted a search in December 2015 and found that the Respondent had lodged a caveat on the said land (*see paragraph 9 and 10*). He inquired from the Respondents (paragraph 11), but the Respondents have not heeded to his inquiry.

The Applicant further depones in paragraph 12 that the Respondent has been all along aware that he is the registered proprietor. He further contends under paragraph 15 and 16 that the Respondent does not have any caveatable interest in the said land, but lodged the caveat for purposes of frustrating his interests.

The law governing caveats is well articulated in ***Boynes versus Gathure (1969) EA 385*** as cited in ***Hunter Investments Ltd. versus Lwanyaga & Anor; Misc. Cause No. 0034 of 2014*** (as provided);

‘that the primary objectives of a caveat is to give the caveator temporary protection. It is not the intention of the law that the ‘caveator should relax and sit back for eternity without taking positive steps to handle the controversy, so as to determines the rights of the parties affected by its existence’.

In this case, I agree with Counsel for the Applicant that the Respondent, having failed to show cause why the caveat he lodged on the land should not be removed. This is a right case for dealing with as provided for under section 140(1) of the Registration of Titles Act.

This Court therefore finds that the Applicant has proved this application. It has been proved that no reasonable cause has been shown by the Respondent as to why he filed the caveat. He is accordingly liable for compensation for lodging a caveat without reasonable cause as per Section 142 of the Registration of Titles Act.

The Respondent will therefore compensate the Applicant shs. 5,000,000/- (*five million*) only as compensation for the time wasted, pain and suffering caused to the Applicant by the Respondents' caveating of this land under Section 140 (1)(2) of the Registration of Titles Act.

The Application is granted with costs.

I so order.

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Henry I. Kawesa

JUDGE

06/11/2017

06/11/2017:

Ms. Namuleme Ann for the Applicant

Mr. Oundo David for the Respondent.

Ms. Ann Nalumenya for the Respondent.

Applicant present.

Clerk: Irene Nalunkuuma.

Court: Ruling delivered in chambers.

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Emukol Samuel

Deputy Registrar

06/11/2017