



IN THE HIGH COURT OF UGANDA SITTING AT GULU

Reportable
Civil Appeal No. 063 of 2018

In the matter between

OCEN VINCENT

APPELLANT

And

- 1. ANYWAR VENTALEO**
- 2. OBITA PAUL**
- 3. OKELLO ALPHONSIO**

RESPONDENTS

Heard: 16 September, 2019.

Delivered: 8 June 2020.

Civil Procedure — section 70 of *The Civil Procedure Act* and, section 166 of *The Evidence Act* — Before court can set aside the judgment on account of the irregularities, it must therefore be demonstrated that the irregularity occasioned a miscarriage of justice

Land Law — *Trespass to land*— A suit for trespass to land is premised on the possessor's right to exclude. It requires proof of the fact that the defendant did or caused something tangible to cross the boundary line onto the plaintiff's land, without consent or lawful authority. An intentional trespass occurs when the defendant knowingly or deliberately crosses the boundary lines of another's land, either personally or with an object large enough to displace the owner of possession. —*Determining boundaries* — A boundary line must have certain physical properties such as visibility, permanence, stability and definite location. Regardless of the nature of the boundary, evidence relating to the location of the boundary position should be sufficient to allow the boundary to be relocated should it somehow be destroyed. When determining the position of a boundary, the court seeks to ascertain the historic boundary line at the date of the earliest conveyance, when the land was first divided.

JUDGMENT

STEPHEN MUBIRU, J.

Introduction:

[1] The appellant sued the respondents jointly and severally for recovery of approximately 800 acres of land situated at Lapem village, Coo-rom Parish, Koch-Goma sub-county, in Nwoya District, a declaration that he is the rightful customary owner of the land, general damages for trespass to land, *mesne* profits, a permanent injunction restraining the respondents' activities on the land and the costs of the suit. His claim was that the land in dispute originally belonged to his father, who before the insurgency was using it as grazing land. He was born on that land and lived there with his wife until he and members of his family were forced by insurgency to vacate the land during the year 1986. Upon their return during the year 2008 after the insurgency, they were prevented by the respondents from re-occupying the land. The respondents have since sold off approximately 100 acres of the land.

[2] In their joint written statement of defence, the respondents refuted the appellant's claim and stated that the land belonged to their late father, Omony Joseph, who acquired it during the year 1937 as vacant, unclaimed land. They inherited the land from their said late father. During the year 2007, a one Obalim Felix sued the 1st respondent's son, Kilaro Santo, over the same land before the L.C. Courts, but lost the suit and never appealed. In those proceedings, the appellant and his uncle, Okot Luyang Paluk Kuloya, testified in support of the defence of Santo. It is during the year 2007 that the appellant began claiming the land as his.

The appellant's evidence in the court below:

- [3] P.W.1 Ocen Vincent, the appellant, testified that the land in dispute belonged to his grandfather, Omol Larika. Upon his death, it was inherited by his late father, Elario Paitoo. When he too died in the year 1982, the appellant inherited the land. His late grandfather and father used to cultivate crops on the land, rear livestock and had planted mango trees. There is also a cultural site under a tree where rain-making rituals would be performed. The ruins of their homestead too are still visible on the land. The dispute began in the year 2014 when the respondents crossed from their adjoining land and trespassed onto the land in dispute, where they began cutting down trees. They subsequently sold off part of the land to other persons, including a one Ojera Charles. The respondents belong to the Payira Clan while the appellant belongs to the Amar Clan. It is the appellant's grandfather who allowed the respondent's grandfather to occupy land that adjoins the one now in dispute. The common boundary between the two adjoining parcels of land is Lamin-Opoo Stream. His uncle sued the respondents in the year 2008 but the trespass he is complaining about occurred in the year 2010.
- [4] P.W.2 Odong Zakeyo, a neighbour to the South East of the land in dispute, testified that the land in dispute belongs to the appellant, who inherited it from his late father. It was initially occupied by the appellant's grandfather Omol Larika. It is him who allowed Omony Joseph to occupy the neighbouring land. The common boundary is Lamin-Opoo Stream. There are graves of Omol Larika, his wife Akullo and many other of their relatives on the land in dispute. Omony Joseph never used to rear any cows. It is his brother Ocen Rino who used to keep cattle. Due to insurgency, in the year 1986 all residents of the area, including the appellant, vacated their land. During the year 2008, the respondents crossed the common boundary and encroached on the appellant's land. They cut down trees, engaged in lumbering, burned charcoal and sold off

parts of the land. Attempts to resolve the dispute by mediation and by the local Council Courts were unsuccessful.

[5] P.W.3 Ojok Santo, a neighbour to the East of the land in dispute, testified that the respondents are neighbours, separated by the road from Lamin-Latoo to Anaka. The land originally belonged to the appellant's grandfather, Omol Larika. It was inherited by his late father Elario Lateka and now it belongs to the appellant. The appellant vacated the land during the insurgency and resided in Gulu. It is Omol Larika who gave the respondent's father, Omony Joseph land in the neighbourhood, to the East of that in dispute, now occupied by the respondents. The land is divided by a road, which was a footpath in the past and it used to serve as the common boundary. There was a kraal, popularly known as Omol Larika, on the upper part of the land in dispute. Upon return from the IDP Camp, the respondents crossed onto the appellant's land and now intend to sell it off. They have already sold off parts of it to multiple other persons.

[6] Atim Betty, testified as P.W.1 and stated that the land now in dispute formed part of the estate of her late grandfather Yosam Onguti. The extension of the wall by the 4th respondent was in 2002. The 2nd respondent occupies plot 22/24 by virtue of a purchase he claimed to have made on 28th March, 2000. The 1st respondent claimed to have purchased part of plot 24 by an agreement dated 8th April, 2004. By April, 2004 the plot was occupied by one of her grandmothers, Acan Onguti and her paternal uncle P.W.3 Oloya Kennedy. The 3rd appellant claimed to have purchased part of the same plot on 7th July, 2004. All the impugned transactions were undertaken by her father, Oryang Wilson.

The respondent's evidence in the court below:

[7] D.W.1 Kilama Santo testified that he is the son of the 1st respondent and the other two respondents are his uncles. The appellant owns adjoining land to theirs. Their grandfather, Omony Joseph, was the first occupant of the land in

dispute which was vacant and unclaimed at the time he first occupied it during the year 1937. The land does not belong to the Amar Clan. When he died in 1978, he was buried on that land. He had fruit trees on the land and the ruins of his former homestead are still visible on the land. A one Obalim Felix sued the witness before the L.C Courts which decided in favour of the witness and the decision has never been appealed. The dispute arose only because the appellant insists the respondents are from the Patira Clan living among the Anaka Clan, who should return to their clan.

[8] D.W.2 Olal Constantino, a neighbour to both parties, testified that the land in dispute belongs to Omony Joseph. Omony Joseph and Omol Larika settled in the area at around the same time but occupied different parcels of land. Omony Joseph planted mango trees, eucalyptus and had a home on his part of the land. The appellant's brother filed a suit against the respondents before the L.C. II court but lost. The land in dispute is located within the Amar Clan Area. Omony Joseph belongs to the Patria Clan but the land in dispute is not clan land. The appellant is occupying land that belonged to Omol Larika.

[9] D.W.3 Omona Aluji Jacob, a neighbour to both parties, testified that the land in dispute belongs to Omony Joseph who planted mango trees, eucalyptus and had a home on the land. The appellant occupies neighbouring land that belonged to Omol Larika. The dispute began during the year 2010. The appellant's brother, Okot Lanyogo lost the resultant suit. The appellant claims the respondents' grandfather was a foreigner and therefore they should vacate the land. While people lived in the IDP Camps, the government opened a road that cut through Omony Joseph's land.

Proceedings at the *locus in quo*:

[10] The Court then visited the *locus in quo* on 16th December, 2017 where P.W.2 Odong Zakeyo, showed the court the tree under which Omol Larika was buried.

He showed the court his current sorghum garden as well. The respondents indicated to the court that they had no claim over that part of the land. Their claim begins from the location of the mango and acacia trees. It recorded evidence from a one Uma Ponsiano, the appellant's bother who showed court the road to Ayago Stream. He stated that the respondents' grandfather was given land West of that road. The appellant showed court Ayago Stream and stated that it constitutes the common boundary between his land and that of the respondents'. D.W.2 Olal Constantino refuted that and stated instead that the mango tree is the boundary. He showed the court the grave of Apio Mchwa reputed to have planted the mango tree and also the ruins of their former homestead nearby. D.W.1 Kilama Santo showed the court the ruins of their nephew Zebenini Uma's maize mill. There was a grave of the late Abwoch, wife of Omony Joseph, nearby which the appellant contested to be a grave stating that it was a pile of stones recently gathered and placed at that spot.

- [11] The Court prepared a sketch map of the land in dispute, illustrating the fact that the land lies astride the "security road." To the West is the appellant's land and to the East is Ayago Stream. On the part East of the "security road" is a footpath to Ayago Stream. On the same side of the "security road" is a maze garden belonging to the respondents, the grave of Amoy Joseph under a mango tree, and pine trees planted by the respondents. On the part West of the "security road" is the grave of Abwoch, wife of Omony Joseph, D.W.2 Olal Constantino's garden, ruins of a former maize mill and the respondents' house.

Judgment of the court below:

- [12] In his judgement, delivered on 28th August, 2018, the trial Magistrate found that both Omol Larika and Omony Joseph lived in the area where the land in dispute is located, the former to the West and the latter to the East. The controversy is over the exact location of the boundary. There was no clear evidence of demarcations adduced by the parties but the true location of the boundary may

be easily inferred from the evidence. At the *locus in quo*, P.W.2 Odong Zakeyo, showed the court the tree under which Omol Larika was buried and the respondents indicated that that area was not in dispute. The appellant was unable to show court the mango trees, the cultural site and his father's homestead within the area in dispute, but they were said to be further away to the East in the un-contested area. Uma Ponsiano, the appellant's bother showed court the road to Ayago Stream The appellant had no developments East of the former path to Ayago Stream that was later turned into a road, instead there were ruins of the late Omony Joseph's grinding mill. This had been constructed during the lifetime of Omol Larika and he never raised any complaint about it. This supported the inference that the land where it was located belonged to the late Omony Joseph. There was also the grave of the late Abwoch, wife of Omony Joseph, nearby. Whereas P.W.3 Ojok Santo testified that there was a kraal, popularly known as Omol Larika, on the upper part of the land in dispute, P.W.2 Odong Zakeyo testified that Omony Joseph never used to rear any cows but rather it is his brother Ocen Rino who used to keep cattle. When Obalim Felix sued D.W.1 Kilama Santo before the L.C.II Court, the judgment delivered on 23rd November, 2017 tendered in court showed that the appellant and his uncle Okot Luyang P'Lukoya were among the witnesses who confirmed the land belonged to D.W.1 Kilama Santo. The appellant had accordingly failed to prove his claim that the land in dispute belonged to his late grandfather Omol Larika. The suit was dismissed with costs to the respondents. He ordered the appellant and his agents or associates to be evicted from the land.

The grounds of appeal:

[13] The appellant was dissatisfied with that decision and appealed to this court on the following grounds, namely;

1. The learned trial Magistrate erred in law and fact when he failed to properly evaluate the evidence on record showing that both parties were on the disputed land, thereby coming up with a wrong decision.

2. The learned trial Magistrate erred in law and fact when he decided that previously before a Local Council Court, the appellant and his paternal uncle had confirmed that the subject matter / land belonged to the respondents (D.W.1) in the face of clear evidence showing that each of the grandparents of the parties had their separate portions of land on either side of the disputed land.
3. The learned trial Magistrate erred in law and fact when he failed to conduct a proper visit to the *locus in quo*, by failing to appreciate the distinctive features of the suit land as described by the two parties.

Arguments of Counsel for the appellant:

[14] In his submissions, counsel for the appellant, argued that the land occupied by both parties, now in dispute, measures approximately 800 acres; the appellant occupies the Western side while the respondents occupy the Eastern side. The respondents indicated that they had no claim over the area where Omol Larika's grave and the sorghum garden of P.W.2 Odong Zakeyo are located. It was therefore wrong for the court to have ordered the appellant's eviction from the entire land. The court should have verified the location of the true boundary. The appellant described the boundary to be Lamin-Opoo Stream while the respondents described it to be the mango tree. In his judgment, the trial Magistrate did not indicate how this controversy was resolved but instead ordered the appellant's eviction from the land. The boundary dispute in the instant case had nothing to do with the previous litigation between the appellant's brother and the respondents. The current dispute was sparked off by acts of trespass that began in the year 2008. During the visit to the *locus in quo*, the court never gave the parties opportunity to cross-examine one another and their respective witnesses. He instead recorded evidence from the appellant's brother, Uma Ponsiano, who had not testified in court. He failed to isolate the distinctive features marking the common boundary and failed to make a determination of the exact size of the land in dispute. They prayed that the appeal be allowed.

Arguments of Counsel for the respondents:

[15] In response, counsel for the respondents, submitted that the appellant's case was that the land belonged to his late father and his late grandfather before him. He therefore had no *locus standi* to sue since he did not possess a grant of letters of administration to either estate. He claimed that he was instructed by his clan to sue but he did not present powers of attorney conferring that authority. None of the features the appellant claimed exist on the land in dispute were found by the court when it visited the *locus in quo*. The claim that it was the appellant's grandfather who gave the respondents' father land was a departure from the appellant's pleadings. It was also based on hearsay. Since the appellant claimed the entire land, this was not a boundary dispute. The reference to a boundary too was a departure from his pleadings. The appellant did not prove any customary law or practices under which he acquired the land. At the *locus in quo*, the appellant never showed court the location of Lamin-Opoo Stream which he claimed to be the common boundary. He claimed instead that the security road created during the LRA insurgency was the boundary. This was proved to be wrong since the respondents had developments either side of that road. This inconsistency undermined his case. There was no evidence of trespass since the appellant's activities were all restricted to land further to the West over which there was no dispute. Apart from the order directing eviction of the appellant from the land which was a misdirection on the part of the trial court, the rest of the appeal has no merit and it should be dismissed.

Duties of a first appellate court:

[16] It is the duty of this court as a first appellate court 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).

- [17] In exercise of its appellate jurisdiction, this 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.

Ground three; errors in conducting the proceedings at the *locus in quo*

- [18] It is contended in the third ground of appeal that the trial Magistrate failed to conduct a proper visit to the *locus in quo*, by failing to appreciate the distinctive features of the suit land as described by the two parties. Visiting the *locus in quo* is intended to enable court check on the evidence given by the witnesses in court, 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). Accordingly admission of the evidence of Uma Ponsiano, who had not testified in court, was an error.

- [19] However, section 70 of *The Civil Procedure Act*, provides that no decree may be reversed or modified for error, defect or irregularity in the proceedings, not affecting of the case or the jurisdiction of the court. Similarly, 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.

[20] Before this court can set aside the judgment on account of the abovementioned irregularities, it must therefore be demonstrated that the irregularity occasioned a miscarriage of justice. A court will set aside a judgment, or order a new trial, on the ground of a misdirection, or of the improper admission or rejection of evidence, or for any error as to any matter of pleading, or for any error as to any matter of procedure, only if the court is of the opinion that the error complained of has resulted in a miscarriage of justice.

[21] I find that considering the nature of the dispute at hand, these irregularities are not fatal since the available material on record is sufficient to take the proceedings to its logical end. According to Order 43 rule 20 of *The Civil Procedure Rules*, where the evidence upon the record is sufficient to enable the High Court to pronounce judgment, the High Court may, after resettling the issues, if necessary, finally determine the suit, notwithstanding that the judgment of the court from whose decree the appeal is preferred has proceeded wholly upon some ground other than that on which the High Court proceeds. The oral testimony clearly explained the area in dispute as being the tract of land that lies in-between that occupied by the appellant to the West, and Ayago Stream to the East. There was no need for proof of boundaries as is typical of claims where a whole area of land is in dispute. The other boundaries of each of the parties' land had nothing to do with the dispute for the court to have called on the parties to establish all the boundaries of their land. Consequently, determination of the exact size of the land in dispute in terms of acreage was as well unnecessary. This ground fails.

Ground one and two; determination of location of the common boundary;

[22] In grounds one and two of the appeal, the trial court is faulted for the manner in which it evaluated the evidence and for its determination of the location of the common boundary between the parties adjoining tracts of land. A first appellate court is in as a good position as the trial court to determine the real issue in controversy from the pleadings and evidence and to draw inferences from the specific facts that are established. It is the duty of a first appellate court to determine very clearly what the contention of the parties is before it. In cases involving land disputes for example, what exactly are the parties fighting over? Is it over a whole stretch of land, a piece of land within a bigger area, a boundary dispute, etc? The pleadings and the evidence eventually placed before the court should be the guide for making this determination. It is this determination that will further inform the court of the relevance, the type and nature of the evidence needed from the parties.

[23] There are two versions in the instant case regarding Omony Joseph's acquisition of land in the area; according to the appellant it was by way of a gift *inter vivos* from his late grandfather Omol Larika, during an unspecified year, while the respondents contended it was by way of occupying land that was *Terra nullius*, during the year 1937. None of the parties specified how big that land was. What is not in doubt though is that the land occupied by Omony Joseph was East of that occupied by Omol Larika. Being adjoining parcels of land, they shared a common boundary. According to the appellant and P.W.2 Odong Zakeyo, that common boundary was Lamin-Opoo Stream, according to P.W.3 Ojok Santo, it was the footpath to Ayago Stream, subsequently converted into a road, that used to serve as the common boundary, while according to the respondents it was a mango tree planted by Apio Mchwa, close to where her grave is. The pleadings and evidence clearly showed the real dispute between the parties was about the common boundary they shared peacefully until the year 2008 when the dispute arose.

- [24] A suit for trespass to land is premised on the possessor's right to exclude. It requires proof of the fact that the defendant did or caused something tangible to cross the boundary line onto the plaintiff's land, without consent or lawful authority. An intentional trespass occurs when the defendant knowingly or deliberately crosses the boundary lines of another's land, either personally or with an object large enough to displace the owner of possession. An encroachment is a permanent or quasi-permanent intrusion into land owned or lawfully possessed by another person without his or her consent. Therefore, a claim for trespass to land seeking an order of eviction from land presupposes the existence of a pre-determined boundary. Where the claim for trespass and eviction is based on a boundary that had not been ascertained and fixed, the suit must fail.
- [25] Each parcel of land must be delimited by a boundary. From a legal perspective, a boundary is an invisible line on the surface that differentiates one set of real property rights from another. Whereas the physical demarcation of boundaries includes any activity for identifying a parcel of land and delineating its boundaries, performed by any of the parties related to the parcel, legal demarcation consists of reaching a social consensus on physical demarcation, such that it will be enforced *in rem*. A boundary line must have certain physical properties such as visibility, permanence, stability and definite location. Regardless of the nature of the boundary, evidence relating to the location of the boundary position should be sufficient to allow the boundary to be relocated should it somehow be destroyed.
- [26] When determining the position of a boundary, the court seeks to ascertain the historic boundary line at the date of the earliest conveyance, when the land was first divided. Topographical features of the land at the time of the conveyance or sub-division are often determinative of the position of the boundary, in which case the court construes what a reasonable person, standing in the position of

the parties with the relevant objective factual background knowledge, would have understood the boundary to be.

- [27] The actual physical location of a boundary line is normally demarcated in one of two ways: by point features such as natural obstacles including river-banks, lake-shores, trees, rocks and hills (existing in the absence of all delineating or conceptualising activities of humans, i.e. independently of all human cognitive acts and demarcations), the straight or ambulatory line between which marks the divide between two properties, or by monuments or linear features such as walls, hedges and fences (demarcations effected cognitively and behaviourally by human beings). The latter do not exist independently of human cognitive acts and owe their existence to acts of human decision or fiat, to laws or political decrees, or to related human cognitive phenomena.
- [28] In the absence of such evidence, it is a rule long since established that, if adjoining property owners occupy their respective holdings to a certain line for a long period of time, they are precluded from claiming that the line is not the true one, the theory being that the recognition and acquiescence affords a conclusive presumption that the used line is the true boundary. That becomes a boundary by recognition and acquiescence. The time required to elapse before such a line is established as the common boundary, is the time necessary to secure property by adverse possession.
- [29] Although it was never pleaded as a fact, it was the appellant's case during his testimony that he had been in possession of the land in dispute, up to Lamin-Opoo Stream. During the court's visit to the *locus in quo*, Lamin-Opoo Stream was not found to exist within the vicinity of the land. The land instead abuts on Ayago Stream to the East. On the other hand, the respondent claimed, as per the testimony of P.W.2 Odong Zakeyo at the *locus in quo*, that the location of the mango and acacia trees constituted the common boundary.

[30] In order to determine whether or not a natural obstacle such as a river bank was delimited or recognised as a common boundary to adjoining land, the court will consider whether or not its course corresponds to a genuine heterogeneity of activities and possession on either side. A pre-dispute homogeneity of activities attributable to a single claimant either side of the river course would be inconsistent with it serving as a boundary line, while a heterogeneity of activities attributable to different claimants either side of it would be suggestive of it serving as a boundary line. Since the appellant never showed the trial court the location of Lamin-Opoo Stream, this assessment could not be done. As regards Ayago Stream, that comparison was never done since the inspection was restricted to only one side of the stream, apparently because the respondent's occupancy of land East of the stream was not contested. The court found a homogeneity of activities attributable to the respondents, both sides of that stream. Consequently, neither Lamin-Opoo Stream nor Ayago Stream was proved to have ever been delimited as the common boundary between Omony Joseph's and Omol Larika's adjoining parcels of land.

[31] With regard to the question whether or not the "security road" shown to the court was indeed the common boundary, as a high-level generalisation, a road or path can be conceived in two ways: from the point of view of possible motion along it, and from the point of view of possible motion across it. Conceived in the first way, a road or path is a means of communication or gateway; in the second, as a boundary or barrier. The distinction has to do with how the road or path regulates movement or communication across it. Considering that the purpose of a boundary is to regulate what obtains on the ground, boundary functions are defined in terms of activities "across" rather than "along" such a line. Similarly, a homogeneity of activities attributable to a single occupant either side of the road would be inconsistent with it serving as a boundary line, while a heterogeneity of activities attributable to different claimants either side of it would be suggestive of it serving as a boundary line.

[32] It is evident from the sketch map prepared during the visit to the *locus in quo* that it is the respondents with artefacts on either side of the "security road" claimed by P.W.3 Ojok Santo to be the common boundary. From those observations, the footpath to Ayago Stream, subsequently converted into a road ("security road"), is a means of communication or gateway to the stream rather than a barrier between two adjoining parcels of land. Either side of the road are grave sites of deceased relatives of the respondents. The presence of grave sites and ruins of collapsed buildings that pre-date the 2008 conflict between the parties, is inconsistent with the appellant's claim that prior to the conflict this was used as free-range grazing land as contended by the appellant. It is more consistent with the land having been used for settlement and crop farming as contended by the respondents. On the other hand, the mango tree alone was insufficient evidence of a boundary.

[33] The trial Magistrate therefore properly directed himself when he found that there was neither evidence of delimitation nor demarcation of a specific monument as a boundary marker. The appellant failed to establish the true location of the boundary to his land, hence his case of trespass against the respondents had to fail. In the final result, there is no merit in the appeal.

Order:

[34] In the final result, the appeal is dismissed. The costs in the court below and of the appeal are awarded to the respondent.

Delivered electronically this 8th day of June, 2020

.....Stephen Mubiru.....

Stephen Mubiru

Resident Judge, Gulu

Appearances

For the appellant : M/s. Oyet and Co. Advocates.

For the respondent : M/s Odongo and Co. Advocates.