

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MPIGI
MISC. CAUSE 06 OF 2019

KALULE DUNCAN:.....APPLICANT

VERSUS

COMMISSIONER LAND REGISTRATION:..... RESPONDENT

BEFORE:HON. JUSTICE OYUKO ANTHONY OJOK

10

JUGDMENT

Background

This is an application brought under S. 167 of the Registration of Titles Act, S. 83 and S.98 of the Civil Procedure Act, O.52 r1-3 of the Civil Procedure Rules. The application seeks for orders that a vesting order be issued directing the Respondent to transfer the suit property comprised in Mawokota Block 56, Plot 119, Mbazi.

The grounds of the application are set out in the Notice of Motion supported by an affidavit of **Kalule Duncan** of C/o M/s Joseph Kiryowa & Co. Advocates, the grounds are as follows;

20

1. That by an agreement dated 15th November, 2008 Kakaira Namungo the registered proprietor bought land at 5,000,000/= (Five Million Shillings) which was wholly paid to the vendor at the time of executing the agreement.

2. That at the time of purchase, the vender's land was being sub divided and so we could not tell the exact plot for the land he had sold.
3. That the vendor signed the Transfer Forms for me, however on presenting the same for transferring the land, it was rejected by the Registrar of Titles and I was ordered to produce the vender who had signed the Transfer Forms for me as the signatures differed.
4. That at the time the vendor was very ill and bed ridden I failed to take him to the land office.
5. The vendor ultimately died before signing for a new Transfer Forms and or taking him to the land office and Registrar of Title refused to transfer the suit land into my names and even returned the Duplicate Certificate of Title back to me.
6. That I took possession of the suit land in 2018 to date with knowledge of the vendor and his family and my possession has never been challenged or contested.
7. That I planted pine trees on the suit land in 2008 and the forest is still there
8. That it is in the interest of justice that this application is allowed and a vesting order directing the respondent to transfer the land into the names of the Applicant.

I therefore pray that Court issues a vesting order.

Representation

Upon hearing of this Application the applicant was represented, while the respondent was not represented.

Submissions

Counsel for the Applicant submitted orally

Resolution by Court.

It's trite law that before the Applicant invokes the inherent jurisdiction of Court under **S.98 of the Civil procedure Act Cap 71**, in an application of this nature, he/she must have applied first to the Commissioner landRegistration /Registrar who for some reasons must have declined to exercise his or her power under **S.167 of the Registration of Titles Act**.

10 In the case of **Aida Najjemba Vs Ester Mpagi Mis. Appn no. 74/2005** lays down the grounds for a vesting order thus;

- a) *The vender is deceased and there is proof of death.*
- b) *Transfer is not effected.*
- c) *The applicant paid the full purchase price.*
- d) *The applicant took possession.*
- e) *The agreement that the Applicant bought the land and there is no mortgage.*
- f) *That the land is registered under the Registration of Titles Act.*
- g) *That the relatives of the deceased have no problem with the Applicant obtaining the order."*

20 In the instant case, proof of death and a search report from lands was not availed by the applicant and as such, the order sought cannot be granted.

Be it as it may, a mere letter from the Local Chairperson cannot be regarded as proof that the vendor died , there is no search report from lands and a copy of the death certificate to confirm that the vendor is dead.

Therefore this application is dismissed.

Right of Appeal explained.

.....
HON JUSTICE OYUKO ANTHONY OJOK
JUDGE

Dated this 30th day of March 2021