

THE REPUBLIC OF UGANDA

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

CONSOLIDATED HIGH COURT CIVIL SUITS NO. 54 OF 2011 & NO.212  
OF 2009

1.SENKUBUGE DENIS  
2.NAKAGIRI CHRISTINE  
3.MUSOKE BLASIO KIRYOWA  
4.SHELL (VIVO ENERGIES (U) LTD ::::::::::::::::::::::::::::::: PLAINTIFFS

VERSUS

1.HAJJATI MADINA NASSALI  
2.COMMISSIONER LAND REGISTRATION  
3.JOSEPH KIYIMBA  
4.GEOFREY NANGUMYA  
5.WASSWA LUBULWA YOFESI ::::::::::::::::::::::::::::::: DEFENDANTS

*Before: Hon. Justice Byaruhanga Jesse Rugyema*

JUDGMENT

- [1] In the consolidated suits, the 1<sup>st</sup> to 3<sup>rd</sup> Plaintiffs as administrators and beneficiaries of the estate of the late **Lauben Mukasa** vide **H.C Family Division A.C No.1452 of 2008** (the name of the 1<sup>st</sup> plaintiff was wrongly spelt as "Senkubuge Devis" but was later corrected by court to read as **Senkubuge Denis**) brought this suit inter alia, for cancellation of titles of land (formerly) comprised in **Kibuga Block 10,Plot 88 situate at Nakulabye-Bukesa**, a declaration that the 1<sup>st</sup> & 3<sup>rd</sup> defendants' purchase of the suit land was illegal, delivery up to the 1<sup>st</sup> - 3<sup>rd</sup> Plaintiffs of the certificate of title to the remaining suit land, a declaration that the original suit land belongs to the estate of the late **Lauben Mukasa** and a declaration that all subsequent transfers and dealings in the suit land were illegal.
- [2] As regards the 4<sup>th</sup> Plaintiff, **Shell** (Vivo Energies (U) Ltd), it brought this suit for inter alia, a declaration that its lease interest comprised in **LRV 2616, Folio 7** which it



derives from Mailo land comprised in **Kibuga Block 10, Plot 1068** or formerly from the said land, is genuine and lawful and should be recognised and noted in any reversionary title on which its fuel station described as **Shell Bukesa Road** located on **LRV 2616 Folio 7, Plot 1068** stands, or that if the said Mailo has been changed by way of Mutation and or in any other way, then the Plaintiff's (Shell (U) Ltd) lease interest and its title reference **LRV 2616 Folio 7** should be noted on any new title or titles created in place of the Mailo title hitherto known as **Kibuga Block 10, plot 1068**. Lastly, the 4<sup>th</sup> plaintiff sought an order directing the 2<sup>nd</sup> defendant, Commissioner Land Registration, to note the Plaintiff's (Shell (U) Ltd) lease interest on the 1<sup>st</sup> Defendant's title and all titles that may have emanated from **Kibuga Block 10, Plot 1068**.

[3] On the other hand, the 1<sup>st</sup> Defendant denied the Plaintiffs' claims and counter claimed against the 4<sup>th</sup> Plaintiff/Counter defendant as follows:

- a) That the 4<sup>th</sup> Plaintiff/Counter defendant's purported lease was given to a one **Iqbal Esmail** who had been illegally registered onto the title and property, for **Iqbal Esmail** had never purchased land comprised in **Kibuga Block 10, Plot 1068** as claimed.
- b) The 1<sup>st</sup> Defendant as counter claimant sought inter alia, the following orders:
  - (i) A declaration that the 4<sup>th</sup> Plaintiff's, (**Shell (U) Ltd**) alleged leasehold interest in the suit property was procured through fraud on her part.
  - (ii) A declaration that the 1<sup>st</sup> Defendant/Counter claimant is the rightful owner of the suit property comprised in **Plot 1396 Kibuga, Block 10**.
  - (iii) An eviction order against the 4<sup>th</sup> Plaintiff, **Shell (U) Ltd/Counter defendant** and an order for permanent injunction restraining it from interfering in any way with the 1<sup>st</sup> Defendant's occupation of the suit property.

[4] As against the 1<sup>st</sup> - 3<sup>rd</sup> Plaintiffs, the 1<sup>st</sup> Defendant averred and contended that at the time of the death of the late **Lauben Mukasa** and when the 1<sup>st</sup> - 3<sup>rd</sup> Plaintiffs procured letters of Administration to his estate in 2008, **Kibuga Block 10, Plot 88 was not part of the estate of the late Lauben Mukasa as the same had already been by certificate of succession dated 29<sup>th</sup> of November 1990, given to Keresipo Kiryowa, son and heir to the late Lauben Mukasa.**

[5] That before his demise, the late **Keresipo Kiryowa** subdivided **Kibuga Block 10, Plot 88** into **Plots 1067 and 1068** and registered **Plot 1068** into his names as the registered proprietor on the 29<sup>th</sup> day of 1991 and when **Robina Nakkungu** (daughter) and **Denis Senkubuge** (Grandson/heir became administrators of the late **Keresipo Kiryowa's** estate by virtue of letters of administration vide **H.C.A.C 1695 of 2006**, got themselves registered on **Block 10, Plot 1068** which they later, with the consent

