

THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA
CRIMINAL APPEAL No.0338 of 2017

Coram

5 {Egonda-Ntende, Bamugemereire & Mulyagonja JJA}

1. OKELLO DOUGLAS alias ONGORA ISAAC
2. ODONGO FELIX alias HASSAN ::::::::::::::: APPELLANT

10 VERSUS

UGANDA ::::::::::::::: RESPONDENT
(Appeal from The decision of Dr Winifred Nabisinde in High Court
Criminal session Case No.0111 of 2017 delivered on 28th July 2017 at
15 Lira)

*Criminal Law – Murder C/s 188 and 189, Attempted Murder C/s 204
of The Penal Code Act – Appeal against Sentence only – Harsh and
excessive sentence .*

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JUDGMENT OF THE COURT

Introduction

The appellants, **Douglas Okello** and **Felix Odongo** were both
indicted and convicted of the offence of Murder and Attempted
25 Murder contrary to sections 188, 189 and section 204 of the Penal
Code Act, Cap 10 Laws of Uganda respectively. They were each
sentenced to 35 years for the offence of Murder and 25 years
imprisonment for the offence of Attempted Murder,
respectively. The sentences were to run concurrently.

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Background

A brief background is that on 23rd December 2016, at Ogili Cell, Alira Parish, Aduku Subcounty in the Apac District, the appellants murdered Maxwell Awal and attempted to murder
5 Sophia Ogwal. The deceased and the appellants were paternal cousins whose respective families had long-standing land wrangles. Douglas Okello was a serving army officer in the Uganda People's Defence Forces at Mbarara. Armed with an SMG rifle, he travelled from Mbarara to Apac where he met
10 with Odong. On 23rd December 2016, Vivian Adong the sister to the deceased was ambushed by the appellants while she was riding a bicycle. They dragged her off to the bush. The assailants, who included both appellants, were both armed with a gun, panga, and iron bar. Vivian Adong managed to escape
15 and when she got home, she informed her family that she had been ambushed by the appellants. The father, in turn, reported the case to the Police at Aduku Police Station.

On the fateful evening, the deceased went to untether animals which had been grazing in a field near their home. He was
20 suddenly shot by the 1st appellant who was hiding in a nearby bush. The gunshot was heard by Sophia Ogwal the mother of the deceased who then run to the scene and spotted the 1st appellant. The 1st appellant hit Sophia Ogwal on the head with the butt of a gun. The 2nd appellant cut Sophia with a machet,
25 and she started bleeding profusely, and became unconscious. When Sophia gained consciousness at around 9pm, she found

the deceased lying beside her with his pair of trousers removed. He had been shot on the head and the bullet had exited from the mouth. The appellants had already fled the scene. Sophia reported the incident to the neighbours and eventually police.

5 When the appellants were arrested and indicted, they did not have any lawful defence so they admitted to the crimes. They were subsequently convicted on their own pleas of guilty. The Learned Trial Judge consequently sentenced each of them to 35 years for the offence of murder, and 25 years imprisonment for
10 attempted murder, respectively. The sentences were to run concurrently. Dissatisfied with the sentence, the appellant appealed to this court against sentence only on one ground which stipulates as follows:

1. The Learned Trial Judge erred in law and fact by imposing
15 a manifestly harsh and excessive sentence against the appellants.

Representation

At the hearing of the appeal, the appellant was represented by Mr Okot Douglas Odyek while the respondent was represented
20 by Ms Fatimah Nakafeero, a Chief State Attorney. The appellant was physically present in court. His counsel prayed for and was granted leave of this court to appeal against sentence only. Both counsel relied on written submissions which shall be considered by this court.

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