

THE REPUBLIC OF UGANDA  
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA  
CONSTITUTIONAL PETITION NO.9 OF 1998

JOSEPHINE NANTEZA ..... PETITIONER

VERSUS

MASIGA GEORGE ..... RESPONDENT

CORAM: HON. MR.JUSTICE C.M.KATO, JA  
HON. MR.JUSTICE G.M.OKELLO, JA  
HON. MR. JUSTICE J.P.BERKO, JA  
HON. MR. JUSTICE A.TWINOMUJUNI, JA  
HON. LADY JUSTICE C.N.B.KITUMBA, JA

RULING OF THE COURT:


This is a reference made to this court by Magistrate Grade II of Kiira Magistrates Court under Article 137(1) & (5)(a) of the 1995 Constitution in Civil Suit No.4/95. The main issue for determination was whether the defendant in that suit was a bona fide occupant within the meaning of Article 237(8) of the Constitution.

The brief background of the case is that the plaintiff Josephine Nanteza is the registered proprietor of the suit property. She sued the defendant for trespass seeking orders for eviction, a permanent injunction and general damages for trespass with costs. The defence case was that the defendant bought the Kibanja from one Lukiidi and was a bona fide occupant and therefore his right to occupy the land was protected under Article 237(8) of the Constitution.


When the matter came up for hearing before us, it was conceded by counsel for all the parties and quite rightly so, that Article 237 (8) of the Constitution was a transitional provision and that following the enactment of the Land Act by Parliament under Article 237(9) of the Constitution, the relationship between the parties is now regulated by the provisions of the Land Act. Section 30(2) of the Act now defines the term "bona fide occupant." Parliament having defined what bona fide occupant is, there is nothing that requires Constitutional Interpretation by this Court. Accordingly, the matter is remitted to the trial court to deal with it in accordance with the provisions of the Land Act.

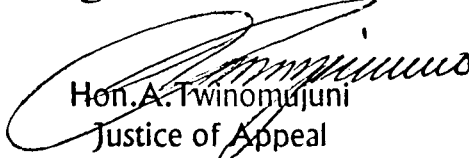
to  
As regards costs, the plaintiff and the defendant each shall bear their own costs.  
Since both parties are equally to blame for persisting that this court should hear  
the reference after the passing of the Land Act, they shall bear the Attorney  
General's costs equally.


at Kampala  
Dated this 17<sup>th</sup> day of May, 1999.

  
Hon. C.M. Kato,  
Justice of Appeal

  
Hon. G.M. Okello,  
Justice of Appeal

  
Hon. J.P. Berko,  
Justice of Appeal

  
Hon. A. Twinomujuni  
Justice of Appeal

  
Hon. C.N.B. Kitumba  
Justice of Appeal