

Hon. Justice Tsekoko

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

HOLDEN AT JINJA

REV. CIVIL SUIT NO. 2 OF 1993

SIIRA NABUGERE ::::::::::::::::::::::::::::::::::::::: PLAINTIFF

V E R S U S

FAALO s/o SIKURA ::::::::::::::::::::::::::::::::::::::: DEFENDANT

BEFORE: THE HON. JUSTICE MR. C.M. KATO

O R D E R
=====

This matter was forwarded to me by the Registrar/Inspector of courts Mr. Richard Buteera for directions under the provisions of Order 46 rule 7 of Civil Procedure Rules as per the last part of his report to the Hon. The Chief Justice dated 1/3/93. The report seems to have been prompted by an administrative directive by the Hon. The Chief Justice to the Inspector of courts to carry out some inquiries into this case. One may reasonably be tempted to imagine that there was some sort of complaint relating to this same case but the nature and substance of that complaint is not clearly known.

As rightly pointed out by the learned Registrar/Inspector of courts in his report, which is the basis of this order, it would seem the judgment of magistrate grade III dated 10/5/69 left much to be desired. He was however, wrong to suggest that the judgment offended the provisions of rule 27(3) of schedule 3 of the magistrates' courts Act 1964 under which this case was decided in 1969 did not deal with judgments but it dealt with amendments of certain statutes or Acts. It is most likely that he had in mind the provisions of rule 28(3) of magistrates' courts (Grades II & III) Civil Procedure Rules 1965 which were operational in 1969, he might also have been thinking of schedule 3 to the magistrates' courts Act 1970 which came into force on 22/1/71 by virtue of statutory Notice No.18 of 1971 long after the case had been decided.

Be that as it may, the judgment of magistrate grade III delivered on 10/5/69 was somehow irregular and lacking in some aspects but it was not illegal. It is a very brief judgment which consists of only 3 sentences. The 3 sentences contain the nature of claim, the decision of the court and the reason for it. In his extremely laconic judgment the magistrate gave a reason why he had decided the case in favour of the plaintiff and against the defendant in that case, the reason was that the plaintiff's side was so strong that the defendant had failed to appose it. Even if the judgment was illegal, still I cannot see how this court could be called upon at this time to ~~repeal~~ or reverse what was decided; when the matter was settled about 25 years ago and nobody had complained about the illegality. Equity aids the vigilant not the indolent: Morse v Royal (1806) 12 Ves 355. I cannot persuade myself to think of how this court can interfere with a decision made in 1969 without causing great inconvenience or even injustice to those who were made to act upon that decision on the belief that it was a correct decision.

The provisions of Order 46 rule 7 of Civil Procedure Rules, under which this matter was referred to me, presupposes existence of an issue or some issues upon which the court is being called upon to make some directions. In the present case no issue has been mentioned as requiring this court's direction. The Registrar/Inspector of courts did not in his report specifically point out any particular issue or matter upon which he needed the direction of this court. None of the parties has raised any issue in form of a complaint, a petition or an appeal requiring for action by this court or any other court. The matter might possibly have been simplified if the complaint which culminated into the making of the report had been availed to me.

...../3

In the absence of any complaint or discontent having been lodged to any court of competent jurisdiction by any of the parties for redress, this court is left with no better alternative but to direct that the decision of magistrate grade III pronounced on 10/5/69 should be fully respected by all those concerned unless there is another valid decision made to the contrary to that decision by a competent court which has not come to my notice. I so direct.

The register from Kaliro court sent to me by the Registrar/Inspector of courts is to be returned to Kaliro court for safe custody.

for
C.M. KATO
J U D G E

1/6/93.