

Applicants/Objectors in December 2013; and they completed the installment payments in March 2014. Their evidence is that upon paying the first installment, the Applicants took possession of the suit property; and although they did not personally commence cultivation thereof, they allowed some people in the neighbourhood to till it.

The Respondent has countered this in his affidavit in reply; stating that before the attachment, his lawyers conducted a search at the Lands Registry Mukono and established that the registered proprietor of the suit land was Kennedy Nkolenta. He himself also physically visited the suit land in April 2014, and established from one Kolo who was the caretaker of the land, and one Hussein the L.C. of the area, that Kolo was in possession of the suit property on behalf of Kennedy Nkolenta. It is his belief that the purported sale of the suit property to the Applicants is a ploy by Kennedy Nkolenta and his relatives, concocted after its attachment, aimed at denying him the realization of the Court decree issued against Kennedy Nkolenta.

The governing principles in the matter of objector proceedings are laid down in 0.22 rr.55 and 56, of the Civil Procedure Rules. As has been decided in numerous cases, it is principally the issue of whether at the time of attachment the judgment debtor or the objector who was in possession of the suit property. It has then to be determined whether this possession, by whoever, is on account of the judgment debtor or not. Once the possession is established to be not on account of the judgment debtor, then whoever is in possession may establish that he or she is such possession in their own right or on behalf of another person. Such person in possession, or on behalf of whom the possession is held, other than the judgment debtor, is therefore the person with a legally protectable interest in the suit property.

In the suit before me, the transfer of the suit property from Kennedy Nkolenta to the Applicants/Objectors was done after its attachment advertisement for sale.

Indeed the 2nd Applicant/Objector admitted in cross examination that at the time of the purchase of the suit property, she was aware that there was a decree of Court against Kennedy Nkolenta. She also admitted that they (Applicants/Objectors) did not personally take physical possession of the suit land; but allowed people in the neighbourhood to cultivate it. It is strange that the Applicants/Objectors never countered the Respondent's evidence that he visited the suit land in April 2014, and established from one Kolo who was in possession thereof, and the L.C. of the area, that Kolo was there on account of Kennedy Nkolenta.

This uncontroverted adverse evidence of possession of the suit property, is gravely damaging to the Applicants/Objectors' claim of being in possession at the time of the attachment. There was need for evidence by the persons they allegedly authorised to till the suit land. Furthermore, in cross-examination, Kennedy Nkolenta was manifestly unbothered about his obligation to the Respondent under the Court decree. It follows that the Applicants/Objectors have not satisfied Court that they were in possession of the suit property at the time of attachment. Indeed, the Respondent's contention that the alleged sale of the suit property to the Applicants/Objectors is a ploy by Kennedy Nkolenta and his relatives to frustrate or defeat the ongoing execution of the Court decree against Kennedy Nkolenta, is well founded.

It is my considered finding that the person in possession of the suit property at the time of the attachment was in such possession on behalf of Kennedy Nkolenta the judgment debtor against whom the attachment in execution was made. Having founded so, it follows that the suit property was liable to attachment in execution of the decree against Kennedy Nkolenta, when it was so done. In the event, I decline to make the order sought by the Applicants/Objectors to release the suit property from attachment; and therefore dismiss the objection application with costs to the Respondent. The Registrar Execution is hereby directed to proceed with the execution process to its conclusion.

A handwritten signature in dark ink, appearing to read 'Alfonse Chigamoy Owiny', written in a cursive style.

**Alfonse Chigamoy Owiny – Dollo
JUDGE**

04 – 03 – 2016