THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

CIVIL APPEAL NO.6 OF 2016

(Coram: Katureebe, CJ, Tumwesigye, Arach-Amoko, Opio Aweri, Mwondha, JJSC)

SUNDAY EDWARD MUKOOLI.....APPELLANT

VERSUS

ADMINISTRATOR GENERAL

(SUING THROUGH GRACE NATAYA).....RESPONDENT

(Appeal against the ruling and orders of Court of Appeal delivered on 23.10.2015 in Civil Appeal No.33 of 2010)

JUDGMENT OF HON. JUSTICE OPIO-AWERI

Introduction.

This is a second appeal from the decision of the Court of Appeal which upheld the findings of the trial judge that this matter cannot be res judicata as the decision by the LC Court was null and void for want of jurisdiction and that the first suit before the LC Court was not decided by a court of competent jurisdiction and ordered a retrial of HCCS No.211 of 2002.

Background

The brief facts forming the background to this appeal as adopted from the judgment of the Court of Appeal are that;

The Administrator General. as Administrator of the estate of the late Kevin Ajeru Nataya, through his attorneys Matovu Grace, Auma Jane and Nataya Juliet brought a suit against the appellant for encroachment and trespass on Block 244 plot 541 MRV 825 Folio 19 at Kabalagala, and for an eviction order.

According to the claim in that suit, in 1962, the late Kevina Ajeru Nataya purchased a plot of land (Kibanja) on land comprised in Block 244 plot 541 MRV 825 Folio 19 (hereinafter referred to as the suit land) at Kabalagala, whose registered proprietor was Christine Nabaggala Kawalya. After purchasing the said Kibanja, the late Kevina Ajeru Nataya occupied and developed it with a commercial building, shops and her residence. She occupied the said land from the year 1962, without any disturbance or interference from the registered proprietor, Christine Nabaggala. until her death in 1992.

The appellant was a tenant of the estate of the late Kevina Ajeru Nataya and paid rent to the respondent until the year 1999, when he stopped paying rent, claiming that he had acquired an interest in the suit land from Christine Nabaggala. By this time, Christine Nabaggala had already sold the suit land to the late Kevin Ajeru Nataya. In the same year, the appellant is alleged to have commenced fraudulent and illegal construction on the suit land without the consent or authority of the respondent.

At the hearing of HCCS No.211 of 2002, the appellant raised a preliminary objection that the respondent's suit was res judicata, as the facts in issue in that suit were substantially the same as those which were resolved in Biyinja Zone LC1 Court, Kabalagala Parish, Makindye Division, between the plaintiff and the defendant's predecessor in title vide judgment dated 12 March 2000.

The learned trial judge decided that the preliminary objection could not be sustained, as the determination of the dispute by LC Court was a complete nullity. He relied on the case of **Maria Kevina Sentamu v. Kyaterekera Growers Cooperative Society [1996]Kalr 160** where *Musoke Kibuuka,J.*, held that the Executive Committee (Judicial Powers) Act Cap.8 specially sets out the

kind of disputes which the LC Courts can entertain being those arising out of the land being held under customary tenure.

The appellant appealed to the Court of Appeal against the ruling and decision of the learned judge.

The grounds of appeal were;

1. The learned trial judge erred in law and in fact when he failed to properly evaluate the evidence on record and thus came to a wrong conclusion occasioning a miscarriage of justice to the appellant.

2. The learned trial judge erred in law and fact by failing to properly evaluate the evidence on record and came to a wrong conclusion that the land in dispute is registered under the Registration of Titles Act.

3. The learned trial judge erred in law when he found that the L.C.1 which first tried the matter in dispute lacked jurisdiction to try the matter thus not res judicata.

The Court of Appeal upheld the findings of the trial judge that this matter could not be res judicata as the decision by the LC Court was null and void for want of jurisdiction. That the first suit before the LC Court was not decided by a court of competent jurisdiction and ordered trial of HCCS No.211 of 2002 to proceed.

The appellant was aggrieved by the judgment of the Court of Appeal, hence this appeal.

The appellant raised three grounds of appeal, namely;

1. The learned appellate Justices erred in law when they failed to properly evaluate the law and the evidence on record and came to a wrong conclusion

that the suit land did not fall within the first schedule to the Executive Committee (Judicial Powers) Act Cap.8.

2. The learned Justices of Court of the Appeal erred in law when they failed to properly evaluate the law and evidence on record and came to a wrong conclusion that the matter was not res judicata.

3. The learned Justices of the Court of Appeal erred in law when they dismissed the appeal with costs thereby occasioning a miscarriage of justice.

The appellant prayed this Court to set aside the Judgment and orders of the Court of Appeal and enter judgment in his favour against the respondent with costs.

At the pre-hearing, both parties agreed to file written submissions.

Representation

At the hearing of this appeal, Mr. David Ssempala represented the appellant while Ms. Sarah Kisubi appeared for the respondent.

Appellant's submissions:

Ground 1

Counsel for the appellant submitted that it was an agreed fact on record that the land in dispute was a customary holding and that this position was reflected in the parties' scheduling memorandum. Counsel argued that the agreed facts bind all signatories thereto and that it was wrong for the learned Justices of Appeal to look outside the purview of the facts and create their own facts.

Counsel for the appellant also contended that the learned Justice of Appeal made reference to those agreed facts but based their findings on the premise that the suit land was registered land, whereas not and that this had a big effect on their finding. Counsel contended that the learned Justices failed to evaluate

the evidence on record and reached a wrong conclusion that the said land was registered land that could not be considered as a customary holding. It was the argument of counsel that whereas the respondent's interest was found on registered land, the interest their late mother purportedly bought and want court to adjudicate on was a customary interest. It was only that interest that court was supposed to investigate.

Counsel for the appellant further contended that the Constitution of the Republic of Uganda, 1995 establishes only four forms of land holding. That these four were freehold, mailo, leasehold and customary tenure also known as Kibanja holders. Counsel submitted that the said suit land though situate on the registered land, was clearly a Kibanja interest which the learned Justices of Appeal ought to have paid attention to and considered.

Counsel further explained that one piece of land could have over three interests. Counsel gave an example where Party A may be a mailo owner who may have leased the entire land of ten (10) acres to party B but party C may be a Kibanja holder on one of the ten acres and party D may be a licensee with a kiosk on ten decimals of the Kibanja owned by party C. By analogy, if there is a misunderstanding between parties C and B and C files a matter in Court to protect his rights as a lawful and bona fide occupant, the court cannot lawfully find that party C is enforcing his/her interest as a registered proprietor. Counsel argued that even if such an interest is on registered land, the legal regime that court has to employ is that of equitable interest like the law of tenancy by occupancy but not the position in the Registration of Titles Act, Cap.230.

Counsel for the appellant cited section 1 of the Land act, Cap.227 that defines Customary Tenure System as a system of land regulated by customary rules which are limited in their operation to a particular

description of class of persons as presented in section 3 which provides for instances where customary rules of tenure are applicable in paragraphs (a)-(h). in counsel's view, the most relevant sub-sections are those enunciated under,

(a) applicable to specific area of land and specific description or class or persons;

(c) applicable to any person acquiring land in that area in accordance with those rules;

(e) Applying local customary regulations and management to individual and household ownership the use and occupation of, and transactions inland;

(g) In which parcels of land may be recognized as subdivisions belonging to a person, a family or a traditional institution.

Counsel argued that the above provision of law squarely captures the disputed land and places it under the confines of customary holding.

Counsel argued that had the learned Justices of Court of Appeal appraised this issue and verified the facts on record, they would have come to the right conclusion that the respondent's interest was a customary tenure and thus clothing the LC1 court with the jurisdiction to handle the dispute.

In conclusion, counsel submitted that the disputed piece of land was one held under customary tenure that is governed by customary practices of the community within which the appellant and the respondent reside and subscribe. Furthermore, that this was an agreed fact, proof of custom or usage was not and still is not necessary.

Respondent's submission.

Ground 1

Counsel submitted that in the scheduling memorandum before the trial court, it was not an agreed fact that the estate of the late Nataya was held by customary tenants in respect of a portion of land on Mailo Register vol. 825 Folio 19 Block 244 plot 541. However, it was clear from the evidence and contentions of both parties that the purported agreed fact was the bone of contention in this matter. Whereas it was purportedly agreed as fact, the issue of whether the respondent was a customary tenant was one of a legal nature over which the court was to pronounce itself on the right position of the law.

Counsel submitted that this issue went outside the ambit of mere facts and therefore the Justices of the Court of Appeal had a duty to evaluate the purported agreed facts in relation to other documents and came to the right conclusion. Counsel invited this court to take judicial notice of the fact that in this area of the law it was very common for the words like 'kibanja holder', customary tenants' and 'tenants by occupancy' to be used interchangeably to refer to the same interest whereas their legal implications differ. Counsel cited the case of **Administrator General v. Bwanika James & 9 Ors SCCA No.7 of 2003**, where Justice *Odoki,C.J. (as he then was),* stated that concerning the essence of holding a scheduling conference before trial in civil suits and the consequences of such agreements and disagreements as follows;

"As I understand these provisions, their purpose is to enable parties to agree on non-contentious evidence such facts and documents thereafter become part of the evidence on record so that they are evaluated along with the rest of the evidence before judgment is given. Indeed in as much as they are

admitted without contest, the contents of such admitted documents can be treated as truth, unless those contents intrinsically point to the contrary"

Counsel submitted that in accordance with the above finding of this honourable court, agreed facts do not necessarily bind the court as the whole truth without subjecting them to any scrutiny as proposed by counsel for appellant but they are to be evaluated along with the rest of the evidence before judgment.

Counsel further stated that in the case of **Administrator General v. Bwanika James & 9 Ors** (supra), court found that the agreed facts would only be treated as the truth if they do not intrinsically point to the contrary.

The fact that the respondent's predecessor having held her interest as a customary tenant which was purportedly agreed by the parties in the absence of any evidence of customary regulation and usage of the area and /or class of persons is intrinsically contrary to the undeniable fact that the respondent's claim was a result of a purchase of an equitable interest on registered land owned privately and occupied privately with no communal or customary implication whatsoever.

Thus, counsel submitted that the justices of the appellate court had the mandate to evaluate the said agreed facts along with the evidence on record and indeed arrived at the correct finding that the respondent's interest was not held under customary tenure.

In response to the appellant's contention that the learned Justices of Appeal failed to evaluate the position of the law in so far as it related to the respondent's claim which according to the appellant was a Kibanja interest and fell under the confines of customary holding, Counsel for the respondent stated that the learned Justices of appeal properly evaluated the

position of the law against the facts presented and found in their judgment that;

'it is not in dispute that the initial purchase was only limited to a Kibanja interest which is only one on the four land tenure that are recognized by the 1995 Constitution of Uganda and section 29 of the Land Act which provides for persons holding land as such are acknowledged as lawful occupants under the legal provision.'

Counsel further contended that the learned justices of appeal considered the respondent's 2nd purchase of the legal interest in the suit land from registered proprietor as per annex "F" to the plaint which the appellant deliberately overlooked. The Justices of Court of Appeal came to the conclusion that the respondent had acquired a legal interest in the suit land and it had therefore ceased to be a Kibanja interest and had become registered land.

Counsel explained that the appellant gave an example of various interests that could be held on land at the same time and contended by analogy that the learned Justices of the Court of Appeal arrived at the conclusion that the suit land was registered on the basis of the fact that the interests claimed by the parties were constituted on registered land. This was however not the correct interpretation of their Lordships' judgment. Their lordships clearly recognized that despite the mailo interest subsequently acquired, the respondent acquired an equitable (Kibanja) interest which was protected by section 29 of the Land Act, and subsequently purchased and/or paid for the mailo interest which was governed by the RTA Cap.230. The LC1 Court decision referred to by the appellant clearly showed that it was delivered on the 12th of March 2000 long after the respondent had paid for the legal

interest in the suit land to the registered proprietor's lawyers, Mpanga & Co. Advocates.

Counsel further contended that the Justices of the Court of Appeal rightfully considered the said legal interest and properly arrived at the finding that the land was outside the confines of the land held under customary tenure. That, even if their Lordships had only stopped at the respondent's first purchase of the Kibanja interest, the same could not rightly be considered land governed by customary laws, neither could a dispute arising from the same be regarded as a land dispute on customary tenure under the 2nd schedule of the Executive Committees (Judicial Powers) Act, cap.8. Section 5(1) thereof provides that the Executive Committees Court shall have jurisdiction for trial and determination of causes and matters of a civil nature governed only by customary law and specified in the 2nd schedule of the Act. Under the 2nd schedule, the Executive Committee Court has jurisdiction over land disputes relating to customary tenure.

Counsel explained further that land owned under customary tenure is described in section3 of the Land Act Cap.227 as follows;

(a) Is said to be applicable to a specific area of land and a specific description of class of persons.

(b) Subject to section 27, governed by rules generally accepted as binding and authoritative by the class of persons to which it applies.

(c) Applicable to any person acquiring land in that area in accordance with those rules.

(d) Subject to section 27, characterized by local customary regulation;

(e) Applying local customary regulation and management to individual and household ownership, use and occupation and transaction in, land .

(f) Providing for communal ownership and use of land.

(g) In which parcels of and may be recognized as subdivisions belonging to a person, a family or traditional institution.

(h) Which is owned in perpetuity.

Counsel maintained that the suit land was land which the respondent's mother Kevina Ajeru Nataya purchased from the registered proprietor, Christine Nabaggala, first as a Kibanja (equitable interest) which the latter sold from her own private mailo. There was no evidence to show that any of the descriptions in section 3(1) of the Land Act fitted the status of the suit land.

Counsel further submitted that the appellant's claim itself was based on a purported purchase of an equitable interest from the registered proprietor of the said private mailo and did not in any way relate to communal ownership and use of land, or parcels of land recognized as subdivisions belonging to a person, a family or an institution neither were there any customary laws and regulations applicable to or governing its use and occupation.

Counsel argued that the appellant's counsel relied on section 3(1) of the Land Act however failed to apply them to the facts of the case and simply stated that in his opinion the law squarely captured the disputed land whereas not.

It is the respondent's submission that the disputed land in this matter was an equitable interest acquired on the registered land which fell squarely under the provisions of section 29(b) of the Land act as a tenancy by occupancy, specifically as a lawful occupant. Under Section 29 (b) a lawful occupant included a person who entered the land with the consent of the registered

owner and includes a purchaser. The respondent claims an equitable interest by purchase from the registered owner.

Counsel stated that under section 29(c) of the Land Act a customary tenant on registered land is also termed as a lawful occupant however not all lawful occupants are customary tenants.

Counsel further explained that for a lawful occupant to be a customary tenant, he must have come to own or occupy land in accordance with the provisions of section 3(1)(a-h) of the land Act which provide for land held by customary tenure and they would only become tenants by occupancy by virtue of section 29(c) of the Land Act whereas the respondent's mother, who purchased her equitable (Kibanja) interest from the registered owner on private mailo in an area which is not known to be governed by any customs or is it occupied by a particular class of people, became a lawful occupant by virtue of her purchase of the said equitable interest protected under section 29(b).

Counsel concluded that the jurisdiction given to an Executive Committee Court under section 5 LC Executive Committees (Judicial Powers) Act, cap.8 and the 2nd Schedule of the same Act was not to handle disputes between lawful occupants but disputes relating to land under customary tenure. It was the respondent's submission that the suit land did not constitute land held under customary tenure and therefore the LC court had no mandate to preside over a dispute relating to the same.

Court's findings

Before I move to resolve the grounds of appeal, it is pertinent to state the duty of this Court as a second appellate Court.

The 2nd appellate Court except in the clearest of cases, is not required to re-evaluate evidence like the 1st appellate Court. On 2nd appeal it is sufficient to decide whether the 1st appellate Court on approaching its task, applied or failed to apply such principles as expected of it: see Kifamunte Henry vs Uganda SCCA NO. 10/1997.

It is also worth pointing out that the grounds of appeal argued before this Court were the same grounds argued in the Court of Appeal. I also wish to note that the Executive Committees (Judicial Powers) Act has since been repealed by the Local Council Courts Act 2006. However, since the former was the law applicable at the time the suit was filed, reference shall be made to the said Act.

Ground 1

Section 5 as well as the first and the second schedules to the Executive Committees (Judicial Powers) Cap. 8 provided for civil disputes which were triable by executive committee courts as well as civil disputes governed by customary law triable by the executive committee courts. These inter alia included land disputes relating to customary tenure.

What remains to be established is whether the land in question was governed by customary law and hence falling within the ambit of the jurisdiction of the executive committee courts.

In 1962, the late Kevina Ajeru Nataya purchased a plot of land(Kibanja) on land comprised in Buyinza Zone Block No.244 plot 541 MRV 825 Folio 29 at Kabalagala. The registered proprietor of this land was Christine Nabaggala. After purchasing the said Kibanja, the late Kevina Ajeru Nataya occupied and developed it until her death in 1992 without any disturbances from the registered proprietor, Christine Nabaggala. The appellant was a tenant of the

estate of the late Kevina Ajeru Nataya. He paid rent until 1999 when he claimed that he had acquired an interest in the said land. By this time Christine Nabaggala had already sold the suit land to the late Kevina Ajeru Netaya. This is what the Justices called 'the second purchase which involved sale of the registered interest in Block 244 plot 541 MRV 825 Folio 19 at Kabalagala by Christine Nabaggala to Kevina Ajeru Netaya before her death.

It is my considered view that the learned Justices of Appeal rightly found that although Kevina Ajeru Netaya first had an interest recognized under the Constitution, and the Land Act as a lawful occupant, the second sale related to the sale of a registered interest in the same Block 244 plot 541 MRV 825 Folio 19 Kabalagala. Hence the subject matter progressed from being a Kibanja holding and became registered land. It can thus be said that at this moment, the land ceased to be governed by customary law and as such the jurisdiction of executive committee courts ceased accordingly.

I therefore agree with the concurrent findings of the learned Justices of Appeal and the learned trial Judge that the LC court at Buyinja Zone had no jurisdiction over the matter in question and therefore the judgment arising therefrom was null and void.

Ground 1 fails.

Appellant's submissions on Grounds 2 and 3

Counsel for the appellant submitted that the doctrine of *res judicata* was established under our laws and practice. In support of his submission, he cited section 7 of the Civil Procedure Act Cap.71 which provides as follows:

'No court shall try any suit or issues in which the matter directly and substantially in issue has been directly and substantially in issue in a

former suit between the same parties, or between parties under whom they or any of them claim, litigating under the same title, in a court competent to try the subsequent suit or the suit in which the issue has been subsequently raised and has been heard and finally decided by the court.

Counsel for the appellant further submitted that there are established tenets upon which the doctrine is premised. He referred to the case of **Mbabali Daniel Sempa v. William Kizza & The Administrator General (1992-93) HCB 243** where court laid down the following tests for the doctrine to apply, namely that;

(a) The matter in issue must be directly in issue in the former suit;

(b) The subsequent suit should be between the same parties under whom they or any of them claim;

(c) The court which tried the first suit must be of competent jurisdiction to try the suit;

(d) The issue in the subsequent suit must have been heard and finally decided in the first suit.

Counsel argued that the instant case meets all the above tenets and that had the Justices of Appeal subjected the evidence and facts thereof to this test, they would have reached the conclusion that the matter was res judicata.

Counsel further pointed out that the only issue that perhaps needed clarification was on the parties. Whereas it was Kevina Nataya who sued Christine Nabaggala in the LC1 court, in the instant case it is the administrator of the estate of Grace Nataya who was suing Sunday Edward Mukooli who purchased Christine Nabaggala's interest. Counsel however opined that this was catered for under ground two because it was the same

parties under whom either party is proceeding. That this was also captured in section 7 of the CPA.

Counsel further argued that the record of proceedings were availed to the appellate court to show that the 1st, 2nd and 4th tenets were ably met in the proceedings of Biyinja Zone Local Council Court on the 12.03.2000 according to counsel, the question that remained to be answered was whether the said court was a court with competent jurisdiction to determine the matter.

Counsel stated that the answer was yes, arguing that Biyinja Zone Local Council court had jurisdiction, the same having been bestowed upon it by the provisions of the Executive Committees (Judicial Powers) Act Cap.8.

Counsel reiterated his earlier position that a Kibanja interest is a customary tenure. Further that had the learned Justices of Appeal properly applied the law to facts on record, they would have reached the conclusion that this was a case where the doctrine of res judicata would apply.

Counsel prayed this honourable court to find merit in the appellant's case and allow the appeal with costs.

Respondent's submissions on Grounds 2 and 3

Counsel submitted that the Justices of Appeal found that the suit was not res judicata on the basis that the decision of the LC Court was null and void for want of jurisdiction. Further that the learned Justices of Appeal found that the first suit before the LC Court was not decided by a court of competent jurisdiction and therefore rightly found that the matter was not res judicata.

Counsel contended that in the instant case, although the matter in issue was directly in issue in the former suit between the same parties or under whom both the appellant and respondent in this appeal claim, the court which

purportedly presided over the said dispute was not a competent court for purposes of section 7 of the CPA.

Counsel maintained that the Executive Committee Court was expressly barred from handling civil matters involving land disputes that do not relate to customary tenure by virtue of section 5 and the 2nd schedule to the Executive Committee (Judicial Powers) act Cap.8.

In conclusion, counsel contended that the decision of the LC court in this matter was not a decision of a competent court as to bar any subsequent suit by reason of res judicata. Accordingly, counsel submitted that the learned Justices of Appeal rightly found that the suit was not res judicata and consequently they properly dismissed the appellant's appeal. Counsel prayed this Court to declare this matter not res judicata and also find this appeal incompetent and dismiss the same with costs to the respondent.

Court's findings on grounds 2 and 3

The principle of res judicata is based on the need of giving finality to judicial decisions. What it says is that once it is *res judicata*, it shall not be adjudged again. Primarily it applies as between past litigation and future litigation, when a matter, whether on a question of fact or a question of law, has been decided between two parties in one suit or proceeding and the decision is final, either because no appeal was taken to a higher court or because the appeal was dismissed, or no appeal lies, neither party will be allowed in a future suit or proceeding between the same parties to canvass the matter again.

This principle of *res judicata* is embodied in relation to suits in Section 7 of the CPA but even where Section 7 does not apply, the principle of res judicata has been applied by courts for the purpose of achieving finality in litigation. The result of this is that the original court as well as any higher court must in any

future litigation proceed on the basis that the previous decision was correct. See Ponsiano Semakula vs Susan Magala & others [1993] KALR 213.

The Court of Appeal Justices were alive to the doctrine of res-judicata and they had this to say:-

".....the tests under which the doctrine applies are that: the matter in issue was directly in issue in the former suit; that the subsequent suit should be between the same parties under whom they or any of them tried in the first suit must be of competent jurisdiction to the subsequent suit; and lastly that the issue in the subsequent suit must have been heard and finally decided in the first suit.

We have carefully considered the above provisions of the law and jurisprudence on the doctrine of res judicata. We find and agree with the learned trial Judge that this matter cannot be res judicata as the decision by the LC Court is null and void for want of jurisdiction.

The first suit before the LC Court was not decided by a Court of competent jurisdiction. Ground 3 therefore fails as well".

I am in agreement with the above conclusion of the learned Justices of the Court of Appeal. Jurisdiction is a creature of statute. Section 5 of the CPA grants jurisdiction to courts to try all suits of a civil nature except suits which in its cognizance is either expressly or impliedly barred. The Executive Committee Court is expressly barred from handling civil matters involving land disputes that do not relate to customary tenure by virtue of Section 5 and the 2nd schedule to the executive committal Judicial Powers/Act, CAP 8. Therefore, by proceeding to assume jurisdiction over a dispute a rising from the suit land which land was not held under customary tenue, the LC Court was not a court of competent jurisdiction.

Therefore, its finding could not bar a subsequent suit relating to the same subject matter and concerning the same parties. Thus it follows that this matter was not res-judicata. I accordingly find that the Court of Appeal was right to

dismiss the appeal with costs as costs follow the event unless the court thinks otherwise.

For the above reasons grounds 2 and 3 also fail.

In the result, I uphold the findings of the trial Court and the Court of Appeal. This appeal fails and is accordingly dismissed with costs here and in the courts below.

Dated at Kampala this 17th day of January 2019

Hon. Justice Opio-Aweri,
JUSTICE OF SUPREME COURT.

REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA

AT KAMPALA

(CORAM: [KATUREEBE, CJ; ARACH-AMOKO; OPIO AWERI; MWONDHA, JJ.S.C TUMWESIGYE, AG.J.S.C]]

CIVIL APPEAL NO: 06 OF 2016

BETWEEN

SUNDAY EDWARD MUKOOLI :::::::::::::::::::::::::::::::::::::: APPELLANT

AND

ADMINISTRATOR GENERAL :::::::::::::::::::::::::::::::::::::: RESPONDENT

SUNG TRHU' GRACE NATAYA

[Appeal arising from the judgement and orders of the Court of Appeal at Kampala (Kasule, Bossa, Egonda Ntede, JJA), in Civil Appeal No.33 of 2010 dated 23rd October, 2015).

I have read in draft the judgement of my brother Opio –Aweri and I agree with his reasoning and decision he has made. I also agree with the orders as to costs.

In the result, as all the other members of the Court agree, this appeal is dismissed with costs in this court and in the Courts below.

Dated at Kampala this.....17th.....day January.....2019

Bart M. Katureebe
CHIEF JUSTICE

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

Coram :(*Katureebe C. J., Tumwesigye, Arach-Amoko, Opio-Aweri, Mwondha, JJ.S.C*)

CIVIL APPEAL NO.06 OF 2016

BETWEEN

SUNDAY EDWARD MUKOOLI ..... APPELLANT

AND

ADMINISTRATOR GENERAL

(suing through GRACE MUTAYA) ..... RESPONDENT

(Appeal against the ruling and orders of Court of Appeal of Uganda delivered on 23.10.2015 in Civil Appeal No. 33 of 2010).

JUDGMENT OF MWONDHA, JSC

I have had the benefit of reading in draft the judgment of my learned brother Hon. Justice Opio-Aweri JSC. I agree with the analysis and decision made. I also agree with the proposed orders.

Dated at Kampala this 17th day of January 2019

Mwondha

JUSTICE OF THE SUPREME COURT

THE REPURLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA

AT KAMPALA

(CORAM: Katureebe, CJ; Tumwesigye, Arach-Amoko, Opio-Aweri, Mwondha, JJSC.)

CIVIL APPEAL NO. 06 OF 2016.

BETWEEN

SUNDAY EDWARD MUKOOLI::::::::::::::::::::::::::::::::APPELLANT

AND

ADMINISTRATOR GENERAL
(SUING THRU' GRACE NATAYA)::::::::::::::::::::::::::RESPONDENT

(Appeal arising from the judgment and orders of the Court of Appeal at Kampala (Kasule, Bossa, Egonda Ntende, JJA), in Civil Appeal No. 33 of 2010 dated 23rd October, 2015).

JUDGMENT OF M.S.ARACH-AMOKO, JSC

I have had the benefit of reading in draft the Judgment of my learned brother, Hon. Justice. Opio-Aweri, JSC, and I agree with his findings and decision that this Appeal should be dismissed with costs to the respondent.

Dated at Kampala this 17th day of January 2019

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M.S. ARACH-AMOKO
JUSTICE OF THE SUPREME COURT

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

(CORAM: KATUREEBE; CJ; TUMWESIGYE; ARACH-AMOKO; OPIO-AWERI; MWONDHA; JJ.S.C.)

CIVIL APPEAL NO: 06 OF 2016

BETWEEN

SUNDAY EDWARD MUKOOLI:::::::::::::::::::::: APPELLANT

AND

ADMINISTRATOR GENERAL
(SUING THRU' GRACE NATAYA)::::::::::::: RESPONDENT

[Appeal arising from the judgment and orders of the Court of Appeal at Kampala (Kasule, Bossa, Egonda-Ntende, JJA) in Civil Appeal No. 33 of 2010 dated 23rd October, 2015]

JUDGMENT OF TUMWESIGYE, JSC.

I have had the advantage of reading in advance the judgment of my learned brother, Hon. Justice Opio-Awori, JSC. I agree with his judgment that this appeal should be dismissed with costs to the respondent.

Dated at Kampala this 17th day of January 2019

Justice Jotham Tumwesigye
JUSTICE OF THE SUPREME COURT