

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(CIVIL DIVISION)

MISCELLANEOUS CAUSE NO. 227 OF 2020

- 1. LUBOWA MUHAMAD KITYO**
- 2. BOGERE MOSES**
- 3. NAMANYA BETTY**
- 4. NAKANWAGI DAPHINE**

=====

APPLICANTS

VERSUS

THE COMMISSIONER LAND REGISTRATION

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RESPONDENT

BEFORE: HON JUSTICE SSEKAANA MUSA

RULING

The Applicant brought this Application under Section 98 of the Civil Procedure Act Section 36(1) (a), (b), (c), (e) (2), (3), (4) (5) and (7), 38 of Judicature Act, Cap 13 as amended, Rules 3(1), (2), 4 and 6 of Judicature (Judicature Review) Rules 2009, The Judicature (amendment) Rules 2002. The Judicature (Judicature Review) (amendment) Rules 2019 for orders that;

- a. An order to call and quash the decision of the respondent, cancelling the applicants' Titles comprised in Block 269 Plots 3234, 3235, 3236, 3237, 3238, 3239 & 3240 respectively made in breach of the procedures laid down by the law.
- b. An order of mandamus requiring the respondent to restore the applicants' titles comprised in Block 269 Plots 3234, 3235, 3236, 3237, 3238, 3239 & 3240 on the land register.

- c. An order of prohibition doth issues against the respondent restraining them from implementing the findings of Lt. Col Edith Nakalema contained in her letter dated 8th July 2020.

The grounds in support of this application are contained in the affidavits of the applicants but they are generally and briefly as follows:

- (a) That the applicants were the registered proprietors on suit land compiled in Block 269 plots 3234, 3235, 3237, 3238, 3239 & 3240 with tiles to the same.
- (b) That the Respondent did not follow the due process for cancellation laid down by the law under section 91 of the Land Act and sections 176 and 177 of the Registration of Titles Act.
- (c) That the applicants were not heard before the titles were cancelled.
- (d) That the respondent has no powers whatsoever to cancel the applicants titles on grounds of fraud or forgery.
- (e) That the applicants did make search on the land registry but there was no complaint recorded or filed therein and the respondent cancelled the titles at her own motion and volition.
- (f) That the actions of the respondent to cancel the applicants' titles were ultra vires.
- (g) That there is a pending suit in respect to the Applicants' land where the respondent is a party and they could not lawful cancel the applicants title in total disregard of the *subjudice rule / doctrine*.
- (h) That it is in the interest of justice to grant the Application the relief sought for.

In opposition to this Application the Respondent through Nabuuma Janat a Senior Registrar of Titles in the respondent's office filed an affidavit in reply wherein they vehemently opposed the grant of the orders being sought briefly stating that;

- 1) That the Office of the Commissioner Land Registration is charged with a statutory duty of keeping the Sanctity of the Land Register pursuant of which it has special powers to cancel certificates of the title which were issued illegally, irregularly or erroneously.
- 2) That the instant application is misconceived and aimed at promoting a multiplicity of proceedings as there is already a matter pending in the High Court Land Division vide Civil Suit N0.1094 of 2019
- 3) That the office of the respondent (Wakiso Ministry Zonal Office) received an application/ a request dated the 2th day of October 2019 from the Senior Land Management officer Wakiso District to issue a freehold certificate of title for the suit Land.
- 4) That the said application was made pursuant to a grant following a grant of freehold by Wakiso District Land Board under **Minute No. 4/7/WDL/2015 (76)** OF THE 8th day of April 2015.
- 5) That the **said minute having been confirmed by the Zonal Senior Land Management** Officer on the 19th day of November 2019, the office of the respondent accordingly issued the freehold certificate to Bogere Moses, Lubowa Muhamed, Kityo Nakanwagi Daphine and Namanya Betty under instrument No, WAK -00248304 of the 21st day of November 2019 comprised in freehold Register Volume WAK6104 Folio 24.
- 6) That the Freehold Certificate of Title comprised in Freehold Register Volume WAK6104 Folio 24 was subsequently subdivided by the above registered proprietor under instrument No. WAK-00249177 of the 27th day of November 2019 to create separate Certificates Of Titles for plots 3234,3235,3236,3237,3238 and 3239 under Freehold Register Volume WAK6129 Folios 9,10,11,12,13 and 14 respectively

- 7) That before any further transaction on the said land as compared in plots 3234, 3235, 3236, 3237, 3238 and 3239, the senior Land Management officer, Wakiso District in a letter dated the 18th day of December 2019 stated that the purported **Minute No.4/7/WDLB/2015(76)** of the 8th day of April 2015, under which the grant was obtained was fictitious and non-existent and that his signature on both the offer and forwarding letter were forged and not his.
- 8) That the Senior Land Management also noted that the signature of the Chairperson and secretary District Land Board were all forged too
- 9) That the Members of the Area Land Committee also denied having ever signed the relevant land forms and all related documents used in acquiring the certificate of Title by Bogere Moses, Lubowa Muhammad Kityo, Nakanwagi Daphine and Namanya Betty.
- 10) That the office of the Commissioner Land Registration having discovered that above described certificates of Title were illegally and erroneously issued the Office of titles invoked its powers and expunged them from the register book.

In the interest of time the court directed the parties to file written submissions which have been considered in this ruling;

Counsel for the Applicants submitted that the principles governing Judicial Review and well settled, Judicial review is not concerned with the decision in issue but with the decision making process through which the decision was made. In that regard court ought to be concerned with its supervisory jurisdiction to check and control the exercise of power by those in Public offices or private persons or bodies exercise of power by those in Public offices or private persons or bodies exercising quasi-judicial functions by the granting of Prerogative orders as the case may fall as stated in ***DOTT SERVICES LTD V ATTORNEY GENERAL MISC CAUSE NO. 125 OF 2009, BALONDEMU DAVID V THE LAW DEVELOPMENT CENTRE MISC CAUSE NO.61 OF 2016.***

Counsel for the Applicants further submitted that for one to succeed under Judicial Review is trite law that he must prove that the decision made was tainted either by illegality, irrationality or procedural impropriety. The applicants did show in their either affidavits that the decision of the Commissioner Land Registration was tainted with illegality, irrationality or Procedural impropriety as elaborated below

Illegality

Counsel for the Applicants submitted that the 1st Applicant mentioned in paragraph 3 that his title and that of others were cancelled on grounds of Forgery. The applicant attached a notice of cancellation with a search letter marked AX7 and AX14 respectively which all show that their titles were cancelled on grounds of forgery by the registrar in exercise of her powers under *section 90 of the Land Act*. Forgery is an offence which is clearly provided for and defined under *Section 342 of the Penal Code Act* as the making of a false document with intent to defraud or to deceive. *Section 4 of the Penal Code Act* provides that the jurisdiction of the courts of Uganda for the purposes of the Code extends to every place within Uganda and this is true with the Registry of Land Registration. On this matter therefore we submit that the commissioner has no jurisdiction whatsoever to make a finding of forgery which is a preserve of the courts of judicature of Uganda.

The applicants' counsel prayed that court finds her place to have acted on her findings of forgery on the part of the applicants and consequently cancel their titles. Similarly Courts have already pronounced itself on matters regarding the jurisdiction of The Commissioner Land Registration on matters regarding fraud and burden of proof.

Counsel for the Applicants submitted that it was held in the case of *HCCS NO.87 O 2009,C.R. PATEL VERSUS THE COMMISIONER LAND REGISTRATION & 2 OTHERS*, that;

“Under the repealed Section 69 of the RTA (1964 Ed),the Registrar of Titles (now Commissioner Land Registration) was empowered to cancel certificates of title and entries therein on grounds of:

- (a) Errors;*
- (b) Mis-description of land or boundaries*
- (c) Illegal endorsements or illegality obtained or retained instruments*
- (d) Wrongfully obtained instrument or endorsements*

The legislature deliberately removed reference to “fraudulently” obtained or retained certificates, instruments or endorsement. When, as in this case, an allegation of fraud is made the proper avenue for adjudication over the matter is S.176 (c) of the Registration of Titles Act, where the person alleging fraud files a suit to cancel the fraudulent entry. Fraud is such a serious allegation that it must be specifically pleaded and proved beyond a mere balance of probabilities. It cannot be raised and casually proved the Commissioner Land Registration.

Additionally the above finding of court on that matter is already cemented by the ruling of the Supreme Court in the case of ***Hilda Wilson Namussoke 3 Others vs Owala’s Home Investment Trust (EA) Limited SCCA No.15 of 2017***, where it held that:

“I am inclined to believe that the absence of fraud in the “new” provision was deliberate. It therefore follows that the enactors of the Land Amendment Act of 2004 took away the authority of the Commissioner to cancel a certificate of title on the basis of fraud without referring the matter to a Court. The Commissioner’s action is rightly limited to actions for “errors” or “illegalities” that do not require the rigors of a full trial where fraud would be established before a title is impeached. The Commissioner who may exercise quasi- judicial powers would not have the capacity to hear a matter involving fraud and

make findings without calling evidence including cross- examination of the witnesses alleging fraud.”

Counsel for the Applicant submitted that the findings of court in all the above authorities, were premised or not only on the law as stated but the burden of proof that is required in matters regarding Fraud which is was found to be beyond the balance of probabilities. In this case, the Registrar is citing Forgery as the ground for cancellation of the applicants’ titles which is an offence under the Penal Code Act and requiring proof beyond reasonable doubt under section 105 of the Evidence Act. By the fact that Forgery requires a higher burden than that of fraud our submission is that the Respondent has no powers to make a decision on matters regarding the same. We pray that court finds that she acted ultra-vires and illegally. The Applicants also stated in their affidavits that at the time of cancellation of their title there was a pending suit in the high court vide Civil suit No.1094 of 2019.

Applicants’ counsel submitted that Section 107 of the Penal Code Act provides for Offences relating to judicial proceedings as follows;

(1) Any person who-

d) While a judicial proceeding is pending, makes use of any speech or writing misrepresenting such proceedings or capable of prejudicing any person in favor of against any parties in such proceedings, or calculated to lower the authority of any person of any person whom such proceedings is being had or taken:

(i) commits any other act of intentional disrespect to any judicial proceeding or to any person before whom such proceedings is being had or taken, commits a misdemeanor.)

Further “judicial proceedings” is defined to include any proceedings had or taken in or before any court, tribunal, commission of inquiry or person, in which evidence may be taken on oath:

The action of cancelling the Applicants’ titles is criminal in nature as stated under Section 102 of the Penal Code Act as follows:

Any person who, knowing that any book, document or thing of any kind is or may be required in evidence in a judicial proceedings removes or destroys it or renders it illegible or undecipherable or incapable of identification, with intent thereby to prevent it from being used evidence, commits an offence and is liable to imprisonment for a term not exceeding seven years. We did not know the intentions of the Registrar, but we pray that court finds his decision illegal.

Procedural impropriety

Applicants’ counsel further submitted that Section 59 of the Registration of Titles (RTA) Act Cap 230 provides that Certificate is conclusive evidence of the title except for fraud as stated under section 77 of the RTA which is to the effect that any certificate of title, entry, removal of encumbrance, or cancellation, in the Register Book, procured or made by fraud, shall be void as against all parties or privies to the fraud. It is well settled law that a certificate of the title is indefeasible except on the ground of fraud. Fraud means actual or some actual fraud or some act of dishonesty as stated in the case of *Kampala Bottlers Ltd V Damanico*. The special powers of the Commissioner are provided for under **Section 91 of the Land Act** as amended and cancellation of a Certificate of Title on grounds of forgery or fraud is not one of them. It provides that Subject to the Registration of Titles Act, the commissioner shall, without referring to a court or a District Land Tribunal, have power to take such steps are necessary to give

effect to this Act, whether by endorsement or alteration or cancellation of certificates of title, the issue of fresh certificates of title or otherwise.

2) *The Commissioner shall, where a certificate of title or instrument-*

(a) Is issued in error;

(b) Contains a wrong description of land or boundaries;

(c) Contains an entry or endorsement made in error;

(d) Contains an entry or endorsement made in error:

(e) Is illegally or wrongfully obtained; or

(f) Is illegally or wrongfully retained;

Give not less than twenty one day's notice, of the intention to take the appropriate action, in the prescribed form to any party likely to be affected by an decision made under this section.

(2a) The Commissioner shall conduct a hearing, giving the interested party under subsection (2) an opportunity to be heard in accordance with the rules of natural justice, but subject to that duty, shall not be bound to comply with the rules of natural justice, but subject to that duty, shall not be bound to comply with rules of evidence applicable in a court of law.

(2 b) Upon making a finding on the matter, the commissioner shall communicate her decision in writing to the parties, giving the reasons for the decision made, and may call for the duplicate certificate of title or instrument for cancellation, or correction or delivery to the proper party.

3) *If a person holding a certificate of title or instrument referred to in subsection (2) fails or refuses to produce it to the commissioner within a reasonable time, the*

- commissioner shall dispense with the production of it and amend the registry copy and where necessary issue a special certificate of title to the lawful owner.*
- 4) *The commissioner may-*
 - (a) *Correct errors in the Register Book or in entries made in it;*
 - (b) *Correct errors in duplicate certificates or instruments; and*
 - (c) *Supply entries omitted this Act.*
 - 5) *The commissioner may make amendments consequent upon alterations in names or boundaries but in the correction of any such error or making of any such amendment shall not erase or render illegible the original words.*
 - 6) *Upon the exercise of the powers conferred on the commissioner under subsection (5), the commissioner shall affix the date on which the correction or amendment was made or entry supplied and shall initial it.*
 - 7) *Any error or any entry corrected or supplied this section shall have the same validity an effect as if the error had not been made or entry not omitted.*
 - 8) *In the exercise of any powers under this section, the commissioner shall-*
 - (a) *give not less than twenty- one days' notice in the prescribed form to any party likely to be affected by any decision made under this section;*
 - (b) *provide an opportunity to be heard to any such party to whom a notice under paragraph (a) has been given:*
 - (c) *conduct any such hearing in accordance with the rules of natural justice but subject to that duty, shall not be bound to comply with the rules of evidence applicable in a court of law;*

This position was restated in **COUNCIL OF CIVIL SERVICE UNION V. MINISTER FOR THE CIVIL SERVICE 1985 AC 374** held that it's a fundamental principle of natural justice that a decision which affects the interests of any individual should not be taken

until that individual has been given an opportunity to state his or her case and to rebut any allegations made against him or her

- (d) Give reasons for any decision that he or she may make.*
- 9) The commissioner shall communicate his or her decision in writing to the parties and committee.*
- 10) Any party aggrieved by a decision or action of the commissioner under this section may appeal to the District Land Tribunal within sixty days after the decision was communicated to that party.*

Counsel for the Applicants further submitted that Section 177 of the Registration of Titles Act Cap 230 provides that the High Court has power to direct cancellation of certificate or entry in certain cases. Upon the recovery of any land, estate or interest by any proceeding from the person registered as proprietor thereof, the High Court may in any case in which the proceeding is not herein expressly barred, direct the registrar to cancel any certificate of title or instrument, or any entry or memorial in the Register Book relating to that land, estate or interest, and to substitute such certificate of title or entry as the circumstances of the case require, and the registrar shall give effect to that order.

Besides, section 174 of the RTA provides that the registrar may, whenever any question arises with regard to the performance of any duty or the exercise of any of the functions conferred or imposed on him or her by this Act, state a case for the opinion of the High Court; and thereupon the court may give its judgment on the case, and that judgment shall be binding upon the registrar, which means that the powers of the Registrar/Commissioner are checked through such avenues, but by cancelling certificates of title on allegations forgery without any order from the High Court was Ultra Vires.

Unfortunately, in the circumstances of this case, the Respondent cancelled the Applicants' titles basing on a finding that they were forged and in total disregard of their right to be heard and did not follow the due process for cancellation of a title laid down by the law.

In the case of *TWINOMUHANGI V KABALE DISTRICT AND OTHERS [2006] HCB130* Court held that:

Procedural impropriety is when there is failure to act fairly on the part of the decision making authority in the process of taking a decision. The unfairness may be in the non-observance of the rules of natural justice or to act with procedural fairness towards one affected by the decision. It may also involve failure to adhere and observe procedural rules expressly laid down in a statute or legislative instrument by which such authority exercises jurisdiction to make a decision"

In the present case, the Respondent took a decision to cancel the Applicant's titles well knowing that there was no hearing conducted for the Applicants to present their case. Secondly, considering our submissions above, jurisdiction on matters of forgery/ fraud is vested with the High Court and therefore the Registrar erred when she cancelled the Applicants titles without having the said jurisdiction. We therefore pray that the Registrar decision is quashed for faulting the rules of natural justice and by quashing the decision, certiorari confirms that the decision is a nullity and is to be deprived of all effect as stated in the case of *JOHN JET TUMWEBAZE V MAKERERE UNIVERSITY COUNCIL AND ANOTHER HCMC NO.353 OF 2005*

Analysis

According to the *Black's Law Dictionary* at page 1013 11th Edition Thomson Reuters, 2019 Judicial review is defined as a court's power to review the actions of other

branches or levels of government; especially the court's power to invalidate legislative and executive actions as being unconstitutional. Secondly, a court's review of a lower court's or administrative body's factual or legal findings.

The power of Judicial review may be defined as the jurisdiction of superior courts to review laws, decisions and omissions of public authorities in order to ensure that they act within their given powers.

Judicial review per the Judicature (Judicial Review) (Amendment) Rules, 2019 means the process by which the high Court exercises its supervisory jurisdiction over proceedings and decisions of subordinate courts, tribunals and other bodies or persons who carry out quasi-judicial functions or who are charged with the performance of public acts and duties;

Broadly speaking, it is the power of courts to keep public authorities within proper bounds and legality. The Court has power in a judicial review application, to declare as unconstitutional, law or governmental action which is inconsistent with the Constitution. This involves reviewing governmental action in form of laws or acts of executive for consistency with constitution.

Judicial review also establishes a clear nexus with the supremacy of the Constitution, in addition to placing a grave duty and responsibility on the judiciary. Therefore, judicial review is both a power and duty given to the courts to ensure supremacy of the Constitution. Judicial review is an incident of supremacy, and the supremacy is affirmed by judicial review.

It may be appreciated that to promote rule of law in the country, it is of utmost importance that there should function an effective control and redressal mechanism over the Administration. This is the only way to instil responsibility and accountability

in the administration and make it law abiding. Judicial review as an arm of Administrative law ensures that there is a control mechanism over, and the remedies and reliefs which a person can secure against, the administration when a person's legal right or interest is infringed by any of its actions.

When a person feels aggrieved at the hands of the Administration because of the infringement of any of his rights, or deprivation of any of his interests, he wants a remedy against the Administration for vindication of his rights and redressal of his grievances. The most significant, fascinating, but complex segment in judicial review is that pertaining to judicial control of administrative action and the remedies and reliefs which a person can get from the courts to redress the injury caused to him or her by an undue or unwarranted administrative action in exercise of its powers.

The effectiveness of a system of judicial review under Administrative law depends on the effectiveness with which it provides remedy and redress to the aggrieved individual. This aspect is of crucial significance not only to the person who has suffered at the hands of the administration but generally for the maintenance of regime of Rule of Law in the country.

The weakness of the "remedial and redressal" aspect of administrative law will directly contribute to administrative lawlessness and arbitrariness. According to *WADE & FORSYTH Administrative Law, 29, 10th Edition* 2009, "Judicial review thus is a fundamental mechanism of keeping public authorities within due bounds and for upholding the rule of law.

In Uganda, great faith has been placed in the courts as a medium to control the administration and keep it on the right path of rectitude. It is for the courts to keep the administration within the confines of the law. It has been felt that the courts and administrative bodies being instruments of the state, and the primary function of the

courts being to protect persons against injustice, there is no reason for the courts not to play a dynamic role in overseeing the administration and granting such appropriate remedies.

The courts have moved in the direction of bringing as many bodies under their control as possible and they have realized that if the bodies participating in the administrative process are kept out of their control and the discipline of the law, then there may be arbitrariness in administration. Judicial control of public power is essential to ensure that that it does not go berserk.

Without some kind of control of administrative authorities by courts, there is a danger that they may be tempted to commit excesses and degenerate into arbitrary bodies. Such a development would be inimical to a democratic constitution and the concept of rule of law.

It is an accepted axiom that the real kernel of democracy lies in the courts enjoying the ultimate authority to restrain the exercise of absolute and arbitrary powers by the administration. In a democratic society governed by rule of law, judicial control of administration plays a very crucial role. It is regarded as the function of the rule of law, and within the bounds of law and due procedure.

It is thus the function of the courts to instil into the public decision makers the fundamental values inherent in the country's legal order. These bodies may tend to ignore these values. Also between the individual and the State, the courts offer a good guarantee of neutrality in protecting the individual.

The courts develop the norms for administrative behaviour, adjudicate upon individuals grievances against the administration, give relief to the aggrieved person in suitable case and in the process control the administration.

The power of judicial review is not intended to assume a supervisory role or don the robes of the omnipresent. The power is intended neither to review governance under the rule of law nor do the courts step into areas exclusively reserved by the *superma lex* to other organs of the State. A mere wrong decision, without anything more, in most of the cases will not be sufficient to attract the power of judicial review. The supervisory jurisdiction conferred upon a court is limited to see that the authority concerned functions within the limits of its authority and that decisions do not occasion a miscarriage of justice.

The concept of justiciability means that all decisions are not justiciable before the court of law. In other words there are matters in relation to which the court because of the doctrine of separation of powers between the executive and the judiciary may be exceedingly reluctant to review. There is no hard and fast rule as to justiciability of a controversy.

The scope and extent of power of the judicial review would vary from case to case, the nature of the order, the relevant statute as also the other relevant factors including the nature of power exercised by the public authorities, namely, whether the power is statutory, quasi-judicial or administrative.

According to section 13 of the Land Act, it states that;

Where the board approves an application, it shall—

send a copy of its decision to the registrar to enable the registrar to issue a certificate; request the registrar to issue a certificate of freehold title to the applicant in terms of its decision, including endorsing on the title as an encumbrance any restriction, condition or limitation as is referred to in subsection (4).

Section 14 of the Land Act in regards to the duties of registrar in respect of applications under sections 9 and 10, provides that on receipt of a decision of the board approving an application for the conversion of customary tenure to freehold tenure or approving a grant of land in freehold tenure accompanied by a certified survey plan, the registrar shall issue a freehold certificate of title to the applicant.

The registrar may, in accordance with section 39 of the Registration of Titles Act, on the advice of the commissioner for surveys and mapping, issue to the applicant a certificate of title endorsed with the words “Limited as to Parcels”.

Where the decision of the board includes a request under section 13(6)(b) that the registrar shall endorse the certificate of title with an encumbrance so as to give effect to a restriction, condition or limitation on the freehold title, the registrar shall give effect to that request.

The applicants in this case were granted freehold land by Wakiso District Land Board under **Minute No. 4/7/WDLB/2015(76)** on the 8th day of April 2015 and the same minutes were confirmed by the Zonal Senior Land Management Officer on 19th day of November 2019 and later the Respondent cancelled the Titles. In the case of *Hilda Wilson Namusoke & 3 Ors v Owalla's Home Investment Trust (E.A) Limited Supreme Court Civil Appeal No. 15 of 2017*, the Supreme Court held that the commissioner of land registration does not have powers to cancel a certificate of title on the ground of fraud. Prior to this judgement, the powers of the Commissioner of Land Registration with specific regard to cancelling certificates of title due to fraud were unclear. Under the Registration of Titles Act Cap 205 (1964 edition) the Registrar of Titles (*now Commissioner of Land Registration*) had powers to cancel a certificate of title on the ground that it was acquired through fraud. This position was confirmed in the case of

Edward Rurangaranga v Mbarara Municipal Council Supreme Court Civil Appeal No. 10 of 1996. However, under the 1998 Land Act as amended by the 2004 Land (Amendment) Act, these powers to cancel a certificate of title acquired through fraud were removed from the Registrar. Courts did not uniformly apply the new position of law. While in some cases such as *Sulait Ssemakula v Commissioner Land Registration & Ors*; *C.R Patel v The Commissioner Land Registration & ors*, among others courts held that the Registrar of Titles did not have such powers, others insisted on interpreting the provision of the law broadly to include fraud. This application of the law caused confusion and debate until the Supreme Court's decision in *Hilda Wilson Namusoke & 3 Ors v Owalla's Home Investment Trust (E.A) Limited*. The Supreme Court in an appeal arising from *Hilda Wilson Namusoke & 3 Ors v Owalla's Home Investment Trust (E.A) Limited*, unanimously held that the Commissioner of Land Registration does not have powers to cancel a certificate of title on the ground of fraud. The court reasoned;

1. That upon amendment of the Land Act, all the other grounds which empowered the Registrar of Titles to cancel a certificate of title were imported into the land Act save for fraud. The Supreme Court held that the absence of fraud in the new provision was deliberate.
2. That an allegation of fraud is so serious in nature and is required to be specifically pleaded and strictly proved before a court of law.
3. That whereas fraud is not authorised by the law and is therefore an illegality, fraud is a very special type of illegality.
4. Finally the Supreme Court decided that the Court of Appeal erred in relying on its decision in the case of *Edward Rurangaranga* which was an

authority that expounded a statutory provision that was no longer law at the material time.

In the premise I find that the Respondent had no right to cancel the Applicants' Certificate of Titles on the basis of forgery and I here grant this Application with costs to the Applicants.

This court quashes the decision of the Registrar Land registration cancelling the certificates of title of the applicants.

I so order.

Dated, signed and delivered be email at Kampala

SSEKAANA MUSA

JUDGE

18th December 2020