

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

CIVIL APPEAL NO. 95 OF 2022
(ARISING OUT OF THE DECISION OF THE COMMISSIONER LAND REGISTRATION)

KIHAM ENTERPRISES LIMITED] APPELLANT

VERSUS

1. THE COMMISSIONER LAND REGISTRATION
2. THE KABAKA OF BUGANDA:.....] RESPONDENTS

[Appeal arising from the Decision and Orders of the Commissioner
Land Registration delivered by Mr. Mugaino Baker on the 6th day of
September 2022 at Kampala]

MEMORANDUM OF APPEAL

(Brought under Section 91 (10) of the Land Act Cap 227 as Amended, Order 43
Rules 1, (1) and (2) of the Civil Procedure Rules S.I 71-1 as Amended S.I 33 of
2019)

The above named Appellant being dissatisfied and/or aggrieved by
the decision and order of the 1st Respondent appeals to the High
Court on the following grounds namely;

1. The 1st Respondent erred in law and fact in ordering the
cancellation of all the Appellant's freehold titles comprised in
Kyadondo Block 273 Plots 23974, 23975, 23976 and 23977 without
evidence of total overlap on the 2nd Respondent's mailo titles.
2. The 1st Respondent erred in law and fact in subverting the due
process of law by hijacking the public hearing it had called to

investigate the 2nd Respondent's complaint against the Appellant's freehold titles.

3. The 1st Respondent erred in law and fact in ordering the cancellation of all the Appellant's freehold titles whilst ignoring the Joint Survey Report commissioned by the public hearing which found that;

- i. There was partial overlap of the Appellant's land onto the 2nd Respondent's mailo land by only 29.98 Acres,
- ii. There was a partial overlap of the 2nd Respondent's mailo titles onto the Appellant's freehold titles by 87.12 Acres,
- iii. both the Appellant and the 2nd Respondent's freehold and mailo titles block boundaries respectively had not been surveyed in accordance with the area cadastral maps,

and recommended that;

- iv. there was a need to do a resurvey to align the common boundary line between the Appellant's freehold land and the 2nd Respondent's mailo land.

4. The 1st Respondent erred in law and fact in usurping the powers of the National Environmental Management Authority by ordering the cancellation of the Appellant's freehold titles upon unverified claims of it's unauthorized use of a wetland whereas;

- i. the joint survey report which included National Environmental Management Authority team member made no finding as to any unauthorized use of a wetland by either the Appellant or the 2nd Respondent.

5. The 1st Respondent erred in law and fact by exhibiting double standards, flouting the principles of impartiality and natural justice by:

- i. ordering cancellation of all the Appellant's freehold titles measuring 223 Acres against a disclosed partial overlap of only 29.9 Acres on the 2nd Respondent's mailo land,
- ii. not ordering a cancellation of the 2nd Respondent's mailo titles overlapping Appellant's freehold land by 87.12 acres and merely advising the 2nd Respondent to apply for a title rectification,
- iii. condoning the subsequent illegal creation by the 2nd Respondent of leasehold titles comprised in LRV Wak 5087 folio 4, Block 273 Plot 23040, LRV Wak 5768 Folio 7, Block 273 Plot 23041, LRV Wak 4575 Folio 17 Block 273 Plot 23042 in favour of Pearl Development Co. Ltd.

6. The 1st Respondent erred in law and fact in ordering the cancellation of the Appellant's freehold titles on the basis of alleged procedural irregularities which were neither pleaded nor proved at the public hearing.

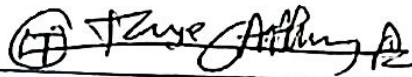
7. The 1st Respondent erred in law and fact in maintaining the 2nd Respondent's complaint founded on claims by Bashir Kizito Juma, a surveyor caught by actual conflict of interest in the matter.

8. The 1st Respondent erred in law and fact in ordering cancellation of all the Appellant's freehold titles on the basis of a partisan minority report issued by the 2nd Respondent's surveyors.

9. The 1st Respondent erred in law and fact in ordering cancellation of all the Appellant's freehold titles without strict compliance with the legal parameters set out in the Land Act Cap 227 as amended.

1. That the Appeal be allowed.
2. That the Decision and Orders of the 1st Respondent be set aside.
3. The costs of this Appeal be granted to the Appellant.

DATED at Kampala this 31st day of October 2022.



**MUWEMA & CO. ADVOCATES
[COUNSEL FOR THE APPELLANT]**

LODGED in the Registry of this Honourable Court this 2nd day
NOV 2022.



DEPUTY REGISTRAR

To; The Honourable Judge,
High Court of Uganda,
Land Division,
KAMPALA.

Copies to be served on;

1. The Commissioner land Registration,
Ministry of lands Building, Kampala
Plot 1 Parliamentary Avenue,
P.O Box 7061,
KAMPALA