THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPEAL NO. 336 OF 2019

[Coram: R. Buteera, DCJ, Bamugemereire & Gashirabake, JJA]

OESE JOHN PETER :: APPELLANT

VERSUS

AKOL SILVER :: RESPONDENT

(An appeal against the decision of Batema NDA J, in High Court (Civil Appeal No. 33 of 2017 at Soroti dated 17th June 2019) (Arising from Kumi Civil Suit No. 18 of 2015)

JUDGMENT OF CATHERINE BAMUGEMEREIRE, JA

Introduction

This is a second appeal from the decision of the High court, which in exercise of its appellate jurisdiction reversed the judgment and orders of the Magistrate's court in favour of the respondent.

Background

The facts as ascertained from the lower court records are that the respondent, Akol Silver (an Attorney to Oturuke Eria (a minor under the age of 18 years) sued the appellant for recovery of 9 gardens of land situated at Kongura village, Ongino Sub-County in Kumi District vide **Civil Suit No. 18 of 2015** Kumi Grade one Magistrate's Court, alleging that the appellant had trespassed on the 9 nine gardens. The appellant filed a defence stating that he

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was the rightful owner of the suit land having inherited it from his father, the late Yepusa Onyait.

In the late sixties, Yepusa Onyait litigated with Oturuke Eria (Senior) over land measuring 18 gardens situated at Kongura village in Kumi district. Oturuke Eria (senior) died before the conclusion of the case and his brother Alphonse Akol took over the suit. It was the evidence of both parties that the matter went before the Parish Chief of Kodukul around 1969 who decided in favour of Yepusa Onyait the appellant's father, giving him the 18 gardens, which the appellant claimed to have inherited.

The Judgment of the parish Chief was appealed against in the Chief Magistrate's Court of Soroti where Alphonse Akol was declared the successful party, reversing the Judgment of the Parish Chief. The respondent averred that out of sympathy, Alphonse Akol gave to Onyait Yepusa 9 gardens out of the 18 gardens to settle on because Onyait had nowhere to go. Each party had an equal share of 9 gardens. It was also the respondent's case that Alphonse Akol loaned his 9 gardens to one Opolot but upon Alphonse Akol's death, Oturuke Eria (Junior) took over the estate and directed his son, the respondent to redeem the 9 gardens, which he did in 1976.

The respondent cultivated the 9 gardens until 2015 when the appellant started claiming it as part of his land that he had inherited from his father, Yepusa Onyait. The appellant occupied the land forcefully in 2015 and evicted the respondent prompting the respondent to file a suit in the Magistrates' Court of Kumi.

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The dispute concerned the 9 gardens that were in occupation by the respondent.

The trial Court held that the appellant was the rightful owner of the disputed land and the respondent being dissatisfied, filed an appeal in the High Court at Soroti, which overturned the Magistrate Court's decision and held that the respondent was the rightful owner hence this second appeal by the appellant.

Grounds of Appeal

1. **The learned appellate Judge erred in law when he failed to properly exercise the duty of the first appellate court.**
2. **The learned appellate Judge erred in law when he held that the respondent was entitled to the suit land.**
3. **The learned appellate Judge erred in law when he granted excessive general damages to the respondent.**

Representation

At the hearing of the appeal, the appellant was represented by Elizabeth Nampola of Century Advocates, Kampala, while David Obore from Obore and Engulu Co. Advocates & Solicitors represented the respondent. Counsel for both parties adopted their scheduling notes as written submissions. The court has relied on them to arrive at this judgment.

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Submissions for the Appellant.

Ground No. 1: Whether the learned appellate Judge erred in law when he failed to properly exercise the duty of the first appellate court.

Counsel submitted that the learned appellate Judge did not properly re-evaluate the evidence on court record by ignoring the judgment of the trial Magistrate and the evidence on record. He further erred by failing to acknowledge that the Judgment of the Parish Chief was admitted and exhibited on the court record.

Counsel referred this court to the proceedings in the magistrate's court where the English translated version of the Parish Judgment was admitted and marked **DX1**.

Counsel contended that the original copy of the judgment was produced and presented in court for inspection and the appellant's counsel prayed that the photocopy be admitted as an exhibit, which the trial magistrate rightly did. Counsel cited **section 61 of the Evidence Act Cap 6,** which provides for admission of primary documentary evidence.

It was counsel's submission that the trial magistrate did not base his judgment solely on the Parish Chief Judgment but evaluated all evidence on record basing on other pieces of evidence from witnesses, which corroborated the Parish Chief judgment. She submitted that PW1, PW2, PW3, DW1 and DW2 all testified that the original suit started at the local level and most of these witnesses testified that the late father to the Appellant (Onyait) won the suit.

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Counsel submitted that the effect of failure by the first appellate court to re-evaluate evidence is an error of law as was held by Kanyeihamba JSC (as he then was) in **Joy Tumushabe & anor v M/S Anglo African Ltd & anor SCCA No. 7 of 1999.**

Ground No. 2

The learned trial Judge erred in law and fact when he held that the respondent was entitled to the suit land.

Counsel contended that a person who has a defective title couldn't pass on a better title to another person. She stated that Alphonse Akol was a trespasser on the suit land and took advantage of the time that the defendant had fled for safety due to the '*Teso insurgency'* to enter upon the land illegally and started cultivating it without the defendant's permission or authority.

It was counsel's contention that the learned appellate Judge erred in law when he held that there was a judgment that was made by Soroti Chief Magistrates' Court giving the land to Akol Alphonse yet no copy of the said judgment was adduced in court.

Counsel further submitted that the respondent did not adduce evidence to prove how Alphonse Akol who had allegedly won a case on appeal in Soroti Court donated 9 gardens to the Appellant's father. She stated that there was no document recording such an important event that was marking the end of a long litigation. Further, that there was also no document by which Oturuke Eria, the Parish Chief donated the garden to the appellant's father. Counsel submitted that the only document

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produced by the respondent was the one redeeming the land from the mortgage hence the appellate Judge ought to have found the respondent's evidence wanting.

Counsel argued that the learned appellate Judge erred in law when he held that the suit land, which is customarily owned by the appellant's clan, belongs to the respondent who is from a different clan. She submitted that DW3 gave evidence that the suit land was customary land belonging to Atekok Ingino, the clan of the appellant. Further, that the suit land was governed by local customary regulation which were applied to the management of individual ownership and that was why when the appellant's father, Onyait Yepusa died, a clan meeting was held to pass on the suit land to the appellant.

Counsel further submitted that the respondent's evidence was full of contradictions on how Oturuke Eria, the Parish Chief obtained the suit land. PW2 stated that Oturuke was given the land by his brothers since there was vast land. Further, that PW3 stated that Oturuke was a Parish Chief who cleared the land himself and owned those 18 gardens while PW4 stated that Oturuke was given the land by the government.

Counsel submitted that the appellate Judge should have taken note of the danger of relying on oral testimonies alone without any documentary evidence as was held in the case of **Christopher**

Ground 3

The learned appellate Judge erred in law when he granted excessive general damages to the respondent.

Counsel submitted that the respondent did not adduce any evidence to prove that he was using the suit land before the appellant re-entered it. It was counsel's argument that the respondent did not give any evidence as to whether he suffered any inconvenience after the appellant re-entered the suit land. Counsel submitted that the general damages of UGX 9,000,000/= awarded to the respondent were manifestly excessive for no justifiable reason.

Submissions for the Respondent

In reply to Ground No. 1, counsel submitted that the trial Judge was justified in questioning how the translated version of the Parish Chief Judgment was admitted on court record. Counsel submitted that the trial magistrate admitted the Parish Chief Judgment as an identification document but despite the fact that the judgment was tendered as an identification document, the trial Magistrate admitted the English translated version of it as DX1.

It was counsel's submission that the appellate Judge was alive to the matter before court and properly evaluated the evidence on

record and found glaring loopholes and inconsistencies in both the Parish Chief's Judgment and it's translated version.

Further, on the issue of primary evidence, counsel contended that what was exhibited before the trial court was not the Parish Chief judgment but the translated version as per the record.

Counsel submitted that the trial court proceedings pointed to the fact that the trial Magistrate primarily based iself on the purported Parish Chief's judgment of 1969 to decree the suit land to the appellant, which was erroneous, thus the learned Appellate Judge rightly exercised his duty to give judgment in favour of the respondent. He prayed that this ground fails.

Ground No. 2

Counsel submitted that the appellate Judge considered the trial court's proceedings and rightly evaluated the evidence before coming to his conclusion that the respondent was entitled to the suit land. Counsel submitted that the appellate Judge considered the evidence of PW3 Okai Stanislaus where he stated that Alphonse Akol had loaned the suit land to his father Opolot in 1976 and that his family used the loaned land until the respondent redeemed it in 2004. Further, that the appellate Judge noted that Okai's evidence was in line with that of the respondent (now appellant) who told court that between 1976 and 2004, Opolot's family was cultivating the suit land and between 2004 - 2015, the respondent cultivated the suit land. Further, that the appellant admitted that he started cultivating the suit land in

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2015. Counsel submitted that the appellate Judge rightly held that the respondent was entitled to the suit land thus ground 2 of the appeal should fail.

Ground No. 3

Counsel submitted that the appellate Judge rightly held that the appellant was unlawfully thrown out of his land and was unable to cultivate or use it in any way thus the award of 9,000,000/= as general damages which was not excessive in the circumstances.

Counsel cited **Robert Cuossens v Attorney General, SCCA No. 8 of 1999** where the measure of damages is defined as; *"that sum of money which will put the party who has been injured or who has suffered, in the same position as he would have been in if he had not sustained the wrong for which he is now getting his compensation."*

Counsel submitted that the appellant's appeal has no merit and prayed to this court to dismiss it with costs.

Appellant's Rejoinder

In rejoinder counsel for the appellant reiterated his earlier submissions but added on ground one that counsel for the respondent misguided court on his submission about the admission of the Parish chief judgment as an identification document. Counsel submitted that the lower court proceedings indicate that the Parish Chief's Judgment was tendered in court and counsel for the appellant prayed that the English version be

admitted, which court did and marked it exhibit DX1. Counsel contended that the document the respondent's counsel referred to in his submissions as an identification document was the clan meetings minutes and not the Parish Chief's Judgment, as he wants this court to believe.

On ground two, counsel submitted that there was no clear or convincing evidence adduced to show how Oturuke Eria (snr) came to own the suit land and there was no way he could have passed on ownership to Alphonse Akol or Oturuke Eria or to the respondent if he did not own the land.

Counsel reiterated his submissions on ground 3 regarding damages.

Consideration of the Appeal

I have considered the submissions of both parties and the authorities availed to this court. The first ground of appeal concerns the failure of the appellate Judge in discharging his duty as a first appellate court.

This being a second appeal, the duty of this court as a second appellate Court was stated in **Tito Buhingiro v SCCA, No. 8 of 2014,** that it is trite that as a second appellate court, we are not expected to re-evaluate the evidence or question the concurrent findings of fact by the High Court and Court of Appeal. However, where it is shown that they did not evaluate or re-evaluate the evidence or where they are proved to be manifestly wrong on

findings of fact, the court is obliged to do so and to ensure that justice is properly and timely served.

In **Kifamunte Henry v Uganda, SCCA No. 10 of 1997** while commenting on the duty of a second appellate court, the Supreme Court noted that:

> "This Court will no doubt consider the facts of the appeal to the extent of considering the relevant point of law or mixed law and fact raised in any appeal. If we re-evaluate the facts of each case wholesale, we will assume the duty of the first appellate Court and create unnecessary uncertainty. We can interfere with the conclusions of the Court of Appeal if it appears that in its consideration of the appeal as a first appellate Court, it misapplied or failed to apply the principles set out in such decisions."

In the instant matter, the appellant's allegation was that the appellate Judge ignored the trial court's decision and evidence on record, which demonstrated that the Parish Chief's Judgment was admitted on record thereby failing in his duty as a first appellate court. The respondent on the other hand submitted that the trial Judge was justified in questioning how the translated version of the Parish Chief's Judgment was admitted on court record.

In order to determine whether there is any merit in this appeal, I will re-evaluate the evidence led at the trial court, re-examine the

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judgment of the learned trial magistrate and juxtapose it against the judgment and reasoning of the appellate Judge in order to determine whether the appellate Judge failed in his duty as a first appellate court to re-evaluate the evidence of the trial court.

It is trite law that a first appellate court has a duty to re-evaluate the evidence on record as a whole and arrive at its own conclusion bearing in mind that the trial court had an opportunity to observe the demeanour of the witnesses, which the first appellate court did not have. **(See rule 30 of the Judicature (Court of Appeal Rules) Directions SI 13-10, Banco Arabe Espanol v Bank of Uganda [1999] UGSC 1).**

The appellate Judge in his assessment about the Parish Chief's Judgment observed that:

> **"Incidentally I found a copy of a translated version in English on record admitted as Exhibit DX1. I could not tell how it was admitted on record. I ordered that the defendant produces the original and it was produced for comparison with the exhibited copy. The so-called original judgment differs a lot from the translated copy admitted on record..."**

Both the learned trial Magistrate and the learned appellate Judge noted that the English version of the contested judgment contains insertions of the village, parish and other new names which were not in the Atesot version the original. The appellate

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Judge further noted that the judgment has abbreviated Christian names while the translated version has them written in full. He further noted that where the original paper was torn another paper was pasted behind and gaps were filled in with fresh and recent writings.

At first appeal, the Judge based on the above anomalies to find that the Parish Chief's Judgment, defence exhibit, Exh D1, was of no evidential value and rejected it.

I have had opportunity to look at the trial court's proceedings when the contested document was admitted. For ease of reference, the proceedings are regurgitated below:-

"DW1: my father the late Onyait Yepusa had at one time litigated over the suit land with Alphonse Akol. This was in ...the matter was before the Parish Chief. The decision of the Parish chief was that my father was successful in that claim Alphonse Akol lost. I have a copy of that decision by the parish chief. It is dated 23/9/1969. I can identify that document because it is signed by Okiring Lekobwam Okwakol, Ongiriang Stanley.

M/S Irene; I pray to tender in the document dated 23rd September 1969. I pray that the English translated version of it be exhibited.

Mr. Obore: no objection

Court: Document dated 23/9/1969 received and marked exhibit Dx1."

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The document in contention was admitted as an exhibit D1 as observed from the trial court record, as the above proves.

I observed that the respondent in his submissions alleged that the trial court admitted the Parish Chief's judgment as an identification document. The latter statement is not correct. The Parish Chief's Judgment was never contested and was admitted as an exhibit which was **Annexure A**. It was the purported Soroti Court Judgment that was objected to and admitted as an identification defence **Exhibit D ID1**.The appellate Judge also stated his reasons for not considering the Parish Chief judgment. He faulted the trial Magistrate for only exhibiting the translated copy. He therefore rejected the Judgment as possessing no evidential value.

The duty of this court is now to consider whether the appellate Judge rightly exercised his duty as a first appellate court in rejecting the said document.

In **Prabhakara v Basavaraj K, Civil Appeals No. 1376-1377 of 2010, the Supreme Court of India found that;**

> "When the court of original jurisdiction has considered oral evidence and recorded findings after seeing the demeanour of witnesses and having applied its mind, the appellate court is enjoined to keep that fact in mind. It has to deal with the reasons recorded and conclusions arrived at by the trial court. Thereafter, it is certainly open to the appellate court to come to its own conclusion if it finds that the reasons

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which weighed with the trial court or conclusions arrived at were not in consonance with law." **(Emphasis is mine).**

In the instant matter the learned appellate Judge faulted the learned trial magistrate for admitting an English translation of the Parish Chief's judgment, which he found to materially differ in content and form from the original document.

I am inclined to agree with the learned appellate Judge that the purported interpretation of the Parish Chief's Judgment had glaring incongruencies and anomalies which should not have been overlooked by the trial court. Be that as it may, a document once admitted in evidence, without objection and marked as an exhibit by the court, becomes part of judicial record. Admitting a document on record, however, does not necessarily make the document credible. A court has a duty to examine the credibility and reliability of the admitted evidence. Looking at the reasons the learned appellate Judge gave for not accepting the Parish Chief's Judgment, I could not tell whether he referred to the Parish Chief's Judgment or whether he referred to a purported Soroti Judgment Exhibit **D ID1**.

Under **O. 43 rule 22 (1) (b) of the Civil Procedure Rules SI 71-1**, it provides that;

"The parties to an appeal shall not be entitled to produce additional evidence, whether oral or documentary in the High Court but if the High Court requires any document to

be produced or any witness to be examined to enable it to pronounce judgment or any other substantial cause, the High court may allow the evidence or document to be produced or witness to be examined."(Underlined for emphasis).

In the instant case, the appellate Judge ordered for the production of the original Parish Chief's Judgment which he compared with the English translated version admitted as DX1 on court record and he found both documents to be different in form. He noted that the English version contained insertions of the village, parish and other new names. Further, he observed that while the original judgment has abbreviated Christian names the translated version has them written in full. The English exhibited document was not stamped nor certified which is contrary to the law.

Having considered the above, the appellate Judge rejected the Parish Chief's Judgment exhibited on record. I note that had the trial Magistrate carefully analysed the Parish Chief's Judgment presented before him, he would have noted the anomalies before admitting it on record, the way learned appellate Judge correctly did.

The appellate Judge had a duty to subject the evidence presented to the trial court to a fresh and exhaustive scrutiny and re-appraisal before coming to his own conclusion. **(See Father Narsensio Begumisa and three Others v Eric Tibebaga, SCCA**

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17of 2000; [2004] KALR 236). It is trite that the appellate court may interfere with a finding of fact if the trial court is shown to have overlooked any material fact in the evidence.

In this case, the learned trial Magistrate while admitting an English translated version of the Parish Chief's Judgment overlooked the inconsistencies and anomalies in the Atesot copy of the Judgment which the appellate Judge was justified in interfering with the trial court's finding on the same.

Basing on my analysis above, I find that the appellate Judge correctly exercised his duty as a first appellate court to reject the Parish Chief's Judgment. In this regard, I reject the appellant's assertion that the appellate Judge failed in his duty as a first appellate court. Ground No. 1 therefore fails.

Ground No. 2: **The learned appellate Judge erred in law when he held that the respondent was entitled to the suit land.**

Counsel for the appellant argued that the appellant discharged the burden of proof required under civil matters and proved, on a balance of probabilities, that he was the rightful owner of the disputed land. The respondent on the other hand, contended that the appellate Judge rightly held that the respondent was entitled to the Suitland.

This court as a second appellate court can only interfere with the conclusions of the first appellate court if it appears to it that in its consideration of the appeal as a first appellate court, it misapplied or failed to apply the principles set out in law. This in essence,

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brings us to the question of who is the rightful owner of the disputed land? The respondent who was the plaintiff at the trial court had the burden to prove that he was the rightful owner. The question in this case was whether the burden of proof was discharged and whether the matter was proved on the balance of probabilities as the standard requires. The plaintiff bears the burden to prove his case by a preponderance of the evidence which means the plaintiff merely needs to show that the fact in dispute is '***more likely than not.***' When the standard for a case is "the preponderance of evidence," it means that the plaintiff need only prove that his/her argument is more likely right than wrong.

In **Miller v Minister of Pensions, [1947] 2 ALL ER 372** Lord Denning held that;

> "The degree is well settled. It must carry a reasonable degree of probability but not too high as is required in a criminal case. If the evidence is such that the tribunal can say, we think it more probable than not, the burden of proof is discharged but if the probabilities are equal, it is not."

The respondent therefore had the burden to prove his facts on a balance of probability. As illustrated in **Jovelyn Barugahare v Attorney General, SCCA No 28 of 1993**, he who asserts a fact must prove it. The onus is on a party to prove a positive assertion and not a negative assertion. It therefore means that, the burden of proof lies upon him who asserts a fact, and not upon him who

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denies, since from the nature of things he who denies a fact can hardly produce any proof.

To succeed in his claim, the burden lay on the respondent (who was the plaintiff in the trial court) to adduce such evidence as would satisfy court that indeed he was the rightful owner. He had to do this by proving that his late father was entitled to the disputed 9 gardens, as he claimed.

The evidence regarding the loaning out and redeeming the 9 gardens draws attention to the transactions that took place on this land in spite of the disagreements between the two parties. This evidence was that before his death, Alphonse Akol (the respondent's father) had loaned 9 long gardens he inherited, to one Opolot in order to raise enough money to pay for the bride price of a woman he intended to marry. **PW3 Okai Stanslus,** (Opolot's son) testified that Alphonse Akol loaned the land to his father Opolot in 1976 and that his family used the loaned land for a long time until Silver Akol (the respondent) redeemed it in 2004. PW3 testified that he received the land on behalf of Opolot's family. He testified that the loan agreement was destroyed upon the land being redeemed but that he had the redeeming agreement, which was exhibited on court record with no objection from the appellant.

The above piece of evidence to the effect that the Opolot family was in occupation of the land from 1976 to 2004 is not in

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contention. However, after redeeming it, the plaintiff occupied the land till 2015.

I can safely conclude, based on the appellant's and the respondent's evidence, that the 9 gardens were for Opolot and that the respondent was in occupation of the land for a long time from 1976 to 2015. The appellant failed in his duty to prove that the respondents had no claim of right over the piece of land. Ground No. 2 fails.

Ground No. 3: **The learned appellate Judge erred in law when he granted excessive general damages to the respondent.**

The appellant's counsel contested the award of UGX 9,000,000/= as general damages to the respondents as manifestly excessive and not justifiable. His submission was that the respondent did not prove that he suffered any inconvenience after the appellant re-entered the land.

In **Matiya Byabalema & 2 Ors v Uganda Transport Company SCCA No.10 of 1993** the court found that:

> "An appellate Court may only interfere with an award of damages upon proof that the trial Court, in awarding the damages, proceeded on a wrong principle or misapprehended the evidence and as a result arrived at an award which was inordinately too high or too low."

Similarly, in **Omunyokol Akol Johnson v Attorney General CACA No. 71 of 2010**, this court held that:

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"Award of damages is an exercise of discretionary powers of the trial court. Usually an appellate court is reluctant to interfere with such awards because it is considered imprudent to substitute the appellate's court own opinion with that of the trial court. The exercise of discretion should be done with care and on principles that have been laid down. However, there are two settled areas where an appellate court will interfere with the exercise of discretion. The first is where the trial court acted on wrong principles and the second is where the amount awarded is manifestly excessive or manifestly low that a misapplication of a wrong principle is inferred."

In **Halsbury's Laws of England, 4th Ed. Vol. 45 (2), (London: Butterworth's, 1999, at paragraph 526),** the law on damages for trespass to land is addressed as follows:-

"A claim for trespass, if the claimant proves trespass, he is entitled to recover nominal damages, even if he has not suffered any actual loss. If the trespass has caused the claimant actual damage, he is entitled to receive such an amount as will compensate him for his loss. Where the defendant has made use of the claimant's land, the claimant is entitled to receive by way of damages such a sum as should reasonably be paid for that use.... if the trespass is accompanied by aggravating circumstances which do not

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allow an award of exemplary damages, the general damages may be increased."

The respondent was able to prove ownership of the disputed land on a balance of probabilities.

Ideally on second appeal we would only be concerned with matters of law since matters of fact would have been duly determined on first appeal. However, we have found it necessary to re-evaluate the law and facts in this case in order to answer the ground of appeal. The history of this case proves that the historical links of the families to this land is intertwined. The families have intermittently dwelt on the disputed land, one after the other. Given those circumstances they each have reaped from it at different times. Be that as it may, I find that the appellant was absent from the land for close to 11 years. When he resurfaced, he forcibly attempted to re-enter land now occupied by the respondent, an act I do not find justifiable. I would not interfere with the award of damages of UGX 9000000 awarded by the appellate Judge.

I would therefore dismiss Ground No. 3 of the appeal.

In conclusion I agree with the appellate Judge that each party is entitled to the 9 gardens they occupy. We find that the learned appellate Judge properly exercised his duty as the first appellate court. He was able to bring clarity to the underlying conflict in the

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case. I would find that this appeal lacks merit. I therefore, would dismiss it with no order as to costs.

Dated at Kampala this....10th....day of....November....2023

CATHERINE BAMUGEMEREIRE
JUSTICE OF APPEAL

Nota bene
The families are advised to each survey their separate 9 gardens and apply for certificates of title. If this land is brought at the Registration of Title's Act, there will be certainty in matters ownership and hopefully they will live peaceably with each other. If the parties do not have the resources to apply for certificates of title, they could consider applying for certificates of occupancy under section 33 of the Land Act as amended.

THE REPUBLIC OF UGANDA

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(Coram: R. Buteera DCJ, C. Bamugemereire & C. Gashirabake, JJA)

OESE JOHN PETER:::APPELLANT

VERSUS

AKOL SILVER ::::::::::::::::::::::::::::::: RESPONDENT

(An Appeal from the decision of Batema N.D.A J, in High Court (Civil Appeal No. 33 of 2017 at Soroti dated 17th June, 20219) (Arising from Chief Magistrate's Court of Kumi Civil Suit No. 18 of 2015)

JUDGMENT OF BUTEERA, DCJ

I have had the benefit of reading in draft the Judgment of C. Bamugemereire, JA in respect of this appeal. I do agree with her reasoning, conclusion and orders she proposed.

Since C. Gashirabake, JA also agrees, the appeal lacks merit and it is therefore dismissed with costs in the terms as proposed in the lead Judgment of C. Bamugemereire, JA.

Richard Buteera
DEPUTY CHIEF JUSTICE

10 - NOV - 2023

THE REPUBLIC OF UGANDA

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(Coram: Richard Buteera-DCJ, Catherine Bamugemereire, Christopher Gashirabake, JJA)

CIVIL APPEAL NO. 336 OF 2019

JOHN PETER OESE:: APPELLANT

VERSUS

SILVER AKOL:: RESPONDENT

JUDGMENT OF CHRISTOPHER GASHIRABAKE, JA.

I have read in draft the judgment of Hon. Lady Justice Catherine Bamugemereire, JA.

I concur with the judgment and the orders proposed and I have nothing useful to add.

Dated at Kampala the ..10th.... day of ..November.....2023.

Christopher Gashirabake
JUSTICE OF APPEAL.