

FORT PORTAL DIOCESE **LOSES** 72-HECTARE LAND CASE

By Barbra Kabahumuza

The Catholic Diocese of Fort Portal has lost a 16-year land case against a businessman identified as George Mwesige Sharp and the Attorney General.

In a judgment delivered on Wednesday, Justice Vincent Wagana ruled that the Diocese failed to prove it held a valid title for the 72.95-hectare piece of land registered under Block 44, Plot 9 Burahya.

The disputed land, valued at sh5.4b by the diocese, had been the subject of litigation since 2010.

In 2010, the diocese sued Mwesige and the Attorney General, claiming that it purchased the land in October 1993 from six beneficiaries of the estate of the late Eliphaz Buchekenyu Ochaki. The six beneficiaries had received the land through the Administrator General.

The diocese argued that it lawfully acquired the title, took possession of the land and used it for wheat and sim-sim farming until 2005 when it discovered Kayonjo making developments on it.

The diocese further accused the Registrar of Titles of fraudulently

BETWEEN THE LINES

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cancelling its certificate of title and transferring the land to Mwesige, who later sold it to businessman Robert Kayonjo.

The diocese further contended that its land title had earlier been cancelled without notice or a hearing following consequential orders arising from High Court Civil Suit No. 208 of 1995.

However, the Attorney General and Mwesige defended themselves, maintaining that the diocese's land purchase originated from an unlawful distribution of the Ochaki's estate by the Administrator General.

Court heard that Mwesige successfully challenged the Administrator General's

handling of Ochaki's estate in earlier proceedings before both the High Court and the Court of Appeal.

The courts ruled that the estate had already been distributed under Toro customary law and that the Administrator General acted without lawful authority. Mwesige acquired the land title on November 25, 2002.

In his judgment, Justice Wagana held that the earlier court decisions nullified all transactions arising from the Administrator General's distribution, including the diocese's purchase.

"It is a settled principle of law that where the root of title is impeached, all derivative titles fall with it. One cannot build a valid title on an invalid foundation," Wagana ruled.

The judge further held that although the Diocese produced a certificate of title in court, its evidential value was weakened because land registry records did not reflect the diocese as the registered proprietor.

Court relied on testimony from Senior Registrar of Titles Milton Matsiko, who stated that official records showed no registration of the diocese on the disputed land.

Justice Wagana also ruled that the

Registrar of Titles acted lawfully in implementing consequential court orders directing cancellation of the Administrator General's interests and substitution with Mwesige's name.

"The Registrar had no option, but to implement the order. The Registrar had no jurisdiction to question, interpret or limit the scope of that order," the judge said. Although the court acknowledged that the diocese had not been notified before the transfer was effected, Wagana held that the omission did not invalidate implementation of a lawful court order.

The diocese had sought compensation equivalent to the current market value of the land, sh1b in general damages, special damages and interest at 25% per annum. However, the judge rejected all the claims, ruling that compensation could not be granted where the claimant's interest was founded on a title declared void by law.

Court also dismissed Mwesige's counter-claim for damages, citing lack of substantive evidence.

Justice Wagana ordered the Diocese to pay costs of the suit to the Attorney General, while Mwesige was directed to bear his own costs.



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By Umaru

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