The long road to Muwema's Shs1.4b row with landlord

What began as a routine tenancy evolved into a protracted legal battle.

BY JULIET KIGONGO

The High Court judgment ordering M/S Muwema & Co. Advocates to pay more than Shs1.4 billion and vacate prime Kololo premises sets out a prolonged rent dispute marked by persistent arrears, lease breaches, and continued occupation after termination.

In her ruling, Justice Patricia Mutesi traced the dispute to a lease agreement entered into on December 15, 2014, between the law firm and Downtown Investments Ltd, the registered proprietor of the property at Plot 50 Windsor Crescent Road.

Court records show that the law firm took possession of the premises under the lease but repeatedly failed to honour its rent obligations over the years.

"The evidence adduced by the Plaintiff proved that the 1st Defendant (law firm) has held onto the leased premises since the inception of the lease agreement while committing several breaches of the lease agreement through delays in paying the rent or not paying the rent at all," Justice Mutesi held.

The court found that the unpaid rent accumulated steadily, eventually reaching $148,300 (about Shs529.87 million). Despite reminders and demands from the landlord, the arrears were never fully cleared.

According to the judgment, the landlord formally terminated the tenancy after what the court described as chronic default.

Termination notices were issued through lawyers' letters dated May 30 and July 5, 2023, demanding that the firm vacate the premises and hand over possession.

"The evidence also proved that, despite the Plaintiff's termination of the lease agreement and demands that the 1st Defendant vacate the leased premises, to this day, the 1st Defendant is still occupying the leased premises without paying all the due rent," the judge stated.

In response to the suit, the law firm argued that it was lawfully in occupation and challenged Downtown Investments Ltd's ownership of the property, while disputing liability for the claimed rent arrears and damages.

However, the court rejected their submissions, finding that the defendants (the law firm together with its proprietors Mr Fred Muwema and Friday Kagoro) failed to produce any valid lease extension, licence, or legal interest justifying continued occupation after termination.

"The defendants failed to demonstrate any valid lease, licence or legal interest that would entitle them to remain on the suit property," Justice Mutesi ruled.

The court concluded that once the tenancy was terminated, Muwema and Company Advocates' continued stay amounted to trespass. On that basis, the judge awarded Downtown Investment Ltd $148,300 (about Shs529.87 million) rent arrears, Shs50 million as general damages, and mesne profits of $224,000 (about Shs800.34 million) for wrongful possession of the leased premises and directed that the firm be evicted from the premises.

The judge directed the firm to vacate the premises and deliver vacant possession to the landlord.

"The defendants are hereby ordered to vacate the suit premises and deliver vacant possession to the plaintiff forthwith," the judgment read in part.

Should the firm fail to comply voluntarily, the court authorised eviction through court bailiffs.

Failure to pay the decretal sum also exposes the defendants to execution proceedings, including attachment of property and bank accounts, with interest continuing to accrue until payment in full.

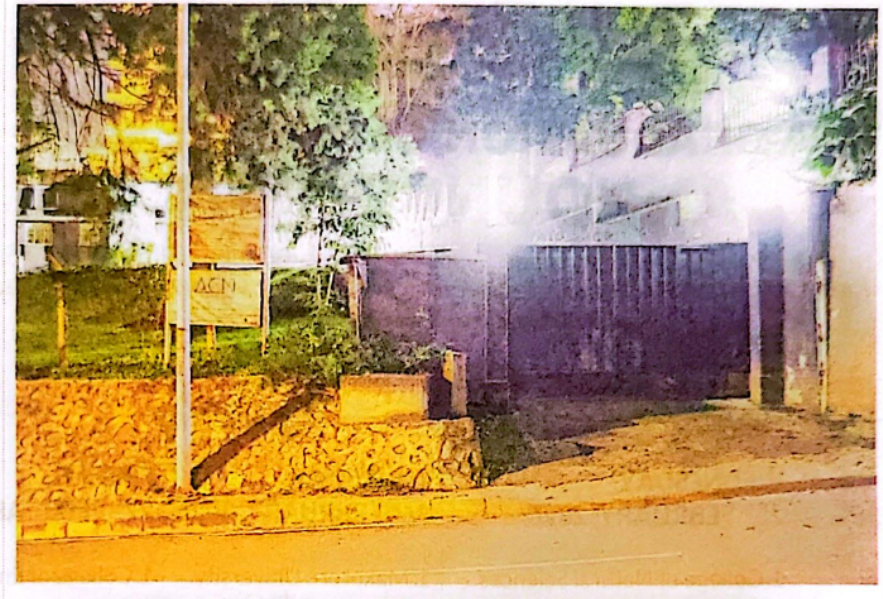
Muwema and Company Advocates was further ordered to pay the costs of the suit.

The ruling clears the way for the landlord to recover possession of the Kololo property and for enforcement proceedings to commence should the court orders not be complied with.

In a February 21 press statement, the law firm rejected the ruling, citing what they described as factual and legal inconsistencies, including the court's failure to consider evidence of a $130,000 (Shs 464.48 million) payment toward rent arrears and the award of mesne profits that were neither pleaded nor proved.

"We are dissatisfied with the judgment of the Court due to its factual and legal inconsistencies, which contradict established precedent. We, therefore, intend to appeal the decision," reads in part the statement.

The firm also faulted the court's finding that it did not validly exercise its option to purchase the property.



Muwema & Co Advocates offices in Kololo at plot 50 Windsor Crescent road. PHOTO/IBRAHIM KAVUMA

Court ruling. The evidence also proved that, despite the Plaintiff's termination of the lease agreement and demands that the 1st Defendant vacate the leased premises, to this day, the 1st Defendant is still occupying the leased premises without paying all the due rent– Justice Patricia Mutesi

COURT AWARDS

- $148,300 (about Shs529.87m): Rent arrears
- Shs50m: General damages
- $224,000 (about Shs800.34m): Mesne profits (wrongful occupation)
- Costs of the suit
- Eviction order with enforcement by court bailiffs if necessary

-What are mesne profits: Mesne profits are court-awarded payments for unlawful occupation of property after a lease has been terminated. They compensate a landlord for loss of income during the period a tenant remains in possession without legal right.

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