THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[Coram: Owiny- Dollo, DCJ., Kakuru, Egonda-Ntende, Obura & Muhanguzi, JJCC / JJA]

Constitutional Reference No. 52 of 2010

BETWEEN

Kasande Sylvia.....Applicant No.1

Namugooma Rose..... .....Applicant No.2

AND

Uganda..... .....Respondent

JUDGMENT OF FREDRICK EGONDA-NTENDE, JCC / JA

Introduction

[1] This is a constitutional reference from the Chief Magistrate's Court in Criminal Case No. 942 of 2008.The applicants in this case are accused persons in a criminal case pending trial in the Anti- Corruption court. They were jointly charged with the offences of embezzlement contrary to Section 268 (b) and (e) of the Penal Code Act and causing financial loss contrary to Section 269 (1) of the Penal Code Act.

[2] The applicants were employees of Capital Finance Corporation Ltd. On the 28th of July 2008, they were both arrested by the police and detained at Kampala Central Police Station and Kiira Road Police Station. On 6th August 2008, they were produced before the magistrate's court and charged with the above offences.

[3] Thereafter the applicants applied for bail in the High Court which was granted on 25th August 2008. The matter proceeded for hearing before the Chief Magistrate's court sitting at Buganda Road, Kampala. The trial went on for almost a period of two years due to a series of adjournments. The prosecution case was closed on the 22nd of February 2010 whereupon the parties were to file written submissions on whether a *prima facie* case had been made out. When the matter came up for hearing on 28th May 2010, the DPP decided to withdraw the case and reinstate it in the Anti-Corruption court.

[4] The applicants, through their counsel, applied that this matter to be referred to this court in light of Article 137(1) of the Constitution. According to the applicants the conduct of the police officers and the actions of DPP violated their fundamental human rights. The trial court therefore framed the following question for this court's interpretation:

> 'Whether in the circumstances in this case where a trial mounted on the basis of violations of Articles 23(4) (b) of the Constitution, lags in court for almost 2 years, mainly due to the prosecution forcing the Trial Magistrate to close the Prosecution case and the defence submitting a Whether a prima facie case had been made out, coupled with decision by the DPP to withdraw the case at that stage, in order to prefer similar fresh charges can be described as "fair" and "speedy" within the true, plain, practical and natural meaning of Articles 23, 28, 44, 120(5), 126(2)(e) of the Constitution of the Republic of Uganda and, if not, then whether the effect of Article 44 (a) & (c) in its true, plain, practical and natural meaning would be to render the proceedings of such a trial a nullity.'

[5] The respondent opposed the reference and prayed that it is dismissed by this court.

Submissions of Counsel

[6] At the hearing, the respondent was represented Henry Oluka, Principal State Attorney and Ms. Maureen Ijang, State Attorney. Neither applicants nor their counsel appeared in court. The parties had filed written submissions.

[7] The applicants contended that their detention for nine days in police custody before being taken to court contravened Article 23(4) (b) and 28(1) of our Constitution. And that their right to a fair hearing is non derogable. The applicants swore a statement of oath of what transpired during the period in detention to support their allegation. They also relied on the case of Foundation for Human Rights Initiative v Attorney General Constitutional Petition No.20 of 2006. They further submitted that the impugned detention invalidates the trial and cited the case of Dr. Kizza Besigye & Ors v The Attorney General Constitutional Petition No.7 of 2007 for this proposition.

[8] In reply the respondent submitted that it conceded the fact that there was a contravention of article 23 (4) (b) of the Constitution. However, the respondent was of the view that the impugned detention in itself does not affect the consequent trial and in particular articles 28 (1), 44 (1) (a) and (c) and 126 (2) (c) of the Constitution. Counsel for the respondent stated that the remedy to the applicants in this case lies under Article 23 (7) of the Constitution, section 196 of the Magistrate's Courts Act and other common law remedies. The respondent referred to the statutory notice that was issued to the Attorney General by the applicants declaring their intention to sue for damages for unlawful detention. Counsel for the respondent also cited the case of Bruce Robert Sanderson v The Attorney General of Eastern Cape CCT 10 OF 1997 in support of their submission.

[9] The applicants contended that the inordinate delay in the trial of their case in the chief magistrate's court coupled with the DPP's unwarranted withdrawal of the case and reinstating it in the Anti- Corruption court contravened articles 28 (1) and (3) (a), 44 and 126 (2) (b) of the Constitution. The decision of the DPP to withdraw the case was contrary to article 120 (5) of the Constitution and an abuse of court process. That the

withdrawal was intended to fill the gaps in the prosecution case. The respondent relied on the case of Mills v Cooper [1967] 2 Q.B 459 and Regina vs Humphreys [1977] A.C 1

[10] The respondent in reply submitted that in discontinuing the proceedings at the point of submitting on a whether a prima facie case had been made out in order to file fresh charges in the Anti-Corruption court, the DPP was acting in strict adherence to article 120 (3) (d) of the Constitution. This was done before the judgment or ruling was delivered and the withdrawal of proceedings against the accused at that point does not bar subsequent proceedings against them on account if the same facts. The respondent cited section 120 (a) of the Magistrates' Courts Act. The respondent further contended that the applicants have failed to show that the actions of the DPP fell short of the standard under article 120 (5) of the Constitution. The withdrawal was necessitated by the enactment of a new law that established the Anti-Corruption court with the mandate to try such cases.

[11] The respondents further submitted that the applicants also contributed to the delays in the trial. Counsel for the respondent invited this court to take into consideration the case of Bruce Robert Sanderson v The Attorney General of Eastern Cape CCT 10 OF 1997 in determining whether the right to a speedy trial had been violated. In any case that the delay has not prejudiced the petitioners and the delays were reasonable in the circumstances.

Analysis

[12] In interpreting our Constitution especially as regards the protection and enforcement of fundamental rights and freedoms in chapter 4 thereof the court must construe the Constitution so as to give to the individual the full benefit of the rights and freedoms so protected. This is what is often referred to as a generous and purposive interpretation. The limitations to the fundamental rights and freedoms are to be construed in such a way that the individual retains as much of the right or freedom in question as is permissible without doing violence to the language used. The limitations are to be approached restrictively.

[13] Secondly all the provisions of the Constitution relevant to a particular subject must be looked at as a whole rather than in isolation so as to bring the Constitution in harmony. It is with these principles in view that I approach the matter before the court.

[14] There are two issues that arise for determination on this reference. Firstly whether the applicants' detention in police custody for a period exceeding forty eight hours invalidates the consequent proceedings against them. Secondly whether the delay in prosecuting the criminal charges against the applicants and the decision of the DPP to withdraw the case in order to prefer fresh charges against the applicants in the anti-corruption court constitutes an infringement of articles 28 (1) and 120 (5) of the Constitution.

[15] In answer to the first issue it is not in dispute that the applicants were arrested on 28th July 2008 and detained in police custody. The record of proceedings in the chief magistrate's court at page 24 of the record of reference indicates the applicants were produced in court on 6th August 2008 to be charged.

[16] Article 23 (4) of the Constitution states;

> 'A person arrested or detained—
>
> (a) for the purpose of bringing him or her before a court in execution of an order of a court; or
>
> (b) upon reasonable suspicion of his or her having committed or being about to commit a criminal offence under the laws of Uganda,
>
> shall, if not earlier released, be brought to court as soon as possible but in any case not later than forty-eight hours from the time of his or her arrest.'

[17] It is clear that the applicants' constitutional right to be brought to court within 48 hours from the time of their arrest was violated. The issue to be

resolved is whether this infringement invalidates the proceedings in the chief magistrate's court and consequent proceedings. I don't think so. The facts in this case are distinguishable from those in Dr. Kizza Besigye & Ors v The Attorney General (Constitutional Petition No.7 of 2007) [2010] UGCC 6 where there was a series of events leading to gross violation of the petitioners' fundamental rights.

[18] Article 23 (7) of the Constitution offers a remedy in this case. It states:

> 'A person unlawfully arrested, restricted or detained by any other person or authority shall be entitled to compensation from that other person or authority whether it is the State or an agency of the State or other person or authority.'

[19] Prior to being arraigned before a court of law the applicants were in unlawful detention for 7 days. They are entitled to compensatory damages from the state and individuals responsible for this constitutional infringement. In fact it was intimated that a notice of action in this regard had been issued by the applicants. Such an action would provide sufficient recompense to the applicants. The delay in bringing the applicants before a court of law did not in the circumstances of this case invalidate the subsequent prosecution.

[20] Turning to the second issue, it is the applicants' case that the unreasonable and inexcusable delay in the prosecution of their case coupled by the decision of the DPP to withdraw the charges against them and then to reinstate the case in the Anti-Corruption court resulted into the infringement of their right to a fair and speedy hearing and Article 120 (5) of the Constitution.

[21] Article 120 (3) (d) grants the DPP power to discontinue criminal proceedings instituted by himself or herself at any stage before judgment is delivered. Section 121 of the Magistrates Courts Act reiterates this provision. It provides as follows:

> 'In any proceeding before a magistrate's court the prosecutor may, with the consent of the court or on the

instructions of the Director of Public Prosecutions, at any time before judgment is pronounced, withdraw from the prosecution of any person; and upon that withdrawal—

(a) if it is made before the accused person is called upon to make his or her defence, he or she shall be discharged, but the discharge of an accused person shall not operate as a bar to subsequent proceedings against him or her on account of the same facts;

(b) if it is made after the accused person is called upon to make his or her defence, he or she shall be acquitted.'

[22] In light of the above, it is clear that the DPP has power to withdraw any criminal proceedings before judgment is entered. This entails withdrawal of the charges and discharge of the accused person. However, this does not operate as a bar to any subsequent proceeding on the same facts against the accused person if the discharge is made before the accused is called upon make his or her defence. Neither does it imply that such decision cannot be challenged as it is now challenged if it leads to the infringement of the applicants' right to a fair and speedy trial.

[23] Article 120 (5) mandates the DPP to exercise this power with due regard to public interest, the interest of administration of justice and the need to prevent an abuse of legal process. Looking at the proceedings in the chief magistrate's court, the DPP withdrew the charges against the applicants before the ruling on a whether a prima facie case had been made out. At page 63 of the record of proceedings in the chief magistrate's court, the prosecution stated that the withdrawal was necessitated by change in law. That is, the Anti-Corruption Act that established the Anti-Corruption court that was given the mandate to try such cases. This Act became effective on 25th August 2009. This explanation is ingenious. The Anti-Corruption Act did not create an Anti-Corruption Court. In section 51 thereof jurisdiction for the trial of the offences under the Act is reposed in the High Court, the Chief Magistrates Courts and Magistrates grade 1 courts. This was the case

before this Act was promulgated. The advancement of such a reason would suggest that the Director of Public Prosecutions had no justification for withdrawal and reinstatement of the same charges other than to mount a second attempt to prosecute the applicants, having been compelled to close its case in the initial attempt.

[24] From the record of proceedings in the chief magistrate's court the accused persons/applicants where produced before the chief magistrate's court at Buganda Road on 6th August 2008 whereupon they were formerly charged and remanded into custody and were to appear in court on 25th August 2008. They were granted bail by the High Court on the 25th August 2008. Production warrants were issued by court on two occasions but the accused persons failed to appear in court. Consequently criminal summons were issued against the accused persons summoning them to appear in court on 30th September 2008. The accused persons appeared in court on 1st October 2008 and the prosecutor informed court that the inquiries were still ongoing.

[25] On 21st October 2008 the case came up for hearing. All parties were in court but the chief magistrate was indisposed. The matter was adjourned to 6th November 2008. On that day all the parties were present in court but the police file was not in court. When the matter came up for hearing on the 20th November 2008 another adjournment was granted because the lawyers for both the accused persons were absent.

[26] On 12th January 2009 the matter came up for hearing and the prosecution prayed for a fresh hearing date. No reason was advanced. It was adjourned to the 27th January 2009. On 27th January 2009, counsel for the accused persons was ready to proceed but the prosecution did not have a police file. Counsel for the accused person made a complaint against the rate at which the case was moving. It was the six months from the date of arrest. The prosecution was granted a one month adjournment to prepare its case.

[27] When the matter came up for hearing on 24th February 2009 the prosecution prayed for a three weeks adjournment because the prosecutor was in a workshop hence unable to proceed. The matter was adjourned to 16th March 2009 so that the prosecution could summon all its witnesses. However, on that date, the prosecution sought further adjournment that it had not yet

received the police file and its witnesses had not been able to appear. Counsel for the accused persons objected to the adjournment on the ground that there was unnecessary delay hindering justice hence the matter should be dismissed.

[28] The trial magistrate granted the prosecution one last adjournment in the interest of justice. On 30th March 2009, when the matter came up for hearing, court adjourned the hearing to 7th April 2009 because the trial magistrate had a meeting at State House. However, the matter could not proceed for hearing on 7th April 2009 because the accused persons' lawyers had gone for burial. They requested a one week adjournment which was granted.

[29] Eventually the hearing of the matter commenced on 17th April 2009 and the prosecution presented its first witness. Counsel for the accused applied for photocopies of the statement of PW1 and photocopies of exhibits and sought a short adjournment for cross examination which was granted. The mater was adjourned to 26th May 2009 so that the prosecution can avail some documents to the defence which court considered necessary for the fair determination of the case. However, on 26th May 2009, the matter could not proceed because the prosecution had failed to adhere to the court order. When the matter came up for cross examination on 11th June 2009, defence counsel could not proceed because the prosecution had not availed the documents in court and counsel for the state withdrew from the case due to the fact that the defence had issued a complaint against him to the DPP for his failure to cooperate in the case.

[30] The matter was adjourned to 25th June 2009 so that the DPP could allocate the file to another prosecutor. On that day the prosecution sought an adjournment on the ground that the state prosecutor had just received the file and was not ready to proceed. On 16th July 2009 the defence was ready to proceed but the state prosecutor was indisposed. The case was adjourned to 23rd July 2009. However, on that day, the state prosecutor sought an adjournment reason being that she had just been allocated the file and needed to talk to the first prosecution witness. It should be noted that different prosecutors were handling the case file.

[31] The hearing resumed on 5th August 2009 for cross examination and re-examination of the first prosecution witness. Prosecution prayed for an adjournment. On 19th August 2009 court called the case for further hearing. PW2 gave his evidence. Counsel for the accused person prayed to cross examine PW2 after cross examining PW1 who was to be recalled. The matter was adjourned to 12th October 2009 for further hearing because accused person no.1 was expecting and due to give birth in two weeks.

[32] However, on 12th October 2009, neither the state prosecutor nor state witnesses appeared in court. Defence counsel prayed that the matter be dismissed since the prosecution had failed to show interest in prosecuting the case. The matter was adjourned. On 19th November 2009, the accused persons and the state appeared in court but the counsel for the accused person was absent. The matter was adjourned to 22nd December 2009 but the police file was not produced in court. On 22nd January 2010, the prosecution did not appear in court. The case was adjourned to 22nd February 2010 because the trial magistrate was indisposed. On 22nd February 2010, neither the prosecution nor the prosecution witnesses appeared in court. Court closed the prosecution case noting the reluctance of the state to prosecute, failure by the prosecution to appear in court and to summon witnesses. Parties were to file written submissions on a no case to answer.

[33] The matter was adjourned to 13th March 2010 for the ruling on whether a prima facie case had been made out. However, the prosecution did not appear and the matter was adjourned to 16th April 2010. The state was supposed to reply to the written submissions but sought an adjournment to amend the charges against the accused persons. 0n 28th March 2010, when the matter came up again before court, the state informed court that they intended to withdraw the case and reinstate it in the Anti-Corruption court. On 10th June 2010, counsel for the accused made an application for a constitutional reference before this court contending that the actions of the prosecution violated the accused's persons' rights to a fair and speedy hearing. The matter was adjourned pending the decision of this court.

[34] The right to a fair hearing is provided under article 28 (1) of the Constitution. The article provides that in determination of any criminal

charge, a person is entitled to a fair, speedy and public hearing before an independent and impartial court established by law. Under Article 44 (c), this right is non derogable. Among other things this provision seeks to ensure that an accused is afforded a trial, not just within a reasonable time but speedily. In the 1967 Constitution the standard had been trial within a reasonable time. In the 1995 Constitution this was replaced with 'speedy'. This change in phraseology or wording is not cosmetic. It must have been for a specific purpose. The state was being ordered to provide the persons charged with criminal offences a speedy trial. Every effort must be made to hasten the prosecution of offences. The standard was not just within reasonable time. The trial ought to be carried out with the minimal delay.

[35] In R v Morin [1992] 1.SCR.771, the Supreme Court in its majority decision explained that the right to a trial within a reasonable time aimed at securing three primary interests of the accused. It stated:

> 'The primary purpose of s. 11 (b) is the protection of the individual rights of accused persons: (1) the right to security of the person, (2) the right to liberty, and (3) the right to a fair trial. The right to security of the person is protected by seeking to minimize the anxiety, concern and stigma of exposure to criminal proceedings. The right to liberty is protected by seeking to minimize exposure to the restrictions on liberty which result from pre trial incarceration and restrictive bail conditions. The right to a fair trial is protected by attempting to ensure that proceedings take place while evidence is available and fresh.'

[36] Sopinka J then went on later to set out the factors he considered essential in determining whether there has been an infringement on the right. He stated,

> 'The general approach to a determination whether the right has been denied is not by the application of a mathematical or administrative formula but rather by a judicial determination balancing the interests which the section is designed to protect against the factors which either inevitably lead to delay or are otherwise the cause of delay. As I noted in Smith, supra, "it is axiomatic that some delay is inevitable. The question

> is, at what point does the delay become unreasonable?" (p.1311). While the Court has at times indicated otherwise, it is now accepted that the factors to be considered in analyzing how long is too long may be listed as follows: 1 the length of the delay; 2 waiver of time periods; 3 the reasons for the delay, including (a) inherent time requirements of the case, (b) actions of the accused, (c) actions of the Crown, (d) limits on institutional resources, and (e) other reasons for the delay; and prejudice to the accused.'[1]

[37] The foregoing elements are useful in analysing whether the delay that occurred in the prosecution of this case is such that it constituted infringement of the applicants' right to a fair and speedy trial.

[38] From the time the applicants were charged to the time the DPP withdrew the charges against them, at least 18 months had elapsed. During this period it is clear that much as each of the parties to the case and the court contributed to delay at some point the overall responsibility for delay must be placed on the prosecution. Out of the 20 times this case was called for hearing in 2009 and early 2010 defence was absent on 2 occasions. Hearing had to be adjourned for 13 times on account of various excuses from the prosecution including absence of police file, absence of state prosecutor, absence of witnesses and failure to provide documents to the defence, all of which were entirely avoidable. The presiding magistrate was unavailable twice.

[39] It has not been suggested that this was a complex and time consuming case which was difficult to prosecute or that some impediments had been thrown in the way to frustrate its prosecution. What is apparent is that the state was not mindful of its obligations to proceed with expedition. It was lax. Several times without explanation the police file was not available. The state failed to hand over documentary evidence it had been ordered to produce. On several occasions neither the prosecutor nor state witnesses were available. And when the state was ordered to close their case after failing to produce witnesses the Director of Public Prosecutions opted to withdraw the charges and reinstate them. The reason advanced was spurious. This step was not in the public interest. On the contrary it was intended to cover up the

malpractices of the state and provide them with a second opportunity to prosecute the applicants.

[40] The trial was conducted with such reckless disregard to both the public interest in bringing criminal trials to their logical conclusion, and to the accused persons' right to a fair and speedy trial. It is now almost decade since the applicants were charged and their case has never been fully heard. Passage of time affects the ability of both sides to present their cases, including the accused persons to put their defence. Sometimes the memories of witnesses fade and at times witnesses become unavailable. Restrictive bail conditions affect their right to personal liberty and the accused persons are forced to bear the stigma of exposure to criminal proceedings that the state is reluctant to prosecute or manages in an incompetent manner as in the instant case.

[41] There is no evidence that there were limited institutional resources to expeditiously try the case and in any case the state is obliged to provide the necessary resources to ensure effective administration of criminal justice.

[42] This was a case that ought to have been tried and completed in less than 12 months from when it was commenced. What aggravates the situation for the applicants is the absence of good faith on the part of the Director of Public Prosecutions. After his officers had failed to do their duty, instead of lambasting his officers for ineptitude, he opted for a resuscitation of a prosecution that had gone bad by withdrawing charges and reinstating the same charges. The state is not, as a matter of right, necessarily entitled to a second bite at the cherry, after messing up the first opportunity.

[43] The applicants are entitled to the protection of this court. The further prosecution of the charges against them by the state in their reinstated form is an abuse of their right to a fair and speedy trial. It ought to be stayed.

Declarations

[44] For the reasons advanced above in this judgement I would declare that:

(a) The holding in detention of the applicants for over 48 hours after arrest before being brought to court to be formally charged contravened article 23 (4) (b) of the Constitution.

(b) The contravention of article 23 (4) (b) does not render the consequent proceedings in regard to the case against the applicants a nullity.

(c) The actions of the Director of Public Prosecutions, of withdrawing the charges against the applicants in the chief magistrate's court and reinstating the same in the Anti-Corruption court (Chief Magistrates Court), though permissible in law, in the circumstances of this case violate articles 28 (1) and 120 (5) of the Constitution.

(d) The delay in the prosecution of the case against the applicants for over a period of 18 months in the chief magistrate's court contravened Article 28 (1) of the Constitution.

(e) A stay of prosecution of the applicants on these charges is granted.

(f) The applicants are consequently discharged.

[45] This file is returned back to the trial court to comply with the directions of this court.

Signed, dated and delivered at Kampala this 26th day of June, 2019

Fredrick Egonda-Ntende
Justice of Appeal

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

(Coram: Owiny- Dollo, DCJ., Kakuru, Egonda-Ntende, Obura & Muhanguzi, JJA / JCC)

Constitutional Reference No. 52 of 2010

BETWEEN

Kasande Sylvia.....Applicant No.1

Namugooma Rose..... .....Applicant No.2

AND

Uganda..... .....Respondent

JUDGMENT OF ALFONSE OWINY-DOLLO, DCJ

[1] I have had the opportunity to read in draft the judgment of my brother, Egonda-Ntende, JCC / JA. I agree the reference should succeed in part. I concur in the orders he proposes.

[2] As Kakuru, Obura and Muhanguzi, JJCC / JJA, also agree this reference is allowed with orders as proposed by Egonda-Ntende, JCC / JA.

Dated, signed and delivered at Kampala this 26th day of June 2019

Alfonse Owiny-Dollo
Deputy Chief Justice

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

CONSTITUTIONAL REFERENCE NO. 52 OF 2010

1. **KASANDE SYLVIA**
2. **NAMUGOOMA ROSE..... APPLICANTS**

VERSUS

UGANDA ..... RESPONDENT

CORAM: Hon. Mr. Justice Alfonse C. Owiny-Dollo, DCJ
Hon. Mr. Justice Kenneth Kakuru, JA/ JCC
Hon. Mr. Justice F.M.S Egonda-Ntende JA/ JCC
Hon. Lady Justice Hellen Obura, JA/ JCC
Hon. Mr. Justice Ezekiel Muhanguzi JA/ JCC

JUDGMENT OF JUSTICE KENNETH KAKURU, JA/ JCC

I have had the benefit of reading in draft the Judgment of my learned brother Hon. Mr. Justice F.M.S Egonda-Ntende JA/ JCC.

I agree with his decision and the orders he has proposed. I have nothing useful to add.

Dated at **Kampala** this .....26th.....day of .....June.....2019.

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Kenneth Kakuru

JUSTICE OF APPEAL/ JUSTICE CONSTITUTIONAL COURT

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

(Coram: Owiny-Dollo, DCJ, Kakukru, Egonda-Ntende, Obura & Muhanguzi, JJA/JCC)

CONSTITUTIONAL REFERENCE NO. 52 OF 2010

1. **KASANDE SYLVIA**
2. **NAMUGOOMA ROSE.....APPLICANTS**

VERSUS

UAGANDA.....RESPONDENT

JUDGMENT OF EZEKIEL MUHANGUZI, JA/JCC

I have had the benefit of reading in draft the judgment of my learned brother Hon. Mr. Justice Fredrick Egonda-Ntende, JA/JCC.

I agree with his decision entirely and the declarations of this reference.

Dated at Kampala this.....26th.....day of.....June.....2019.

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Ezekiel Muhanguzi

JUSTICE OF APPEAL/CONSTITUTIONAL COURT

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

(Coram: Owiny-Dollo, DCJ, Kakuru, Egonda-Ntende, Obura & Muhanguzi, JJA/JCC)

CONSTITUTIONAL REFERENCE NO. 52 OF 2010

BETWEEN

KASANDE SYLVIA.....1ST APPLICANT

NAMUNGOOMA ROSE.....2ND APPLICANT

AND

UGANDA.....RESPONDENT

JUDGMENT OF HELLEN OBURA, JA/JCC

I have had the benefit of reading in draft the judgment of my learned brother Hon. Justice Frederick Egonda-Ntende, JA/JCC. I agree with his findings and the proposed declarations with nothing useful to add.

Dated at Kampala this 26th day of June, 2019.

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Hellen Obura

JUSTICE OF APPEAL/CONSTITUTIONAL COURT