

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA

HCT-05-CV-CR-002-2005

F. KARANGIRA..... APPLICANT

vs

KARUSYA Y..... RESPONDENT

BEFORE: THE HON. MR. JUSTICE P. K. MUGAMBA

RULING

This ruling is prompted by an application for revision. It is the provision of the law under which it is brought that I find faulty. Perhaps this could be attributed to lack of the new volumes of the Laws of Uganda. The proper provision should be S. 83 of the C.P.A.

Be that as it may I find the applicant has been arrested and detained as a judgment debtor on the ground that he stood as guarantor to a loan extended by the respondent to one Bashaija. According to the document dated 26.06.2004 and signed by the applicant the loan amounted to Shs. 571,200/=. Apparently a further loan was extended by the respondent to Bashaija which brought the total amount owed to Shs, 742,500/=. The summary suit is for Shs. 742,500/= and the judgment which was given to the respondent is for Shs. 742,500/=— for the decretal sum.

I find the judgment erroneous on two grounds. First, contrary to Order 33 rule 2 CPR the endorsed plaint is not accompanied by an affidavit sworn by or on behalf of the plaintiff. In effect the suit was incompetent. Secondly, there is nowhere evidence of the applicant standing as a guarantor to the said Bashaija for a loan of Shs. 742,500/=. the subject of the suit.

Consequently this application is allowed. The judgment of the Grade I Magistrate Ntungamo is quashed and its orders are set aside. For avoidance of doubt the applicant should be set at liberty forthwith.

No order for costs as court was involved.

P.K. Mugamba

Judge

14th July 2005