

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT GULU**  
**HCT – 02 – CV – CS – 0004 – 1997**

**JUSTINE OKOT APIRE:.....PLAINTIFF**

**VERSUS**

**1. THE ATTORNEY GENERAL**

**2. LIRA DISTRICT ADMINISTRATION**

**3. NAMASALE SUB-COUNTY L.C.III:.....DEFENDANTS**

**BEFORE: HIS LORDSHIP HON. JUSTICE REMMY K. KASULE**

**JUDGMENT**

The plaintiff sued the defendants jointly and severally for the unlawful seizure, detention and conversion of his 107 pigs valued at shs. 20,865,000/= by the agents of the Defendants acting in the course and scope of their employment. He also prayed for general and exemplary damages, interest and costs.

Three issues were framed for trial.

1. Whether the servants, agents of the defendants seized the plaintiff's 107 pigs
2. if so, whether the seizure was lawful
3. What are the remedies available to the parties?

The first and second issues will be considered together as they are closely interlinked.

Pw1 and PW2 testified that on 2<sup>nd</sup> May 1996 between 1.00 p.m. to 2.00pm. Uganda police personnel from Namasale Police post as well as personnel from the Local Administration Police of Namasale Sub-county and the Assistant Health Inspector of Lira District in charge of Namasale Sub-county entered upon his home at Bangladesh Landing site. They forcefully did so by kicking the door of the pigsty where the plaintiff reared and kept his pigs, removed the pigs there from, loaded the same onto motor vehicles and took them away. At about 6.00 p.m. some pigs returned to the plaintiff, but not all of

them. The plaintiff had had 250 pigs in the sty before any had been taken away. Of these only 143 came back, and 107 were never returned.

The witness later saw a written advertisement, exhibit P1, to the general public for the sale of stray pigs. It was dated 21.05.1996. It was issued by the Sub-county Chief, Nsale. It invited members of the general public to go and buy pigs at Nsale, Headquarters.

Realizing that his pigs were not being returned to him, the plaintiff instructed his lawyers to give to defendants notice of intention to sue which was done on 17<sup>th</sup> June, 1996.

In response to that notice, Lira police station replied the plaintiff's lawyer's stating that the claims of the plaintiff were fabrications because the police had noted on instructions of the Health Supervisor in charge of Namasale Sub-county, that only 42 pigs belonging to various inhabitants had been seized and that court had ordered that the unclaimed pigs be disposed of by public auction.

Later, due to disappointment as to what had been done to him, and also in order to raise funds to pay for the lawyer to pursue this claim, the plaintiff sold the remaining pigs and he abandoned the work of pig rearing.

The pigs were of high quality, weighing between 100 – 120 kilograms each; and he sold each one at between shs 180,000/= and shs 220,000/=

He put the value of the pigs that were lost at the hands of the defendants at shs 195,000/= per pig, making a total of shs 20, 865,000/= as for the value for the 107 pigs that were lost.

PW2, John Ogowok, who worked for the plaintiff in rearing the pigs, testified supporting what the plaintiff told court. He confirmed there were 250 pigs in the sty and that about 113 pigs returned but he was not sure of the exact number. He was not cross-examined.

The defence called no evidence to rebut but the plaintiff's case.

The documentary evidence produced to court by plaintiff in exhibits P1, P2, (a) and P2(b) supports the evidence of the plaintiff and his witnesses that at the material time in Namasale Sub-County there was an exercise of seizing pigs carried out

by servants and agents of defendants in course of their respective employment purportedly under the public Health Act, on the ground according to exhibit P2(b):

***“It has come to my notice that some of you are rearing pigs, goats and sheep within the above landing sites and Township in a discriminately (sic) manner, thus causing nuisances to the general public”***

Exhibit P2 (a) also confirms that some pigs of inhabitants had been seized and that some that remained unclaimed had been disposed of by public auction pursuant to a directive of court.

According to section 57 (k) of the Public Health Act, Cap. 281, any animal so kept as to be offensive or injurious to health constitutes a nuisance.

No evidence was adduced by the defence to show in which way the plaintiff’s pigs constituted a nuisance. Neither was any evidence adduced of the plaintiff, as the alleged author of the nuisance, having been served with any written notice to remove the nuisance; or that the plaintiff failed to comply with such a notice in terms of sections 59 and 60 of the Act. There was no evidence from defendants that the plaintiff was ever subjected to the court processes provided for in sections 60, 61, 62, 63 and 64 of the said Act.

Court observed the demeanour of the plaintiff and that of PW2 during their testimonies to court. They both were straightforward and were not substantively contradictory. Both of course testified of an event that had happened almost ten years ago; and as such could not be precise on all details. Court finds both of them witnesses of truth.

The defendants, on the other hand, though represented by legal counsel, called no witnesses to support their version of the case.

Court therefore finds on the first and second issues that the servants and or agents of the defendants seized a number of the plaintiff’s pigs and that the seizure was unlawful.

The third issue is what remedies are available.

The plaintiff testified that 107 pigs were lost as a result of the actions of the defendants servants/agents. PW2 gave the number as 113, though he admitted he was not sure of the exact number. Court accepts the evidence of plaintiff that 107 pigs were lost.

Plaintiff further testified that the pigs lost were fully grown up. Weighting 100 – 120 kilogrammes and that each one would cost shs 195,000/= making a total of shs 20,865,000/=. This court finds the sum of shs. 195,000/= per animal to be rather on the higher side, and considers shs 120,000/= per animal to be more realistic.

Court therefore fixes the price of each pig that was lost at shs 120,000/= making a total of shs (107 x 120,000) = 12,840,000/=. The said amount is awarded to the plaintiff as the value of the animals he lost.

Plaintiff further testified that the exercise of taking his pigs was carried out by armed personnel, who ordered him not to move or say anything regarding selling his animals. Any attempted protestations from him against what the defendants were doing was met with an intense show of violence.

It is the finding of this court that the conduct of the defendants servants/agents was violent, oppressive and in total disregard of the rights of the plaintiff and as such court finds this a proper case for the award of exemplary damages. The plaintiff is accordingly awarded shs. 2,000,000/= exemplary damages.

Judgment is therefore entered for the plaintiff jointly and severally against the defendants for shs. 12,840,000/= being the value of the lost animals and shs 2,000,000/= exemplary damages.

The damages awarded shall carry interest at court rate from 02.05.1996 in respect of the shs. 12,840,000/= the value of the lost animals, and from the date of judgment in respect of the shs 2,000,000/= exemplary damages till payment in full.

The plaintiff is also awarded the costs of the suit jointly and severally against the defendants.

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Remmy K, Kasule

Judge

28<sup>th</sup> November, 2008