



THE REPUBLIC OF UGANDA  
IN THE CHIEF MAGISTRATES COURT OF PALLISA AT PALLISA  
LAND CIVIL SUIT NO. 001 OF 2019]

1. OINE IBRAHIM ..... PLAINTIFFS  
(SUIING AS LAWFUL ATTORNEY  
FOR OGOSO HAMISI)

2. KABASA KASIFA

VS

1. NGALWE PRIMARY SCHOOL  
MANAGEMENT COMMITTEE..... DEFENDANTS

2. NDINYA PETER  
3. OGWANG PATRICK  
4. JOHN BULOLO  
5. YOWASI KASABBI  
6. OCHAN IKUYA  
7. MPANDE MOSES

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*Before: His Worship Kyembe Karim ESQ  
Magistrate G.I*

**JUDGMENT**

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**Introduction.**

By way of an ordinary plaint filed on the 06<sup>th</sup> January, 2020, the plaintiff instituted this suit seeking declaratory orders of ownership, trespass, permanent injunction, special and general damages plus costs of the suit.



### **Plaintiff's case.**

It is the plaintiff's case that he is the lawful owner of land situated at Kaukura Village, Ngalwe Parish, Olok subcounty in Pallisa district. That he obtained powers of attorney from a one, Ogosu Amis who was the bonafide and customary owner of the suitland. That the plaintiff together with his relatives have been in occupation of the suit land since time immemorial until the 27<sup>th</sup> November, 2019 when the defendants trespassed thereon, destroyed crops, brought oxen and ploughed the land and have since planted thereon demarcation trees. The plaintiff thus seeks declarations that the defendants are trespassers, a permanent injunction against the defendants, special damages and costs of the suit.

### **Defendants' case:**

The defendants filed a joint written statement of defence whereof they denied the entire claim. They instead asserted facts to the effect that; first; that the plaintiff's suit does not disclose a valid cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup> 6<sup>th</sup> & 7<sup>th</sup> defendants, since for them, they formerly were just members on the management committee of the 1<sup>st</sup> defendant and that their term of office has since expired; that on the 1<sup>st</sup> defendant's part, it acquired the suitland around the year 1984 by way of donations from various neighbors, including Ogosu Hamisi, Mosingi Joseph, Kulata Dauda, Kirya Musa, Oine Zabuloni, Tukei Yokolamu, Kirya Mesusera and Opolot Philimon, altogether measuring approximately 10 acres and immediately planted thereon boundary marks, took possession through construction of shelters for classes and



engaged in agriculture thereon. That of the 4 acres being claimed by the plaintiff, Ogosu Hamisi only donated 1 acre and the remaining 3 acres were donated by a one, Mosingi Joseph and a one, kulata Dauda who have since passed on without any claim on the suitland and the 1<sup>st</sup> defendant only approached the LCIII court seeking aid with eviction of the plaintiff who had forcefully entered the suitland on the night of 21<sup>st</sup> December, 2018. That sometime in 2005 while selling off a portion of his land, he also indicated the 1<sup>st</sup> defendant as the neighbor; that in 2002, the 1<sup>st</sup> defendant constructed staff houses on part of the suitland without any objections from the plaintiff.

### **Representation:**

The plaintiff was represented by M/S WAMIMBI JUDE ADVOCATES while the defendants were represented by M/S NANGULU & MUGODA ADVOCATES.

### **Scheduling:**

The parties initially filed a Joint scheduling memorandum on the 1<sup>st</sup> February, 2022 which was initially adopted by consent of the parties but later modified on the 19<sup>th</sup> March, 2024 by consent of the parties. Under **Order 15 rule 1(5), & 5 of the CPR** this court can frame or amend issues as will enable it ably dispose of a case expediently.

The framed issues were:-



### **Issues:**

- i. Whether the plaintiff has a cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> defendants?
- ii. Whether the suit-land belongs to the estate of the late Ogozo Hamisi?
- iii. Whether the plaintiff is the rightful/lawful owner of the suitland?
- iv. What remedies are available to the parties?

### **Plaintiffs' Submissions:**

Learned counsel for the plaintiffs first pointed out for court that the burden of proof in civil cases lies upon the plaintiff as per the provisions under **Section 100 and 101 of the Evidence Act cap 8**. Learned counsel further cited for court the decision in **Nsubuga Vs Kavuma (1978)HCB 307** whereof court re-emphasized the principle that in civil cases, the burden of proof lies on the plaintiff and the same has to be discharged to the standard of balance of probabilities.

On issue 1, learned counsel pointed out for court the testimony of **Pw1-Oine Ibrahim** who testified that the suitland measuring 4 acres belonged to his late grandfather mzee Ogozo Amisi who died in the year, 2023. That the late Amisi had inherited the land from the plaintiff's great grandfathers and proved this through a clan consent, **PEX6** which was exhibited by **Pw5-Okedi Bizaleri**, the clan head

That Pw1 denied his grandfather ever having given out his land to the 1<sup>st</sup> defendant but instead, the 1<sup>st</sup> defendant grabbed the land and also



evicted the plaintiff's uncle, a one, Haruna Atimago who had built a home on the suitland. That the late Amisi tried to institute a suit but failed until he donated powers of attorney to the plaintiff and the same were exhibited as **PEX4**. Learned counsel also pointed out for court the evidence at the visit to the locus in quo, submitting that the plaintiff showed court the area where his uncle Haruna Atimago's house was before he was chased away by the defendants; that the old boundary marks showed to court by the defendants were only on the southern part of the suitland and not the entire land, of which the plaintiff clarified that those were the old boundary marks planted by his grandfather while selling a portion of the land to a one, Dr. Namwoyo Asekari and also while gifting land to a one, Zubairi Putuli and others. Learned counsel also pointed out the evidence of Dw4 –Iddi Ochuma who told court that the graves on the suitland were for his relatives while Dw4 never talked about the existence of any graves during his testimony in court.

In his analysis of the evidence, learned counsel submitted for the plaintiff that the defendants did not adduce evidence of any minutes to confirm any meeting that was convened to donate suitland to the 1<sup>st</sup> defendant, and the oral evidence thereto adduced by Dw1, Dw3 and Dw5 was hearsay since, some of them were not present when the donation was allegedly made, but were just told by people.

Learned counsel further assailed testimony of Dw4-Ochuna Iddi, son to one of the donors, a one, Kulakya Dauda who told court that he was present when the land was being donated but, that, he did not adduce



any documentary evidence or any other witnesses. As regards testimony of Dw2-Mulusi Mark who testified as having been present during the donation, learned counsel submitted that he contradicted himself on cross-examination when he testified that all the 4 acres were donated by Hamisi Ogoso, and also contrary, to the testimony of the rest of the witnesses who told court that Hamisi Ogoso donated only 1 acre.

Learned counsel cited the decision of **Hon. Justice Steven Mubiru in Uganda VS Kavuma Ismail Criminal session case no. 819 of 20216[2018] UGHCD 145** for the proposition that;

*“...grave inconsistencies and contradictions unless, satisfactorily explained, will usually, but not necessarily result in the evidence of a witness being rejected. Minor ones, unless, they point to deliberate untruthfulness will be ignored...”*

That similarly, that it was held in **Alfred Taja Vs Uganda EACA cr. Appeal no. 167 of 1967, Twinomugisha Alex & 2 others Vs Uganda S.C Criminal Appeal no. 35 of 2002** whereof it was stated that;

*“...the gravity of contradiction will depend on the centrality of the matter it relates to in determination of the key issues of the case....”*

**On issue 2** regarding whether the defendants are trespassers, leaned counsel cited for court the decision in **Justine EMN Lutaaya Vs sterling Civil Engineering Co. Ltd SCCA no. 11 of 2002** for the proposition that;



*“trespass to land occurs when a person makes an unauthorized entry upon land and thereby interferes or portends to interfere with another person’s lawful possession of that land, but against the person who is in actual or constructive possession of the land.”*

Learned counsel also cited for court the decision in **Sheikh Muhammed Lubowa VS Kitara Entereprises Ltd CACA no. 4 of 1987** for the elements of of trespass to be;

- a) The disputed land belonged to the plaintiff
- b) The defendant entered thereupon
- c) The entry was unlawful/ without permission/ the defendant had no claim of right/interest.

Learned counsel submitted that the plaintiff, testifying as Pw1-Oine Ibrahim told court that his grandfather had never given his land to the 1<sup>st</sup> defendant but rather, that the 1<sup>st</sup> defendant grabbed the land in 1983 and started utilizing it. Learned counsel concluded inviting this court to find in favour of the plaintiff and grant the remedies sought in the plaint.

### **Defendants’ Submissions**

Learned counsel for the defendants submitted in reply thereto. After laying out the background, he firstly agreed with the principles regarding the burden of proof in civil cases and sought to resolve the issues in the order they has been framed in the amended/modified scheduling memorandum.



Regarding the issue on whether the plaintiff has a cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> defendants, learned counsel cited various cases, but notably, **Tororo Cement Co. Ltd Vs Frokina International Ltd, Civil Appeal no. 2 of 2001** for the elements of a cause of action to be;

- a) The plaintiff enjoyed a right
- b) The right was violated
- c) The defendant is liable

Learned counsel pointed out that the plaintiff, under **paragraph 6(b) and (d)** of the plaint states that the defendants tried to take the land from the plaintiff using the LCIII court of Olok Sub-county but they appealed the decision and the chief Magistrate set aside the same and went on and attached the decree of the chief magistrate as **annexure “B”** on the plaint and that the defendants also ploughed the land with oxen and even planted demarcation marks. In learned counsel’s view, the 2<sup>nd</sup>-7<sup>th</sup> defendants properly pleaded that the suit does not disclose a cause of action against them since they did not have a personal interest in the suitland as they were merely members of the 1<sup>st</sup> defendant’s management committee.

Learned counsel cited for court **Schedule 2** to the **Education (Pre-primary and post primary) Act, 2008** which provides for the **(Education Committee) Regulations, whereof, under Regulation 13(3)** whereof it is stated to the effect that *a member of a management committee shall not be subjected to any personal liability in respect of any matter or thing done or omitted to be done or any contract entered into by or on behalf of*



*the management committee, in so far as she acted or omitted to act in good faith.*

Learned counsel, while maintained that the 2<sup>nd</sup> -7<sup>th</sup> defendants are no longer members of the 1<sup>st</sup> defendant's management committee and in his view, they have immunity granted by law and as such, there is no valid cause of action against the said 2<sup>nd</sup>-7<sup>th</sup> defendants.

On **issue 2 & 3** regarding whether the suitland belongs to the estate of the late Ogozo Hamisi and whether the plaintiff is the lawful owner of the suitland, learned counsel addressed court on the two issues together. He referred court to the defence testimonies to the effect that the suitland was donated to the 1<sup>st</sup> defendant by 3 individuals, including the now late Ogozo Hamisi and that the plaintiff has never been owner of the suitland. He pointed out specifically the evidence in chief of **Dw1-Bulolo john** who told court that the suitland belongs to the 1<sup>st</sup> defendant which has been using the same since around 1984 and has been utilizing the same as a school garden. That in his evidence which was unchallenged, Dw1 told court that sometime when the said Ogozo Hamisi was selling a portion of his land, he indicated on the sale agreement that the 1<sup>st</sup> defendant was the immediate neighbor, referring to the now disputed land and also exhibited the said sale agreement as **DEX1**.

As regards the visit to the locus in quo, learned counsel submitted that the defendants were able to show court the old boundary marks planted as far back as 1984 and others replaced later, a fact that the plaintiff did not dispute but claimed that the boundaries were planted by the said



Ogoso Hamisi. Learned counsel further pointed out for court the staff quarters of the 1<sup>st</sup> defendant which were observed and that the same had been constructed thereon in the year 2002 as per evidence adduced. Learned counsel cited for court the decision in **The registered trustees of Kampala Arch diocese vs Nabitete Nnume mixed Co-operative farm ltd (HCCSno 1559 of 2000[2017]UGHCLD4** whereof a gift *intervivos* was defined with reference to the Black's Law Dictionary, 8<sup>th</sup> edition at page 710 as;

*“...a gift of personal property made during the donor’s lifetime and delivered to the donee with the intention of irrevocably surrendering control over the property...”*

Learned counsel further pointed out that even the said, now, late Ogoso Hamisi was aware that he had donated the disputed land which explains why in the year 2005, while selling off a portion of his land, he acknowledged the 1<sup>st</sup> defendant as the immediate neighbor thereof and that the long undisturbed possession by the 1<sup>st</sup> defendant since way back from 1984 cannot be over looked and in his view, the plaintiff's action is thereby barred by the law of limitation.

As regard's the plaintiff's submission to the effect that the donation was incomplete owing to want of minutes of a meeting wherein the same was donated, learned counsel submitted in reply thereto to the effect that a donation of customary/unregistered land can be oral and no deed is needed, if intent, delivery and lifetime possession can be proved and any intended challenges must be raised during the living years of the donor. In support of this, he cited the decision in **Ereu Vicent & Others Vs**



**Adebo Regina HCCA no. 076 of 2023[2025]UGHC 772(22 August, 2025)** whereof, **Hon. Justice Boniface Wamala** upheld the validity of an oral gift intervivos of land and emphasized that customary law does not require written instruments for a transfer of land and that oral transfers when coupled with delivery and exclusive possession are enforceable.

Learned counsel further assailed the plaintiff's submission in respect to whether the suitland belongs to the estate of the late Ogozo Hamisi. Learned counsel submitted that this issue was never pleaded in the plaint and that the plaintiff's claim is in personam;-not seeking rights accruing from an estate of a deceased. Counsel, while admitting that at the time of filing the suit, the said Ogozo Hamisi was still living, he submitted that no amendment of pleadings was effected and as such, this court is left in dilemma as to the nature of claim being advanced by the plaintiff.

Learned counsel concluded adopting and reiterating his submission on issue 1 to the effect that the said, now, late Ogozo Hamisi donated the suitland to the 1<sup>st</sup> defendant in 1984, long before his death and that even then, the said Hamisi Ogozo was not a named plaintiff, yet he was still alive at the time of filing the suit.

He concluded by inviting court to dismiss the suit with costs as per the provisions under **Section 27 of the Civil Procedure Act cap 282.**



## **Consideration by court:**

### **Issues:**

- i. Whether the plaintiff has a cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> defendants?
- ii. Whether the suit-land belongs to the estate of the late Ogozo Hamisi?
- iii. Whether the plaintiff is the rightful/lawful owner of the suitland?
- iv. What remedies are available to the parties?

In the interest of expediency, I will consider all issues together and evaluate the evidence accordingly. In the case of **Oketh Vs Republic (1965) EA 555**, the court of appeal held that:

*“...it is the duty of the trial court to consider the evidence adduced by the parties as a whole before accepting it or making findings of fact..”*

Under **Section 2** of the Evidence Act Cap 8

*“Evidence” denotes the means by which any alleged matter of fact, the truth of which is submitted to investigation, is proved or disproved and includes testimonies by accused persons, admissions, judicial notice, presumptions of law and ocular observation by the court in its judicial capacity.*

First, from submissions of learned counsel for both parties, it is apparent to this court that the said Ogozo Hamisi died during the pendency of this



suit. It is also clear that the plaintiff brought this suit on the premise of a powers of attorney donated to him by the said, now deceased Ogo Hamisi.

I note that none of the parties addressed court on whether the action based on powers of attorney survives the death of the donor. To that end, in the mind of this court is whether the plaintiff has locus standi to continue with this suit upon demise of the donor of the powers of attorney? Can one say the donee can continue action upon the death of the donor? Can an agent act without a principal? This court is aware that in **Gertrude Catherine Odida Vs Akwero Juliana & Anor HCCS no. 8 of 2023(2025) UGHC 641 (5 August 2025)** Court held that:

*“...the done of powers of attorney, Mr. Julius Ochen lacked locus standi to institute the suit either on behalf of the executrix of the estate of the late Odida Francis emphasizing that the grant of powers conferred by the grant of probate are personal in nature, fiduciary and non-transferrable...”*

In those circumstances therefore, can one say that **PEX4-** the powers of attorney, the basis upon which this suit was instituted still renders the plaintiff any locus standi to sustain this suit? I believe not.

On that point alone, this court would dismiss the suit for want of *locus standi*.



But I note that learned counsel for both parties agreed on the issue of whether or not the suitland belongs to the estate of the now late Ogosu Hamisi (*the aforesaid donor of powers of attorney*).

However, no facts were pleaded in plaint point to this issue and I agree with learned counsel for the defendant that the issue was unsupported by pleadings, let alone, evidence. Learned counsel for the defendant submitted that without amendment of pleadings, this issue was misplaced and I agree with him.

I'm aware that In **Israel Kabwa.-Vs-Martin Banoba Musiga civil appeal no. 52/1995** while resolving a ground of appeal in relation to an objection regarding the locus standi of the plaintiff/beneficiary to bring the suit in the trial court, whereas without a letters of administration TSEKOOKO. J. S.C. held:

*“...would still fail in my view even if no letters of administration had been obtained because the respondent’s rights to the land and his developments thereon do not depend on letters of administration...”*

I'm also aware that under **Section 2(ma) of the Succession (Amendment Act), 2022**, lineal descendants of a deceased including grandchildren hold a biological beneficial interest in the estate of a deceased. It is settled law that a beneficiary can commence action to protect his/her beneficial interest in the estate of a deceased.

However, like I mentioned earlier, neither pleading nor evidence was led in that respect. That issue is only being argued at submission level.



That be as it may, learned counsel for the defendants further submitted, raising a preliminary objection regarding the issue on whether the plaintiff has a cause of action against the 2<sup>nd</sup>,3<sup>rd</sup>,4<sup>th</sup>,5<sup>th</sup> 6<sup>th</sup>&7<sup>th</sup> defendants.

In ***Mukisa Biscuit Manufacturing Co. Ltd v. West End Distributors Ltd [1969] EA 696*** Court stated that a preliminary objection consists of a point of law which has been pleaded, or which arises by clear implication out of the pleadings, and which if argued as a preliminary point may dispose of the suit.

He cited various cases, including, and I absolutely agree with his interpretation of the decision in **Tororo Cement Co. Ltd Vs Frokina International Ltd, Civil Appeal no. 2 of 2001** for the elements of a cause of action to be;

- a) The plaintiff enjoyed a right
- b) The right was violated
- c) The defendant is liable

The question before court, therefore, is whether that interpretation as accepted by this court, is applicable to the instant case.

In **M/S Semuyaba, Iga & Co. Advocates & anor –VS- Attorney General of The Republic of South Sudan & 2 Others Miscellaneous Application no. 0004 of 2022, HON. JUSTICE STEPHEN MUBIRU held that** Preliminary objections relate to points of law, raised at the outset of a case by the defence without going into the merits of the case.



In any preliminary objection therefore, there is no room for ascertainment of facts through affidavit or oral evidence. (*underlining added for emphasis*)

Learned counsel cited for court **Schedule 2** to the **Education (Pre-primary and post primary) Act, 2008** which provides for the **(Education Committee) Regulations, whereof, under Regulation 13(3)** whereof it is stated to the effect that *a member of a management committee shall not be subjected to any personal liability in respect of any matter or thing done or omitted to be done or any contract entered into by or on behalf of the management committee, in so far as she acted or omitted to act in good faith.*

Learned counsel maintained that the 2<sup>nd</sup> -7<sup>th</sup> defendants have immunity granted by law and as such, there is no valid cause of action against them.

In rejoinder thereto, the learned counsel for the plaintiffs submitted that a cause of action constitutes a bundle of facts, if proved, entitle the plaintiff to a remedy, and to entrench the submission, he cited for court the decision in **Auto Garage & others vs Motokov (no.3)[1971] EA 514.** In learned counsel's view, the plaintiff properly pleaded facts to the effect that the 2<sup>nd</sup>-7<sup>th</sup> defendants brought cows and oxen to plough the Suitland, thereby committing actionable trespass. Further in his view, that the in **Tororo Cement Ltd Vs Frokina International ltd case, supra,** that it was held that a person who personally participates in an unlawful act is personally liable.



I agree with the defendant's counsel that the acts purporting to constitute the cause of action indeed arose when the 2<sup>nd</sup>-7<sup>th</sup> defendants were still members of the management committee of the 1<sup>st</sup> defendant. As such, they enjoyed statutory immunity under **Regulation 13(3), Schedule 2** to the **Education (Pre-primary and post primary) Act, 2008** as properly cited by learned counsel for the defendants.

The net effect is that I find no valid cause of action against the 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup> & 7<sup>th</sup> defendants and I hereby strike out and dismiss the suit against them.

**This means the suit remains pending only against the 1<sup>st</sup> defendant.**

**But** Learned counsel for the defendant further submitted in objection pointing out that unchallenged pleadings and evidence has shown that even the said, now, deceased Ogozo Hamisi was aware that he had donated the disputed land which explains why in the year 2005 while selling off a portion of his land, he acknowledged the 1<sup>st</sup> defendant as the immediate neighbor thereof and that the long undisturbed possession by the 1<sup>st</sup> defendant since way back from 1984 cannot be over looked and in his view, the plaintiff's action against the 1<sup>st</sup> defendant is thereby also barred by the law of limitation.

In rejoinder thereto, learned counsel for the plaintiff did not address court on the submission but submitted that the fact that the 1<sup>st</sup> defendant was referenced as a neighbor in the sale agreement and that the 2005 witnessing of a donation of part of the disputed land for



purpose of construction of a health center does not, in his view, alter the ownership of the suitland. This court derives the interpretation that it is not disputed that the 1<sup>st</sup> plaintiff has been in occupation since way back even before the said 2005.

If that is the case then, would this suit which was filed in 2019 still be within the 12 year limitation period? I believe not.

This court notes that land can be acquired through various ways. In the case of **Gabriel Mugambwa VS Bwambale HCCS NO. 359/1992 (unreported)** it was held that land can be acquired by purchase, gift or inheritance.

Relatedly, **Ssekandi J**, in the case of **Mariko Matovu and others –VS- Sseviri and anor (1979) HCB at 174**, held that customary rights may be established by the cultivation of crops, grazing of animals and establishment of wells for cattle and such rights are protected by law.

When this court visited the *locus in quo*, indeed, as per the defence pleadings and evidence, staff quarters were found in place and they looked quite very old!!- In the ocular estimation of court, they looked older than 20years!!

Under **Section 5 of The Limitation Act**, the law provides for limitation of actions for the recovery of land. It states as follows;

*“No action shall be brought by any person to recover any land after the expiration of twelve years from the date on which the*



*right of action accrued to him or her or, if it first accrued to some person through whom he or she claims, to that person.”*

Under **Order 7 rule 6 of the CPR**, a plaintiff who seeks to be exempted from the strict application of the Limitation law must plead in plaint the grounds upon which he seeks such exemption. This requirement was considered by the Court of Appeal in ***Uganda Railways Corporation v. Ekwaru D.O and 5104 others, C.A. Civil Appeal No.185 of 2007 [2008] HCB 61***, where it was held that:

*“...if a suit is brought after the expiration of the period of limitation, and no grounds of exemption are shown in the plaint, the plaint must be rejected....”*

Under **Section 6 of the same Limitation Act**, it is provided that

*“...the right of action shall be deemed to have accrued on the date of the dispossession...”*

If that is true as indeed, I haven't found any contrary or rebuttal evidence and I have also found no evidence to the effect that the said Ogosu Hamisi ever challenged the construction of the said staff quarters, then this court is satisfied that indeed, this suit is barred by the laws of limitation.

As regards the 1<sup>st</sup> defendant's claim to have been granted a gift intervivos, **Section 58 of the Evidence Act, cap 6** provides that a fact in issue can be proved by direct oral testimony, save for the contents of a document.



Nowhere in the testimonies of both parties was it mentioned that the gift intervivos was by deed.

In ***Haji Asuman Mutekanga –Vs- Equator Growers (U) Ltd, S.C. Civil Appeal No.7 of 1995***, it was stated that it is trite law that strict proof does not necessarily always require documentary evidence. Oral testimony is good evidence to prove a fact in issue.

Learned counsel for the plaintiff submitted that the donation was incomplete owing to want of minutes of a meeting wherein the same was donated, learned counsel for the defendant submitted in reply thereto to the effect that a donation of customary/unregistered land can be oral and no deed is needed, if intent, delivery and lifetime possession can be proved and any intended challenges must be raised during the living years of the donor. In support of this, he cited the decision in ***Ereu Vicent & Others Vs Adebo Regina HCCA no. 076 of 2023[2025]UGHC 772(22 August, 2025)*** whereof, **Hon. Justice Boniface Wamala** upheld the validity of an oral gift intervivos of land and emphasized that customary law does not require written instruments for a transfer of land and that oral transfers when coupled with delivery and exclusive possession are enforceable.

I agree with the submission of learned counsel for the defendants and I am also bound by the authority so cited.

The net effect is that the suit is barred by limitation, the plaintiff lacks locus standi to bring the action and also after evaluating the whole



evidence, even though I didn't have to, I find that the suitland indeed belongs to the 1<sup>st</sup> defendant, they, having received the same as a donation from the said Hamisi Ogozo, now deceased.

***Issue 2: What remedies available?***

In final result, I make the following orders.

1. The suit is wholly dismissed against all the defendants for being time barred, for want of locus standi and want of a cause of action.
2. No counterclaim was filed by the defendants and as such, no declarations or reliefs are granted.
3. The plaintiff is condemned to pay costs of this suit.

I so order.

Right to Appeal.

Dated at PALLISA this .....03<sup>RD</sup>....day of .....MARCH.....2026

  
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**HW KYEMBE KARIM**

MAGISTRATE GRADE 1