**Bwambale and another v Matte and others**

**Division:** Court of Appeal of Uganda at Kampala

**Date of judgment:** 26 May 2005

**Case Number:** 58/02

**Before:** Mpagi-Bahigeine, Twinomujuni and Byamugisha JJA

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*[1] Land – Title issued under the Registration of Titles Act – Effect of such registration on previous*

*non-registered interests in the land – Whether the High Court can order cancellation of title.*

**Editor’s Summary**

The second appellant was the registered proprietor of land comprised in Bunyangabu Block 84 Plot 11 at

Kihyo Busongora Kasese District following the registration on 3 January 1985 under Instrument number

221212. The respondents claimed that they were occupying the subject piece of land at the time he became registered. Sometime in 1988 the respondents applied to the Uganda Land Commission for a grant of leases of their respective holdings. When a surveyor was sent to carry out the survey, he found that the land was already surveyed. In the meantime, the second appellant brought a tractor to clear the land under the supervision of the first appellant. Some crops belonging to the respondents were destroyed. They commenced a suit in the Chief Magistrate’s Court at Kasese, alleging that the first appellant together with his agents had trespassed on the land without their consent. They claimed special and general damages for loss to crops. They further alleged, that the second appellant’s acquisition of thesuit land and subsequent registration was tainted with fraud. They prayed for an injunction to restrain the

first appellant and his agents from committing further acts of trespass, a declaration that the suit land legally and equitably belonged to them and an order for the cancellation of the second appellant’s name from the register. The trial court dismissed the suit whereupon the respondents lodged an appeal in the

High Court. The High Court allowed the appeal on the ground that the magistrate had erred in law and fact, in holding that the appellants had no interest in land prior to the respondent’s registration. These holdings necessitated this appeal.

**Held** – A title issued in bringing land under the operation of the Registration of Titles Act cannot be impeached because of irregularities or informalities.

A person who is deprived of land as a result of bringing it under the operation of the Registration of

Titles Act is entitled to compensation. Fraud is not available as a ground to a person who is deprived of land that is brought under the operation the Registration of Titles Act.

The appellate judge was wrong to find, as he did, that failure to carry out survey of the land and inspection was intended by the second appellant to defeat the unregistered interest of the respondents.

Once land has been brought under the operation of the Registration of Titles Act, it cannot be de-registered.

Appeal allowed.

**No cases referred to in judgment**