**Muzito v Njuki**

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

**Date of judgment:** 21 September 2005

**Case Number:** 28/04

**Before:** Okello, Engwau and Byamugisha JJA

**Sourced by:** LawAfrica

*[1] Civil procedure – Substituted service – Defendant outside the country – Whether advertisement in*

*newspaper is an effective form of substituted service.*

**Editor’s Summary**

The respondent sought cancellation of the appellant’s title to the land, comprised of Kyadondo Block 255 Plot 84 situated at Munyonyo, Kampala District, on the grounds that the appellant was not a bona fide purchaser of the land. Service of summons could not be effected upon the appellant as he lived and worked in Sweden. The respondent therefore applied for and obtained leave to effect substituted service by publication of the notice of the summons in one of the national daily newspapers, The New Vision. When the appellant did not respond, the respondent obtained *ex parte* decree and the appellant’s certificate of title was cancelled and the respondent’s name substituted as the registered owner. On return to Uganda, the appellant sought to have the orders set aside on the grounds that he had not been duly served with the summons but it was dismissed by the judge,,thus the appeal.

**Held** – The substituted service could not have been effective on the appellant, who was living and working outside the country. Service outside jurisdiction is provided for under Order 5, rule 23 of the Civil Procedure Rules. It is not by publication in a national newspaper.

Appeal allowed

**No cases referred to in this judgment**