**Uganda v Omong**

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

**Date of judgment:** 4 April 1974

**Case Number:** 8/1974 (128/74)

**Before:** Manyindo J

**Sourced by:** LawAfrica

*[1] Criminal Law – Failure to prevent spread of fire – Prevention must have been possible – Penal*

*Code*, *s.* 311 (*U.*)*.*

**JUDGMENT**

**Manyindo J:** The accused was charged with failing to prevent a fire lit by him from damaging the property of one Ojok, contrary to s. 311 (*c*) of the Penal Code. He pleaded guilty to the charge, was convicted and sentenced to a caution. He was also ordered “to pay for the expenses the complainant will incur in repairing the house burnt”.

S. 311 (*c*) reads:

“311. Any person who–

( *c*) f ails to prevent any fire lawfully lit by him on land occupied or owned by him, or lighted with

his authority or consent, from extending on to the land of any other person or from causing damage to the property of any other person, is guilty of a misdemeanor and is liable to for three months or to a fine not exceeding five hundred shillings.”

The facts of the case as read out to the court by the prosecutor were that the fire had been carried by the wind to the house of the complainant. In fact a single flame had been carried to the complainant’s grass thatched house. The house was partly destroyed by the fire but all property in it was rescued.

On the facts of this case I am of the view that the offence was in fact not committed.

To commit the offence the accused person must fail to prevent the fire from extending to some other person’s property. The operative words here are “from extending”. It is impossible for me to imagine how the accused could have prevented the wind in doing what it did. This was clearly an intervening act which was beyond the control of the accused. In my view it could not have been the intention of the legislature that the section be applied to such a situation. I am therefore of the view that the accused was convicted. The conviction is quashed.

*Order accordingly*.

No appearances for the parties.