

Appeal No. 12 of 2022 The Attorney General of the Republic of Burundi v Francis Ngaruko

Coming up for Hearing: 22nd November 2023.

Appeal filed: on 17th October 2022

Treaty Article, Rules: Articles 35A of the Treaty for the Establishment for the East African Community 1999.

Subject matter: Right to Property

The Appealing party is the Attorney General of Burundi, the legal representative of the Government of Burundi. The Appellant is a dissatisfied party in *Reference no 9 of 2019 Francis Ngaruko v The Attorney General of Burundi* filed by Mr Francis Ngaruko on 31st May 2019 in the First Instance of the East African Court of Justice.

His main complaints in the Reference were that various State Institutions in Burundi unlawfully dealt with the claims he brought before them that were between him and the Respondent State. As a result of these illegal actions the Applicant in the Reference was disentitled to his lawfully acquired property. All these actions he claims, were done in a manner inconsistent not only with the laws of Burundi but were also a violation of Burundi's obligations under the Treaty for the Establishment of the East African Community.

The First Instance Division decided the matter in the Respondent's favour and ordered the Republic of Burundi to either restore the property it ruled were illegally and unlawfully acquired from him or compensate the value of the property at the prevailing market price and the costs of the suit.

Dissatisfied with the decision, the Appellant now contends before the Appellate Division that the decision of the First Instance Division was manifestly flawed with errors of law and procedural irregularities. Among many other grounds of Appeal the Appellants contends that the decision was decided in favour of the Estate of one Sebatutsi who were not party to the Reference before it.

The Appellant further argues that the First Instance Division committed a procedural irregularity by completely ignoring and not affording due weight to be given to the evidence on the issue of fraud that they tendered in Court. They thus pray for reversal of the whole Judgment and orders of the First Instance Division dated 30th September 2022.

The Respondent opposes the entire appeal on the basis that is hopelessly incompetent, incorrigibly defective for offending the provisions of the East African Court of Justice and that it also offends the provisions of Article 35A which gives the grounds of an Appeal because the Appeal is neither on point of law nor is it on jurisdictional question or procedural irregularity and that the Honourable Court lacks jurisdiction to entertain it, and it should be struck out with costs.

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