

## **CASE BRIEF IN HIGH COURT CIVIL SUIT NO.283 OF 2012 CIVIL DIVISION AT KAMPALA**

### **Brief facts**

The Plaintiffs Nisi Mbabazi, Jonathan Aruho, Matayo Natumanya, Kind David Tandeka (all minors suing through their next friend Kenneth Kakuru, replaced by Samantha Atukunda Kakuru Mwesigwa), on their own behalf and that of born and unborn children of Uganda and in public interest instituted this suit in 2012 together with Greenwatch against the Attorney General and the National Environmental Management Authority (NEMA).

It follows the Plaintiffs' grievances resulting from the Defendants' omissions characterized by failure to combat climate change and its effects whose impacts are harmful to the plaintiffs as minors and general human life.

The omissions among others include the government's failure to implement any of the major adaptation measures proposed and suggested by researchers and policy makers thereby causing immense harm and suffering to Ugandans that includes but is not limited to loss of life, property and livelihoods. The plaintiffs further allege that unless immediate action is taken, the harm and suffering will worsen in the future thus putting the lives of the plaintiffs and other people at peril despite no fault of their own.

### **Prayers**

The plaintiffs hence prayed for among others orders that the Defendants implement measures that will reduce the impact of climate change, an order directing the Defendants to conduct an updated carbon accounting and develop a climate change mitigation plan in accordance with best available science, an order directing the Defendants to implement International conventions, treaties and protocols on climate change, an order directing the defendants to take measures to protect the plaintiffs and children of Uganda from effects of climate change and specifically extreme climatic conditions such as floods and an order directing government to compensate victims of climate change and to take appropriate measures to curtail and prevent re-occurrence.

### **Chronological flow of events and status**

<b>DATE</b>	<b>STATUS</b>
20 <sup>th</sup> September 2012	-Filed the plaint and extracted summons -Case given hearing date for 30 <sup>th</sup> April 2014
27 <sup>th</sup> September 2012	-Served summons on the Attorney General
23 <sup>rd</sup> November 2013	-Received WSD from the Attorney General
30 <sup>th</sup> April 2014	Case adjourned to 6 <sup>th</sup> November 2014 -To file Joint scheduling Memorandum on 31 <sup>st</sup> July 2014 -Mention on 18 <sup>th</sup> August 2014
23 <sup>rd</sup> May 2014	-Delivered a letter to Uganda Mediation Chambers
28 <sup>th</sup> May 2014	-Received a response from UMC
29 <sup>th</sup> May 2014	-Served Attorney General

2 <sup>nd</sup> June 2014	-First mediation meeting held at UMC - File mediation summary by 5 <sup>th</sup> June 2014
12 <sup>th</sup> June 2014	-Notice delivered to the civil registry -Letter served on the UMC
12 <sup>th</sup> August 2014	-Filed Joint Scheduling Memorandum
13 <sup>th</sup> August 2014	-Served the Attorney General with the copy of the letter from the registrar
18 <sup>th</sup> August 2014	-Appeared in court to report on the prospects of mediation
6 <sup>th</sup> November 2014	-Appeared in Court -Preliminary hearing -Set a date for mention, 3 <sup>rd</sup> May 2015
28 <sup>th</sup> January 2015	-Meeting with Dr. Lwasa
5 <sup>th</sup> May 2015	-Matter up for mention -Counsel for defendant not in court -Matter adjourned to 11 <sup>th</sup> June 2015
11 <sup>th</sup> June 2015	-Matter up for mention -Court advises plaintiff counsel to ensure parties sued are the right ones -File an amended plaint -Further mention set for 17 <sup>th</sup> August 2015 at 9:00am
12 <sup>th</sup> August 2015	Filed hearing notices
13 <sup>th</sup> August 2015	-Picked up the hearing notices and served them on the Attorney General
15 <sup>th</sup> September 2015	-Appeared in court for mention however matter was adjourned to 16 <sup>th</sup> November 2015 to enable parties file Joint Scheduling Memorandum
16 <sup>th</sup> November 2015	-Appeared in court, matter adjourned to 14 <sup>th</sup> March 2016 -Hearing of plaintiff's case on 16 <sup>th</sup> March, 2016 -Hearing defendant's case on 30 <sup>th</sup> March, 2016. -Report on mediation progress and file Joint Scheduling Memorandum before 25 <sup>th</sup> December, 2015.
17 <sup>th</sup> August 2015	-Appeared in court -Counsel for plaintiffs to file an amended plaint and serve the same to the Attorney General for signing (consent) -Mention set for 15 <sup>th</sup> September 2015 at 9:00 am -Judge to refer case for mediation
21 <sup>st</sup> December 2015	-Appeared for mediation, however, it was pushed to 14 <sup>th</sup> March 2016 at 9:00 am
4 <sup>th</sup> September 2017	-Appeared before Justice H. Walayo -Plaintiff not in court

	<ul style="list-style-type: none"> <li>-Counsel for 1<sup>st</sup> defendant in court</li> <li>-Counsel for 2<sup>nd</sup> defendant not in court</li> <li>-Hearing date set for the 12<sup>th</sup> March 2018</li> <li>-Witness statements to be filed before 12<sup>th</sup> March 2018</li> </ul>
13 <sup>th</sup> March 2018	-Appeared in court but judge was away on criminal session in Kumi. Matter adjourned to 27 <sup>th</sup> June 2018 at 9:00am
14 <sup>th</sup> November, 2018	<ul style="list-style-type: none"> <li>-Before Hon. Justice Walayo</li> <li>-Counsel requested to evaluate the evidence of the defendants</li> <li>-Counsel for the plaintiff granted their request</li> <li>-Matter adjourned to 11<sup>th</sup> April, 2019 at 9:00 am</li> </ul>
11 <sup>th</sup> April 2019	<ul style="list-style-type: none"> <li>-Matter adjourned to 14<sup>th</sup> May, 2019 for examination of witnesses</li> <li>-Defendants to file their trial bundle</li> </ul>
14 <sup>th</sup> April 2019	-Matter adjourned to 22 <sup>nd</sup> August 2019 at 9:00am for hearing of plaintiffs' witnesses
22 <sup>nd</sup> August 2019	<ul style="list-style-type: none"> <li>-Before Justice Walayo.H</li> <li>-Matter adjourned for settlement on 6<sup>th</sup> November 2019 at 9:00am</li> </ul>
6 <sup>th</sup> November 2019	-Matter adjourned to 22 <sup>nd</sup> January 2020 for hearing
22 <sup>nd</sup> January 2020	<ul style="list-style-type: none"> <li>-Trial Judge was transferred and new judge not on station yet.</li> <li>-Matter adjourned to 24<sup>th</sup> March 2020 at 9:00am for hearing</li> </ul>
March 2020	-Country in lockdown (Presidential directive) due to the COVID-19 Pandemic
10 <sup>th</sup> June 2020	-Extracted a hearing notice for 13 <sup>th</sup> July 2020
16 <sup>th</sup> and 17 <sup>th</sup> June 2020	-Served hearing notice for 13 <sup>th</sup> July 2020
13 <sup>th</sup> July 2020	<ul style="list-style-type: none"> <li>-Before justice Michael Elubo</li> <li>-Attorney General absent, counsel holding brief asked for adjournment</li> <li>-Matter adjourned to 30<sup>th</sup> November, 2020 at 10:00am</li> </ul>
30 <sup>th</sup> November 2020	<ul style="list-style-type: none"> <li>-Trial judge absent</li> <li>-Matter adjourned to 12<sup>th</sup> and 19<sup>th</sup> January 2021 at 11: 00am</li> </ul>
12 <sup>th</sup> January 2021	<ul style="list-style-type: none"> <li>-Both parties absent</li> <li>-Matter adjourned to 17<sup>th</sup> June 2021 to enable court prepare for video conferencing</li> </ul>
13 <sup>th</sup> April 2021	Extracted Hearing Notices for 17 <sup>th</sup> June 2021
17 <sup>th</sup> June 2021	Due to lockdown for 42 days starting 7 <sup>th</sup> June 2021, case couldn't be heard

9 <sup>th</sup> august 2021	Wrote a letter to court asking for a new date.
25 <sup>th</sup> November 2021	Extracted Hearing Notices for 21 <sup>st</sup> March 2022
26 <sup>th</sup> November 2021	Served the defendant with the Hearing Notices
21 <sup>st</sup> March 2022	Trial judge absent
23 <sup>rd</sup> March 2022	Wrote to court requesting for a new date
17 <sup>th</sup> May 2022	Extracted Hearing Notices for 3 <sup>rd</sup> October 2022 at 9:00AM
18 <sup>th</sup> May 2022	Served the Hearing Notices on the defendant
02 November 2022	Printed out hearing notices issued on ECCMIS by J. Singiza K. Douglas, and served a copy thereof on each of the Defendants. -Next Hearing date on 28/11/2022
04 November 2022	-Drafted an affidavit of service in respect of the hearing notice issued by J. Singiza K. --- -Douglas and filed it on ECCMIS upon payment of the requisite fees.
28 <sup>th</sup> November 2022	-J. Singiza asked for a letter explaining why the case has delayed to be concluded
02 December 2022	-A letter explaining why the case has taken long to be concluded was filed at court
4 <sup>th</sup> January 2023	-Served hearing notices on the defendants -Next hearing date: 17 <sup>th</sup> January, 2023
10 <sup>th</sup> January, 2023	-Served a letter (explaining why the case has taken quite long to be concluded) on the defendants
17 <sup>th</sup> January, 2023	-Court hearing -Witness statements expunged from record -Court directed the plaintiffs to file submissions by 7/2/2023
14 <sup>th</sup> February, 2023	-Filed the plaintiffs' submissions and served the same on both the 1 <sup>st</sup> and 2 <sup>nd</sup> Defendant
15 <sup>th</sup> June, 2023	-Appeared in court for directions -All directions given on the 17 <sup>th</sup> of January were expunged -All witness statements reinstated -All documents reinstated -Plaintiffs directed to file application after electing a new next of friend -To appear in court to hear the application on 21/06/2023 -Date for mention to be given then
21 <sup>st</sup> July 2023	-Appeared in court for application for next of friend -Judge not available.

6 <sup>th</sup> July 2023	-Appeared in court for application for next of friend. -Application was allowed and parties directed to amend their pleadings
30 <sup>th</sup> November 2023	-Judge on leave. -Matter adjourned to 13 <sup>th</sup> May 2024
13 <sup>th</sup> May 2024	-Second allowed second defendant's prayer to amend their pleadings -matter adjourned to 19 <sup>th</sup> September 2024