

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA
HIGH COURT CIVIL SUIT NO. 283 OF 2012

1. NISI MBABAZI
2. JONATHAN ARUHO
3. MATAYO NATUMANYA
4. KIND DAVID TANDEKA



ALL MINORS SUING BY THEIR NEXT FRIEND KENNETH KAKURU

5. GREENWATCH:..... PLAINTIFFS

-VERSUS-

THE ATTORNEY GENERAL:.....DEFENDANT

PLAINT

1. The 1st, 2nd, 3rd, 4th plaintiffs are all minors, Ugandans and are suing through next friend Kenneth Kakuru whose address for the purpose of this suit shall be Kakuru & Co. Advocates, plot 7&9 second street P.O. Box 6256 Kampala.
2. The 5th plaintiff is a non governmental organisation registered under the laws of Uganda and incorporated as a company limited by guarantee whose address for the purpose of this suit shall also be the same as the other plaintiffs.
3. The defendant is the Attorney General of the Republic of Uganda and is sued in that capacity. Service upon him shall be effected by counsel for the plaintiffs.
4. The plaintiffs bring this action under Articles 39, 150 and 237 of the Constitution, sections 2,3,71 and 106 of the National Environment Act on their own behalf and on behalf of all children of Uganda born and unborn and in public interest.
5. The facts constituting the cause of action are as follows
 - a) That scientific reports now warn that the earth is in imminent peril as a result of climate heating that will impose catastrophic conditions on generations to come (annexture A).

- b) That unless checked, extreme climatic conditions may trigger mass extinction and wipe out civilization as we know it.
 - c) That unless action is taken immediately the current climatic patterns of prolonged drought, floods, hurricanes, crop losses will escalate into human catastrophe for the present, but more so for future generations (annexture B).
 - d) That Uganda's State of Environment Report 2004/2005 reported that the earth surface temperature is raising caused by a buildup of Green House Gasses in the atmosphere as a result of fossil fuel intensive mode of global development (annexture C).
 - e) The same report states that climate change can affect the availability of fresh water, ability to produce food, and distribution and seasonal transmission of vector borne diseases.
 - f) Uganda government reports indicate that global warming is a modern problem, complicated and tangled up with difficult issues such as poverty, economic growth and population growth. Dealing with it will not be easy and ignoring it will be worse.
 - g) The World Bank report (2000) indicates that people living in poverty and poor countries like Uganda are more susceptible to climate change.
 - h) Uganda is a signatory to the United Nations Framework Convention on Climate Change (UNFCCC) and is also party to the Kyoto protocol which require parties to put in place powerful and legally binding measures to curtail climate change.
 - i) Uganda has not carried out any comprehensive inventory of green house gas emissions since 1994.
 - j) The National Green Gas Inventory (1994) data indicates agricultural activities constitute a single most important contribution to green house gas emissions (annexture D).
 - k) The State of the Environment Report indicates that "if current trends in global warming persist, ice cover on the peaks of Mountain Rwenzori will disappear by 2023, reducing water in Lake George and Edward, affecting biodiversity and livelihoods (annexture E).
6. That as a result of the above and other factors the details of which shall be presented at the hearing, Uganda has suffered major climate related disasters (annexture F)
7. The government has not implemented any of the major adaptation measures proposed and suggested by researchers and policy makers.

8. That government inaction is unsustainable and is causing a lot of harm and suffering to the people of Uganda and the situation will be worse in future putting the lives of the plaintiffs at peril through no fault of their own.
9. At the trial the plaintiffs shall aver, contend and prove that government inaction on climate change is responsible for loss of life, property, livelihoods and social and political discontent.
10. The plaintiffs shall in this regard link climate change inaction by government to a number of events that have taken place in the recent past, including but not limited to the ones listed below.
 - a) Five pupils wounded and school of 400 destroyed in a local storm in Lira District. April 2011 (annexture F).
 - b) Two children killed when their house collapse during heavy rains in Kampala April 2011.
 - c) Two year old twins drowned as they slept in their house in Kampala, October 2010.
 - d) Hailstorm destroys 200 houses in Alito sub-county Kole District 20th April 2011, four children seriously injured.
 - e) 200 families rendered homeless in Kumi District following a violent storm 27th April 2011.
 - f) Moroto District hit by drought never seen in the last 40 years (annexture G).
 - g) Thousands of people displaced from their homes in Budduda village following a storm triggered landslide (annexture H)
 - h) The current political unrest over rise in food and fuel prices is related to government inaction to climate change
11. The above all followed a number of reports in the press and elsewhere which shall be presented at the trial detailing government failure to take any action to curtail climate change and its effects.
12. At the trial it shall be contended
 - a) The government of Uganda holds and maintains natural resources for and on behalf of the citizens of Uganda, as enshrined in Article 237 of the Constitution.

- b) That government of Uganda holds as a public trustee for all the citizens Natural resources and has a duty and obligation to maintain these resources and to ensure their sustainable use.
- c) That the government has a duty to ensure sustainable use of resources for the present and future generations, including but not limited to Air, Water and land resources.
- d) That Articles 39 and 237 of the Constitution imposes a duty on government as a public trustee to ensure that the atmosphere is free from pollution for the present and future generations.
- e) That the atmosphere is an ecological asset of the people of Uganda which the government holds on their behalf and has a duty and obligation under the Constitution, the laws and international legal instruments to maintain it in a sustainable manner.
- f) That the government has failed in its duty to uphold the citizens right to a clean and healthy environment and neglected its duty as a public trustee, in the result that the plaintiffs have suffered, will continue to suffer and are likely to suffer more harm in future.
- g) That the government has failed to take measure to curb present and future effects of climate change in total disregards of the constitution and the law, and as such the plaintiffs' constitutional rights have been violated.

13. This Honourable court has jurisdiction to hear and determine this matter, and the cause of action arises out of this jurisdiction.

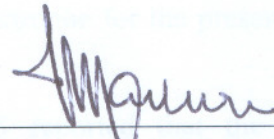
14. That statutory notice of intention to sue was dispensed with this being an urgent matter brought under Article 50 of the Constitution for protection of fundamental rights and freedoms.

Where fore the plaintiffs pray for the following orders and declarations;

- 1) An order directing the Minister responsible for environment to implement measures that will reduce the impact of climate change.
- 2) An order directing the Minister responsible for environment to conduct an updated carbon accounting and develop a climate change mitigation (reforestation/ emissions reduction) plan in accordance with the best available science, to reduce the impact of climate change.

- 3) An order directing the Minister responsible to take measures to protect the plaintiffs and the children of Uganda from effects of climate change and specifically extreme climatic conditions such as floods.
- 4) An order directing government to implement international conventions, treaties and protocols on climate change.
- 5) A declaration that the government holds in trust for the people of Uganda present and future generations, all shared resources set out in Article 237 of the Constitution including the atmosphere.
- 6) A declaration that government's failure to prevent and or curtail atmospheric pollution is a violation of the plaintiffs' right to a clean and healthy environment enshrined under Article 39 of the Constitution.
- 7) An order directing government to compensate victims of climate change and to take appropriate measures to curtail and prevent re-occurrence.
- 8) No order be made to costs.

Dated at Kampala this 12th day of September 2012.



COUNSEL FOR THE PLAINTIFFS

Drawn and filed By:

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(Kinyara Sugar Building)
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SUMMARY OF EVIDENCE

The plaintiffs shall adduce evidence to prove that scientific reports now warn that the earth is in imminent peril as a result of climate heating that will impose catastrophic conditions on generations to come.

That unless action is taken immediately the current climatic patterns of prolonged drought, floods, hurricanes, crop losses will escalate into human catastrophe for the present, but more so for future generations.

That Uganda's State of Environment Report 2004/2005 reported that the earth surface temperature is raising caused by a buildup of Green House Gasses in the atmosphere as a result of fossil fuel intensive mode of global development.

That government inaction is unsustainable and is causing a lot of harm and suffering to the people of Uganda and the situation will be worse in future putting the lives of the plaintiffs at peril through no fault of their own.

At the trial the plaintiffs shall aver, contend and prove that government inaction on climate change is responsible for loss of life, property, livelihoods and social and political discontent.

LIST OF WITNESSES

1. Mrs. Ssekyana Irene
2. Any other with leave of court.

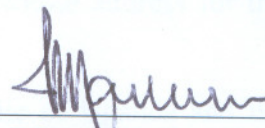
LIST OF DOCUMENTS

1. Scientific Reports.
2. Uganda's State of Environment Report 2004/2005
3. The National Green Gas Inventory (1994) Data
4. The State of the Environment Report.
5. Articles from the New Vision.
6. All other documents attached to the plaint.
7. Any other documents with leave of court.

LIST OF AUTHORITIES

1. The Constitution of the Republic of Uganda, 1995 As Amended.
2. The National Environment Act Cap 153
3. The Civil Procedure Act Cap 71
4. The Civil Procedure Rules S.1 71-1
5. Any other authorities with leave of court.

Dated at Kampala this 12th day of September 2012.



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