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THE REPUBLIC OF UGANDA
IN THE CHIEF MAGISTRATE COURT OF KAMPALA AT BUGANDA ROAD
CRIMINAL CASE NO. 0086 OF 2021

UGANDA:..... PROSECUTOR

VERSUS

A3: NO. KUZIAMOE LOTYANG JOSEPH ACCUSED.

JUDGMENT BEFORE HER WORSHIP AYO MIRIAM E.OKELLO

CHIEF MAGISTRATE

Lotyang Joseph is charged with unlawful possession of protected species contrary to section 36(1) and 71(1) (b) Uganda Wildlife Authority.

It is the prosecution case that Lutyang Joseph on the 27th/January/2021 at Napeikodo in Kabong District had in his possession two whole pieces of raw elephant ivory weighing 20.76 without a valid wildlife Use Right.

Accused denied the charge and the burden to prove his guilt remained with the prosecution. The standard of proof has always remained beyond reasonable doubt.

An accused is always presumed innocent until proven guilty.

The prosecution in order to secure a conviction must prove the following ingredients.

1. That the 2 pieces of Ivory belonged to an elephant a protected species.
2. That accused was unlawfully in possession.

1st ingredient:

State though PW1 the expert witness proved beyond doubt that the ivory exhibited in Court belonged to an elephant which fall under the lists of protected species in section 3rd schedule.

The only contentious issue for consideration is the accused's participation in the unlawful act.

The prosecution evidence as told by PWIII Silver Ekwiru is that they picked the ivory from A3 Lotyang's house and that he brought both accused and Okello up to the town with police. The witness confirmed that the said Ivory was picked from accused's home.

In his defence accused does not deny the fact that the said exhibit was kept in his home. But he denies possession of the same. That it was kept by one Okello Tonny now the convict and A2 LDU Lukwanga that it was being kept there without his knowledge. He only got to know about it on the day PWIII came to pick. Because he wanted a lift to town. They used the same vehicle.

I have evaluated the evidence adduced by the prosecution and the accused, section 1 of the act defines possession as having ownership, custody or control of an item coupled with intention to possess.

Accused has told Court that the Ivory was brought to his home without his knowledge. He got to know about it when PWIII came to pick it and since he wanted to go to Kambong, he jumped in the car. Okello Tonny now the convict admitted he was in possession of the ivory and had no valid Use Right. I am convinced he did not want accused to know his dealings much as the said ivory was being kept in his house, he was not aware of Okello's intentions. He became a victim of circumstance.

The prosecution did not place accused at the scene. Throughout the trial accused demeanor showed he is honest. He told Court nothing but the truth. He should be warned that he should refrain from keeping things, goods he does not know.

I find the standard as set A2 met. I find him not guilty and acquit him.

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Sgd: Ayo Miriam E. Okello
Chief Magistrate
19th /05/2021

19th/05/2021

Accused in Court

Andrew for accused

Guloba for state

Liz Clerk.

Court: Judgment read in Court.



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Sgd: Ayo Miriam E. Okello
Chief Magistrate