

Akankwasa Damian v Uganda (Const.Petition No.5 Of 2011) [2011] UGCC 7
(21 April 2011)

Subject: Whether Illicit Enrichment charge contrary to section 31 of the Anti-Corruption Act No 6/2009 is inconsistent with Article 26(1) of the Constitution which provides that every person has a right to own property either individually or in association with others.

It was alleged in the particulars of the offence that the applicant is in control and possession of a Guest House being constructed on Plot 11, St Balikudembe Road Naguru, Kampala, valued at Shs 580,800,000/=, a property which is disproportionate to his past and current known sources of income and/assets. The applicant is challenging the implementation of section 31 alleging that its effect will be unconstitutional since it will interfere with the right to own property.

DECISION: The purpose of the Anti-Corruption Act is to fight and eliminate all forms of corruption in public and private spheres. Section 31 gives power to the IGG and the DPP to prosecute all those who might have acquired property or assets whose value exceed their known lawful incomes or assets past or present. The section merely empowers the officers named therein to prosecute anyone whom they have reasonable grounds to believe that the property they hold was acquired through graft or corrupt means. We do not think that Articles 26(1) and 27 can be invoked to protect property which has been unlawfully acquired. The two articles protect property and assets which have been acquired using lawful means. Consequently section 31 is not inconsistent with Articles 26(1) and 27 of the Constitution.