

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[Coram: Egonda-Ntende, Bamugemereire, Mulyagonja, Mugenyi and Luswata, JJCC.]

Constitutional Petition No. 24 of 2020

BETWEEN

Jimmy Muyanja=====Petitioner No.1

The Centre For Arbitration and Dispute Resolution=====Petitioner No.2

AND

Richard Ivan Mungati T/A Surveysis=====Respondent No.1

Attorney General=====Respondent No.2

REASONS FOR JUDGMENT

- [1] On completion of hearing of this matter on the 27th September 2023 this petition was dismissed with no orders as to costs. We promised to provide our reasons for doing so later. We now do.
- [2] Petitioner No.1 is the Executive Director of Petitioner No 2. They were sued by the respondent no.1 in Miscellaneous Cause No. 42 of 2020 before the High Court of Uganda (Commercial Division). The petitioners come to this court, seeking declarations that firstly the Petitioner No.2 is a subordinate court established by Parliament pursuant to Articles 129 (1) (d) and (3) of the Constitution. Secondly that the petitioner No.1 is a judicial officer. Thirdly that the decisions of the Petitioner No.2 are not subject to judicial oversight. Fourthly that the petitioners cannot be sued as respondents for decisions that they make.
- [3] In addition, the petitioners sought a permanent injunction against the respondents from instituting or continuing with any further litigation against the petitioners.
- [4] This petition was opposed by the respondents.
- [5] At the hearing we noted that the questions raised in this petition had been the subject of earlier litigation before this court in Centre for Arbitration and Dispute Resolution (CADER) and Anor v The Attorney

General (Constitutional Petition No. 11 of 2019) [2023] UGCC 99. This court had provided answers to those questions in a unanimous decision. This court held that the petitioner No.1 in that case is not a subordinate court. All other questions raised in this current petition are settled by the answer that this court pronounced in *The Centre for Arbitration and Dispute Resolution and Anor v The Attorney General* (supra).

- [6] The jurisdiction of this court is to interpret the Constitution pursuant to article 137 of the Constitution. We shall set out the said provisions below for clarity.

‘137. Questions as to the interpretation of the Constitution

(1) Any question as to the interpretation of this Constitution shall be determined by the Court of Appeal sitting as the constitutional court.

(2) When sitting as a constitutional court, the Court of Appeal shall consist of a bench of five members of that court.

(3) A person who alleges that—

(a) an Act of Parliament or any other law or anything in or done under the authority of any law; or

(b) any act or omission by any person or authority, is inconsistent with or in contravention of a provision of this Constitution, may petition the constitutional court for a declaration to that effect, and for redress where appropriate.

(4) Where upon determination of the petition under clause (3) of this article the constitutional court considers that there is need for redress in addition to the declaration sought, the constitutional court may—

(a) grant an order of redress; or

(b) refer the matter to the High Court to investigate and determine the appropriate redress.

(5) Where any question as to the interpretation of this Constitution arises in any proceedings in a court of law other than a field court martial, the court—

(a) may, if it is of the opinion that the question involves a substantial question of law; and

(b) shall, if any party to the proceedings requests it to do so, refer the question to the constitutional court for decision in accordance with clause (1) of this article.

(6) Where any question is referred to the constitutional court under clause (5) of this article, the constitutional court shall give its decision on the question, and the court in which the question arises shall dispose of the case in accordance with that decision.

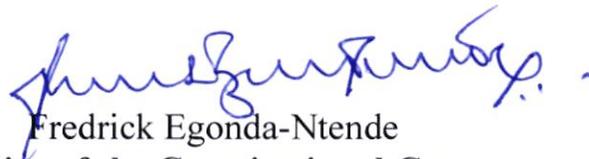
(7) Upon a petition being made or a question being referred under this article, the Court of Appeal shall proceed to hear and determine the petition as soon as possible and may, for that purpose, suspend any other matter pending before it.'

[7] The jurisdiction of this court is special. It is to settle controversies regarding the interpretation of the Constitution in relation to the laws in force or acts of individuals and or organisations.

[8] Once this court has done so in relation to any question, the same question or other variant of the same, ought not be raised again as this court would have pronounced itself on the matter and settled the correct interpretation of the same. There would be nothing new to interpret. There is no longer any controversy to settle in relation to that question.

[9] For those reasons this petition was dismissed by this court.

Signed, dated and delivered at Kampala this 20th day of Feb 2024



Fredrick Egonda-Ntende
Justice of the Constitutional Court

**THE REPUBLIC OF UGANDA
IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA**

Coram:

[*Egonda-Ntende, Bamugemereire, Mulyagonja, Mugenyi and Luswata, JJCC*]
Constitutional Petition No. 24 of 2020

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REASONS FOR JUDGMENT OF CATHERINE BAMUGEMEREIRE JCC

I have had the occasion to read the reasons for Judgment as articulated by my learned brother Fredrick Egonda-Ntenda, JA. I do agree that the jurisdiction of this court is limited to determining questions as to the interpretation of the constitution. The petitioner had raised earlier questions which were duly answered. I concur with my learned brother that once a determination has been made in relation to any question, that question or the same question in another shape or form should not be raised again before this court for determination. This is because there is no more controversy to settle regarding that self-same question. It is for the above reasons that this petition was dismissed with no order as to costs.

Dated and signed this 20th Day of Feb 2024



Catherine Bamugemereire
Justice of the Constitutional Court

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[*Coram: Egonda-Ntende, Bamugemereire, Mulyagonja, Mugenyi and Luswata, JJCC.*]

Constitutional Petition No. 24 of 2020

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and Dispute Resolution =====Petitioner No.2

AND

Richard Ivan Mungati T/A Surveysis=====Respondent No.1

Attorney General=====Respondent No.2

REASONS FOR JUDGMENT

I have had the benefit of reading the reasons for the judgment delivered on 27th November 2023, as they were set out for the Court by my brother Egonda, Ntende, JA.

I agree with the reasons and have nothing to add.

Dated at Kampala this 20th day of Feb 2024



Irene Mulyagonja

JUSTICE OF THE CONSTITUTIONAL COURT



THE REPUBLIC OF UGANDA

**THE CONSTITUTIONAL COURT OF UGANDA
AT KAMPALA**

(Coram: Egonda-Ntende, Bamugemereire, Mulyagonja, Mugenyi & Luswata, JJCC)

CONSTITUTIONAL PETITION NO. 24 OF 2020

1. JIMMY MUYANJA
2. CENTRE FOR ARBITRATION
& DISPUTE RESOLUTION (CADER) PETITIONERS

VERSUS

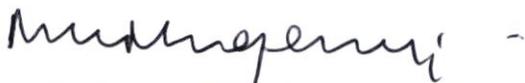
1. RICHARD IVAN MUNGATI
t/a SURVEYSIS
2. ATTORNEY GENERAL RESPONDENTS

REASONS FOR JUDGMENT OF MONICA K. MUGENYI, JCC

I have had the benefit of reading in draft the Reasons for Judgment in this matter by my brother, Egonda-Ntende, JCC.

I agree with the reasons advanced for the dismissal of the Petition.

Dated and delivered at Kampala this 20th day of Feb, 2024.



Monica K. Mugenyi

Justice of the Constitutional Court

THE REPUBLIC OF UGANDA

IN THE CONSTITUTIONAL COURT OF UGANDA AT KAMPALA

[*Coram: Egonda-Ntende, Bamugemereire, Mulyagonja, Mugenyi and Luswata, JJCC.*]

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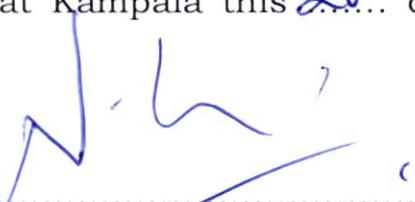
Attorney General=====Respondent No.2

REASONS FOR JUDGMENT

I have had the opportunity to read the reasons in the judgment of my learned brother Hon. Justice Frederick Egonda Ntende, JCC.

I agree with his reasons and have nothing useful to add.

Dated, signed and delivered at Kampala this 20th day of Feb 2024.


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EVA K. LUSWATA

JUSTICE OF APPEAL/CONSTITUTIONAL COURT