THE REPUBLIC OF UGANDA
IN THE INSURANCE APPEALS TRIBUNAL OF UGANDA
INSURANCE APPEALS TRIBUNAL APPLICATION No. 005 of 2023
(ARISING FROM COMPLAINT No. IRAB/COMP.14/01/23)

NAMBALE, NERIMA & CO.ADVOCATES :: APPELLANT

-VERSUS-

LIBERTY GENERAL INSURANCE UGANDA LIMITED :: RESPONDENT

CORAM: MRS. RITA NAMAKIIKA NANGONO - CHAIRPERSON
MR. GEORGE STEVEN OKOTHA- MEMBER
MRS. SOLOME MAYINJA LUWAGA – MEMBER
DR. JOHN BBALE MAYANJA - MEMBER

JUDGMENT

1.0. **THE APPLICATION**

The instant application challenges the decision of the Insurance Regulatory Authority issued on the 29th day of July 2023 by Micheal Njenga-*Senior Legal Officer-Regulation and Drafting*, Yasin Bukenya-*Senior Inspection Officer*, Oliver Kabatabazi Kawalya *Legal Officer-Complaints* and Najib Kasole *Legal Officer-Complaints*.

2.0. **BRIEF BACKGROUND OF THE APPLICATION**

The Appellant procured a motor comprehensive policy No. P/HQ/701/20/000235 from the Respondent on the 6th day of November 2020 for the sole purpose of covering his vehicle, a Mercedes Benz E-Class with Registration Number UBH 938Y. This policy was going to run for one year commencing on the 7th day of November 2020 and ceasing on the 6th day of November 2021. Subsequently, the policy was renewed for another year effective until the 6th day of November 2022. The Appellant had been introduced to the Respondent by one Sheila Tumugabirwe an employee of the Respondent's sister company "*Liberty life Assurance Limited*"

3.0. On the 9th day of December 2022, the Appellant's motor vehicle was involved in an accident along Acacia Avenue, Kololo. The Appellant notified Sheila who delivered the Certificate of Insurance for the period 2022-2023. The Appellant filed an insurance claim for the damages that had been sustained to the car.

4.0. The Respondent disputed the policy's validity based on two grounds, firstly that it was a Motor Third Party Policy and Secondly, the Respondent claimed that no premium had

been paid for the relevant policy and as such there was no contract of insurance in operation at the time of the occurrence of the accident.

5.0. The Appellant then lodged a complaint with the Insurance Regulatory Authority seeking a resolution of the dispute. Two issues were framed for the determination of the complaint namely;

i. *Whether there was a valid contract of insurance in place between the complainant and the Insurer for the policy period in question (2022-2023)?*
ii. *What remedies are available to the parties?*

6.0. The Insurance Regulatory Authority in holding that there was no valid contract of insurance between the Appellant and Respondent noted that *Section 63 of the Insurance Act* had a definitive impact on insurance policies where the insured fails to pay the premium at policy inception. It was asserted that such policies are rendered *void ab initio* and are devoid of any benefits to either party as they are strictly prohibited by law. On the second issue, it was noted that the Appellant was not entitled to any indemnity since the contract was void, a fine of *UGX 20,000,000 (Uganda Shillings Twenty Million Shillings Only)* upon the Insurer for their conduct in regards to the nature of policy issued. The insurer was also ordered to remit the levied fines. It was based on that Background that the Appellant lodged the instant Appeal.

7.0. **REPRESENTATION AND APPEARANCE**

At the hearing, the Appellant was represented by Counsel David Nambale & Counsel Waiswa Faiswali of M/s Nambale Nerima & Co Advocates while the Respondent was represented by Counsel Henry Nyegenye & Counsel Paul Kutesa of M/s Arcadia Advocates.

8.0. **THE PARTIES' SUBMISSIONS**

The parties proceeded by way of written submissions and the Appellants filed their written submissions on the 20th day of December 2023 while the Respondents filed their submissions on the 22nd day of December 2023. The Appellants filed their rejoinder on the 3rd day of January 2024.

9.0. **THE ISSUES ARISING**

At the scheduling conference, the following issues were framed for the determination of the instant appeal;

i. *Whether there was a contract of insurance between the Appellant and Respondent?*
ii. *What remedies are available to the parties?*

10.0. **THE APPELLANT'S SUBMISSIONS ON THE ISSUES ARISING**

The Appellant quoting ***Section 101 of the Evidence Act Cap 6***, submitted that the burden to prove whether the insured cover was under policy at the time of the occurrence of the accident lay on the Appellant. They submitted that the Certificate of Insurance No. 1002913535 issued by the Respondent for the period of 7th November 2022 to 6th November 2023 covered the period within which the accident occurred was on 9th December 2022 since it was endorsed with the words valid for 12 months. It was submitted that there was no new contract but the renewal of an existing contract. The Appellant submitted that the Respondent had never recalled or cancelled the said certificate and the same had been displayed in the Appellant's vehicle.

11.0. It was submitted for the Appellant that the Respondent had the burden to prove that the certificate of insurance and underlying policy is void. The Appellant observed that the Respondent had set up three pleas to portray the void character of the contract being that Sheila was not their agent or authorized representative, that there were no renewal instructions given, and that the premium was not paid.

12.0. The Appellant submitted that Exhibit AX3 is *res ipsa loquitor* as a renewal of an existing policy and a valid contract under Section 10 of the Contracts Act 2010 and that the status of Sheila as an agent was irrelevant. Without prejudice to the foregoing submission, the Appellant further submitted that Sheila was the sole coordinator of the parties since the inception of the initial contract. This was backed up by the evidence of one Paul Kaigwa who had testified to having received instructions from Sheila before the issuance of a comprehensive policy. It was Sheila who procured the renewal of the contested certificates of insurance, took pictures of the accident, and requested the Appellant to send an invoice from a preferred garage. It was submitted that the Appellant was not aware that Sheila worked for a separate company-Liberty Assurance. Counsel for the Appellant noted that Sheila's direct employer is a sister company of the Respondent and that judicial notice should be taken of the fact that both companies sell insurance under the same trademark, logo, and tagline ***"Liberty in it with you".*** It was submitted that Sheila was the paid agent of the Respondent within the meaning of *Sections 118, 122(2), 122(3),* and *133* of ***the Contracts Act 2010*** and that under the General law of the Agency, her acts and omissions bind the Respondent. It was further submitted that the Respondent is estopped from raising her lack of non-life insurance agent license to avoid liability for her acts done on its behalf which the Appellant relied on to his detriment.

13.0. On the plea of whether the Respondent had received renewal instructions; it was submitted that the Appellant was not duty-bound to prove that it issued renewal instructions. It was submitted that it was common ground that the initial policy issuance and subsequent renewals were by custom and usage and was handled informally

through Sheila. The Appellant backed up that submission with ***Section 15 of the Evidence Act Cap 6*** which provides "*When there is a question whether a particular act was done, the existence of any course of business according to which it naturally would have been done is a relevant fact*".

14.0. The Appellant submits that the evidence of reasons allegedly given by Sheila to the Respondent for no-renewal should be rejected because it offends the hearsay rule and that the Respondent had testified that the Appellant was a good client and that it was common ground that he had never failed to pay premium let alone request for credit. The Appellant submitted that failure of the Respondent to produce evidence in the form of the Whatsapp conversations between Sheila and the Respondent, an inference to be drawn out of the act that the said evidence does not exist, the underwriter is not credible, and that the said evidence was hidden because it proves that Sheila communicated renewal instructions to the Respondent. The Appellant cited the case of ***Bank of Baroda-versus-Wilson Buyonjo Kamugunda SCCA No. 10 of 2004.***

15.0. It was also the Appellant's submission that the respondent's conduct of appointment of a loss adjustor is wholly inconsistent with an insurer who has no indemnity and it was submitted that the tribunal ought to reject the respondent's claim that Sheila procured the renewal through deceit.

16.0. The Appellant cited ***Section 61(1) and 82(6) of the Insurance Act*** noting that the Respondent's witnesses and the tribunal's witness Sheila mutually accused each other of deceit and contradicted each other and invited the tribunal to sanction the culpable individuals. It was submitted that whatever transaction transpired between Sheila, the Respondent and a one Eunice Aine was money laundering within the meaning envisaged under ***Section 1 of the Anti-Money Laundering Act 2013.*** It was further submitted that the Appellant should not be prejudiced by internal miscommunications or underhand dealings between Sheila and her principals.

17.0. On the issue of nonpayment of premium, the Appellant submitted that if the law intended that a policy would be void unless the premiums were paid in full before or at the date of commencement of the policy, it would be specifically stated. The Appellant submitted that ***Section 63(2) of the Insurance Act*** that stipulates "*the Authority may by regulations provide payment for premiums in any other manner*" permits credit sales. The Appellant submitted that the IRA Complaints Bureau acknowledged that the authority had power to allow policies to commence without advance payment of premium, and had done so by circular to all insurers.

18.0. The Appellant submitted since the previous premium debits were raised and settled several weeks after the date of issue/renewal and the Respondent never voided the

same he was estopped from voiding the one in issue. The Appellant cited a wealth of authorities including ***Section 114 of the Evidence Act Cap 6, Central London Properties versus High Trees House Limited (1947) KB 130.*** This conduct was now part of their contract usage. It was submitted that the Respondent unequivocally waived the advance payment premium warranty in the Policy. This was backed by the case of ***P.Abdul Azeez & Co. versus New India Assurance Company Limited AIR 1954 Mad 520, 1953 2 MLJ 714***.

19.0. The Appellant submitted that the indemnity obligation does not come into force upon payment of premium yet it was never adjusted or brought forward the commencement date. It was submitted that it was untenable in law and equity for the insurer to benefit from an unearned premium paid for antecedent periods during which the indemnity contract was purportedly not in force.

20.0. **RESPONDENT'S SUBMISSIONS IN REPLY**

The Respondent defined a contract per *Section 2 of the Insurance Act of 2017* and *Section 10 of the Contracts Act 2010.* From the two provisions, it was deduced that for an insurance contract to exist there must be an agreement between the insurer and the insured, the insured must have paid the premium and there must be a policy document in place. It was submitted that payment of premium was mandatory under Section 63(1) of the Insurance Act 2017. This payment must be on or before the inception or renewal of the policy. It was submitted that the Appellant had never paid the Respondent premium for the insurance policy for the period between November 2022-2023 and that in the absence of payment of premium, no contract of insurance can exist. The Respondent submitted that there was no evidence to show that the parties had reached an agreement to renew the insurance contract and that without the parties reaching an agreement to renew it is wholly immaterial whether Sheila did or did not receive instructions to renew from the Appellant. It was submitted that no premium had been ascertained and that there was no policy document. The Respondent submits that without a policy document, there is no insurance contract. The Respondent cited ***Suffish International Food Processors (U) Ltd & Anor –versus- Egypt Air Corporation T/A Egypt Air Uganda SCCA 15 of 2011.***

The Respondent submitted that a Motor Third Party Certificate of insurance or sticker is not evidence of the existence of a policy of insurance. The Respondent submitted that estoppel was inapplicable as the Respondent had never made any representation that the Appellant did not have to pay a premium. Counsel submitted that Sheila was never an agent of the Respondent and was not even an insurance broker within the meaning of the Act. Counsel submitted that without a policy document and non-payment of premium implies that there is no insurance contract. On the issue of remedies, Counsel

for the Respondent submitted that the Respondent is under no obligation to indemnify the Appellant as no contract existed at the time of the occurrence of the accident.

21.0. APPELLANT'S SUBMISSIONS IN REJOINDER

In rejoinder to nonpayment of premium rendering a contract void, Counsel for the Appellant submitted that if the law had intended a consequence, it would have specifically stated so. Counsel asserted that under Section 63(2), the authority was vested with the power to permit payment of premium after the inception of the policy cover, in instalments or even gratis. Counsel submitted that nonpayment of premium renders a contract voidable and not void.

On the issue of whether the policy was renewed for the period in contention, it was submitted that the Respondent had renewal instructions and it was based on that, that the Appellant was issued with a certificate of motor comprehensive insurance. On the issue of whether the Appellant could plead estoppel, it was submitted that the insurer's standard custom with the Appellant entailed issuance of debit notes several weeks after placement of cover, and the Respondent never voided the underlying policies for non-payment. The Appellant relied on those representations to continue its relationship and the insurer was estopped from denying it to the appellant's detriment.

22.0. RESOLUTION OF THE ISSUES

22.1. *Whether there was a contract of insurance between the Appellant and Respondent?*

The crux of the matter in regards to this issue lies in ascertaining whether there existed a contract of insurance between the Appellant and Respondent at the time when the Appellant's motor vehicle of brand Mercedes Benz-E Class was involved in an accident that would entitle the Appellant to be indemnified. This issue was multifaceted and we shall adopt some of the sub-divisions used by the Appellant as presented in its written submissions to arrive at our decision

22.1.1. The Renewal of the Contract

Section 2 of the Insurance Act of 2017 defines an insurance contract as follows "*insurance contract" means a contract under which one party, known as the **insurer**, in exchange for a **premium**, agrees with another party, known as the **policyholder**, to make payment, or provide a benefit to the policyholder or another person on the occurrence of a specified*

uncertain event which, if it occurs, will be adverse to the interests of the policyholder or to the interests of the person who will receive the payment or benefit.

23.0. To establish a contract of insurance, there must be a clear agreement as to the distinctive features of the particular contract of insurance. It must be clear that there was an offer to enter into a contract by one party followed by an acceptance of the offer by the other and that a contract resulted.

24.0. Further, there must be a valid and operative contract of insurance as the basis of payment by the insurer. As that document governed the rights of the parties, it would have contained the distinctive features of the contract of insurance. These are the parties, the subject matter of insurance, the period of the insurance, the date of commencement of the policy, the details of the peril which was insured against, and also a list of exemptions specifying the circumstances in which the insurers would not be liable. (see ***Suffish International Food Processors (U) Ltd & Anor –versus- Egypt Air Corporation T/A Egypt Air Uganda SCCA 15 of 2011).***

25.0. The Appellant submitted Exhibit A3 (certificate of insurance No.1002913535) for the period 7th November 2022 to 6th November 2023 as evidence of a contract of insurance between the parties. It must be noted that this particular certificate on the face of it indicates that it is **"MTP CERTIFICATE OF INSURANCE"** and it was explained that "MTP" stands for "Motor Third Party" with a start date of Monday 07 November 2022 to Monday 06 November 2023.

26.0. The Appellant argued that this certificate was an endorsement of Policy No. P/HQ/701/20/000235, the number of the first policy, and that it was not a new contract but a renewal of an existing policy. Besides the certificate of a motor third party, the Appellant did not produce before the Tribunal the actual renewal policy in evidence.

27.0. Counsel for the Respondent on the other hand submitted that in previous policies (2020/2021 and 2021/22), once the Respondent accepted to provide insurance cover to the Appellant, it would calculate the premium payable, send debit notes to the Appellant and prepare a policy document.

28.0. Counsel for the Respondent further submitted that Policy No.1002913535 was renewed for the year 2021/2022 as evidenced by the renewal policy document admitted in evidence as REX 1. He stated that had the policy been renewed for 2022/2023, then a similar renewal policy and debit notes would have been issued to the Appellant. Learned Counsel contended that the MTP Certificate of Insurance was not

an insurance policy and the Appellant did not have a policy because the Respondent had not neither received renewal instructions nor had it computed the premium payable.

29.0. *In the case of* ***Suffish International Food Processors (U) Ltd & Anor –versus- Egypt Air Corporation T/A Egypt Air Uganda SCCA 15 of 2011.*** The learned Justice of Appeal found and concluded that a Marine Certificate of Insurance was an insurance policy:

> ***"It is clear from the above that Exh. P.L. was not the insurance policy under which the goods were insured. The actual policy was the open policy/cover No. 10/MR/OC/4499***
>
> ***As that document governed the rights of the parties, it would have contained the distinctive features of the contract of insurance. These are the parties, the subject matter of insurance, the period of the insurance, the date of commencement of the policy, the details of the peril which was insured against, and also a list of exemptions specifying the circumstances in which the insurers would not be liable.***

30.0. In the instant case, it is our finding that Exhibit A3 (MTP certificate of insurance No.1002913535) is not an insurance policy as it does not have the distinctive features of an insurance policy. The actual policy Policy No.1002913535 was not renewed as there is no evidence that there was ad idem by both parties as regards the subject matter i.e. no agreement of either the sum insured or the premium to be paid was proved. The MTP Certificate indeed indicated the word "the premium charged: comprehensive" but this cannot stand in the absence of the actual renewal policy.

31.0. Although the MTP certificate bears the date of 7th November 2022 to 6th November 2023, it is apparent that it was issued after the accident had occurred on 9th December 2022. At the hearing, the Appellant testified that the MTP Certificate of Insurance was delivered to him on 9th December 2022 after the accident by his liaison person Sheila Tumugabirwe. The fact that this certificate intended to cover events that had passed, makes it both void and voidable.

32.0. **Whether Sheila Tumugabirwe is an agent and an authorized representative of the Respondent.**

The Appellant testified that the said Sheila Tumugabairwe was his long-time liaison person for all insurance matters with various insurance companies and it was she who took him to the Respondent Company. It was this Sheila who arranged insurance coverage for the policy under dispute according to the Appellant.

33.0. The Appellant testified that he had issued renewal instructions but Sheila had lost her brother during this time and was in bereavement (September and October. Besides the Whatsapp message confirming that the Appellant had called Sheila on 4th October 2022 (Exhibit AX 4)all other communication on record between the Appellant and his Laison Sheila was after the accident. It was this Sheila whom the Appellant called immediately after the accident and it is she who indeed delivered the MTP sticker to him at the police.

34.0. The Respondent on their part denied Sheila being their agent although during the trial it was apparent that Sheila was known to the Respondent's officers as a person who handled the Appellant's insurance policy. The Assistant Underwriting Manager Mr. Paul Kaigwa testified and confirmed that Sheila had previously handled insurance cover for the Appellant but renewal instructions for the period under contention were not issued due to a pending claim. Further still, Mr. Bisaso Rapheal the Respondent's Head of Distribution, Sales, and Marketing revealed that he was contacted by Sheila about the fact that she had given instructions to renew the Appellant's policy but no action was made. he confirmed that he had agreed to issue a sticker to the Appellant on the mistaken understanding that the delay in renewing the policy was on the side of the Respondent.

35.0. The Tribunal summoned Sheila and she confirmed that she was the Business Development Manager of Liberty Life Assurance a sister company to the Respondent Company. She testified that although the Appellant was known to her, she introduced him to the Respondent and handed him to the Assistant Underwriting Manager of the Respondent Company and was not involved in the handling of his policy issues thereafter.

36.0. From the testimony of the Respondent's underwriter Paul Kaigwa, he purports to have received instructions from Sheila Tumugahirwe and that he accordingly issued to the Appellant a comprehensive Policy and subsequently its renewal. The impugned agent also actively participated in taking pictures of the accident vehicle and personally requested the Appellant to send through an invoice from a preferred garage.

It is ostensible that from the above, Ms Sheila Tumugabirwe was known to the Respondent and was acting on behalf of the Respondent as an agent.

37.0. S 118 of The Contracts Act 2010 defines an "agent" to mean a person employed by a principal to do any act for that principal or to represent the principal in dealing with a third person.

38.0. An agency Contract may be created in different ways. According to the case of **Firemasters Limited v. British American Tobacco (U) Ltd (2012), t**he relation of agency is created by the express or implied agreement of the principal and agent or by ratification by the principal of the agent's acts done on his behalf."
Ratification in agency law refers to the authority that a principal has to retroactively approve actions taken by an agent on their behalf, even if the agent did not have actual or apparent authority to take those actions at the time they were taken.

39.0. Ratification occurs when a principal, after becoming aware of an agent's unauthorized actions, chooses to approve those actions and assume liability for them. For ratification to occur, the following three elements must be present i.e. the agent must have acted on behalf of the principal without actual or apparent authority; The principal must have had knowledge of the agent's actions, and knowledge of the material facts surrounding those actions; and The principal must have accepted the benefits of the agent's actions or otherwise ratified the actions.

40.0. However, Section 120 of the Contracts Act 2010 on Capacity to act as agent provides that;

A person may act as an agent where that person—
(a)is eighteen years or above;
(b)is of sound mind;
(c)is not disqualified from acting as an agent by any law to which he or she is subject.

Section 87 (1)(b) of the Insurance Act provides that;
Restrictions applicable to insurance intermediaries.
(1) The following persons do not qualify to be insurance agents—
(a) public officers or employees of local governments;
(b) administrators, managers, directors, auditors or employees of insurers or reinsurers, or insurance brokers or reinsurance brokers, risk advisors or loss assessors;…..

41.0. Therefore the said Sheila Tumugabirwe being the Business Development Manager and employee of an insurer was disqualified from being an agent and her agency could not be ratified by the Respondent. Having her dealing with the Respondent on behalf of the Appellant was in direct contravention of the law for which the Respondent was appropriately reprimanded by the Insurance Regulatory Authority.

42.0. Further still, it was held in the case of ***Grover & Grover V. Mathew [1910] 2 KB 40*** that Ratification on a policy of fire insurance made after a fire had happened, the principal ratified the agent's act after the premises had been destroyed by fire. Therefore the ratification was held to be ineffective because the ratification of the agent's act should

be done before the loss of goods. It is on record that the MTP Certificate was issued on 9th December 2022 after the accident rendering the ratification ineffective.

Whether nonpayment of premium renders the contract void?

43.0. It was the Appellant's submission that based on custom and usage the Respondent invoiced the Appellant long after the commencement of the policies and that this was consistent with the IRA's circular to all insurers dated 31st December 2018 ref: IRA/CIR/12/431 which was issued following Section 63 (1) of the Insurance Act 2017.

44.0. Both parties premise their arguments on the payment of premiums as being a determinant or a key element for the existence of an insurance contract. Section 63 of the Insurance Act 2017 states as follows;

> *(1) Subject to subsection (2), the insured shall pay in full the premiums payable under the insurance contract on or before the date of inception of the policy or renewal of the policy.*
>
> *(2)The Authority may by regulations provide for the payment of premiums in any other manner.*

45.0. Based on the consideration of Section 63 (1), there is little room for doubt that the receipt of an insurance premium is a condition precedent to a valid contract of insurance. It is equally incontrovertible that unless a premium is paid in advance, there can be no cover for an insurance risk. As can be gleaned from Section 63 (1) of the Insurance Act, a valid insurance contract comes into existence only when a premium for the insurance is paid for in advance by the insured i.e. no premium no cover basis.

46.0. Section 63 (2) gives the IRA power to make regulations to regulate payment. Under this power, IRA passed a circular on 31st December that referenced IRA/CIR/12/18/431 that allowed payment of premiums in instalments. The Circular also guided that "*Debit Notes may be issued before commencement of the policies to allow the insured ample time to process payment before commencement of the policy*".

47.0. In its ruling on page 4, the Complaints Bureau of IRA held that;

> ***"However, the Authority overturned the aforementioned circular through a public notice published in newspapers on Monday 26th 2021. The notice reinstated the requirement for premiums to be paid on or before the policy or renewal date (known as Cash and Carry Provision).***

48.0. The Bureau further held that;

"The Insurer should not have issued a policy on credit for the first renewal as the cash and carry directives were already in effect and the Insurer should have notified the client according."

49.0. The Bureau also held that;

"Similarly, for the second renewal in 2022, starting from November 7, 2022, to November 6, 2023, the Insurer issued the Complainant an insurance sticker without requiring upfront payment of premium"

50.0. We reviewed the said circulars, and although we note that as alleged by the Appellant, the Public Notice referred to having given allowance to offer credit '*following the outbreak Covid in March 2019"* vide IRA/CIR/12/18/431 dated December 31st 2018, we have established that IRA passed a circular on 5th May 2020 referenced IRA/CIR/04/20/575 deferring the termination, cancellation or lapsation of insurance policies due to nonpayment of premiums owing to the then prevailing challenges imposed by the COVID-19 pandemic and the restrictions imposed as a result.

51.0. We conclude that the Public Notice published in the Daily Monitor on ***May 18th 2021*** was unambiguous in as far as reinstating the payment of insurance premium as a condition precedent to a valid contract of insurance. The Appellant failed to prove that he has ever paid a premium for his policy and in any case, the sum insured was never agreed by the parties, the Appellant couldn't know how much premium was payable.

52.0. We are therefore unable to fault the Bureau's finding that there was no valid contract of insurance between the parties. Once the Regulator reinstated the payment of premiums before commencement of policy under the public notice stated above, it was no longer legal for the insurer to place the insured on cover and defer payment of premiums.

53.0. We accordingly find this issue in favour of the Respondent and uphold the finding of the Complaints Bureau that there was no valid contract of insurance.

RESOLUTION OF ISSUE 2

54.0. ***What remedies are available to the parties?***

The Appellant prayed for an order of indemnity against the Respondent for the loss suffered and for punitive damages and costs.

On the other hand, the respondent prayed for the dismissal of the appeal with costs.

Having found that;

(a) Exhibit A3 (MTP certificate of insurance No.1002913535) was not an insurance policy

(b) The actual policy No.1002913535 was not renewed as there is no evidence that there was ad idem by both parties as regards the subject matter.
(c) There was no premium paid in contravention of section 63 of the Insurance Act

There was no valid contract of insurance and the Appellant is not entitled to indemnity for the loss. Accordingly, we respectfully decline the prayer for the order of indemnity and punitive damages prayed for by the Appellant.

Costs being discretionary, the Tribunal taking into the circumstances of this appeal declines to award costs to the respondent.

CONCLUSION AND FINAL ORDERS

In conclusion, the Tribunal makes the following orders:

1) This application is disallowed.
2) The decision of the IRA is upheld.
3) Each party is to bear the costs of the appeal.

Any party dissatisfied with this decision may appeal to the High Court within 30(Thirty) days from the date of this Decision.

DATED and **DELIVERED** at **KAMPALA** on the **9TH** day of **FEBRUARY 2024.**

Rita Namakiika Nangono
Chairperson - Insurance Appeals Tribunal

Solome Mayinja Luwaga
Member - Insurance Appeals Tribunal

George Steven Okotha
Member - Insurance Appeals Tribunal

John Bbale Mayanja (PhD)
Member - Insurance Appeals Tribunal