

THE REPUBLIC OF UGANDA
IN THE LEADERSHIP CODE TRIBUNAL OF UGANDA AT KAMPALA
IN THE MATTER OF THE LEADERSHIP CODE ACT 2002
LCT APPLICATION NO. 009/2022

INSPECTORATE OF GOVERNMENT APPLICANT

VERSUS

TOM MUWONGE RESPONDENT

CORAM: 1. Hon. Dr. Roselyn Karugonjo-Segawa, Chairperson
 2. Hon. Asuman Kiyingi, Deputy Chairperson
 3. Hon. Didas Bakunzi Mufasha, Member

DECISION

Introduction

1. This application was brought by the Applicant against the Respondent under S.3 A of the Leadership Code Act 2002 (LCA) and Rule 9(1) of the Leadership Code Tribunal (Practice & Procedure Rules (2021) alleging abuse of public property. The applicant sought declarations and orders that:
 - (i) The Respondent abused public property entrusted to his care and therefore breached section 12B (1), (2) and (3) of the LCA.
 - (ii) The Respondent reimburses UGX 4,000,000/= to Government being the estimated assessed cost of repair of the Motor Vehicle damaged or abused.
 - (iii) The Respondent be warned or cautioned for abuse of public property as provided under section 12B (4) (c) of the LCA.
2. The Applicant is a constitutional body mandated to enforce the Leadership Code of Conduct, investigates breaches of the Code and prosecutes them before the Leadership Code Tribunal. The Respondent is the Chairperson Local Council III/Mayor of Kasangati Town Council, Wakiso district.

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Brief Facts

3. The Applicant's case is that on 7th January 2022 the Respondent gave Kasangati Town Council motor vehicle Reg. No. LG 00039-10G Isuzu Double Cabin to Mr. Isa Lule who had no valid driving permit and is not an employee of Kasangati Town Council. Isa Lule drove the said vehicle and subsequently got involved in an accident at Masanafu Northern Bypass, in which the vehicle was damaged. The Applicant claimed this was abuse of public property and a breach by the Respondent contrary to section 12B of the LCA.
4. The Respondent disputed the Applicant's allegations. According to the Respondent the motor vehicle in question was a pool vehicle and the only one for Kasangati Town Council which was used by him and other officers. That on the day in question when the vehicle got involved in an accident it was not in the Respondent's possession or control. That it had been passed on to a one Senkeezi Richard, Treasurer/Head of the Finance Department Kasangati Town Council who was using it. That the Respondent only asked Lule to pass on keys for the vehicle to Mr. Senkeezi but did not ask or authorize him to drive the said vehicle. Consequently, he was not party to what transpired between Mr. Senkeezi and Lule that culminated in the accident. That the accident was minor and the Respondent had repaired the vehicle. The Respondent presented photographs of the vehicle which he claimed were taken immediately after the accident had occurred and after the repairs.

Representation

5. The Applicant was represented by Mr. James Jemba from the Inspectorate of Government while the Respondent was represented by Mr. Kasibante Leonard from Rwakafuzi & Company Advocates.

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Background

6. At the Scheduling Conference on 19 October 2022 the Applicant and Respondent with the guidance of the Tribunal compared notes and agreed on a number of issues.
7. Both parties agreed that the vehicle Reg. No. LG 00039-10G was not in the possession or control of the Respondent at the time of the accident. Furthermore, that investigations by the Applicant had not conclusively established that the Respondent had authorized Isa Lule to drive the vehicle on the fateful day.
8. Both the Applicant and Respondent, however, agreed that it was wrong for the Respondent to have authorized Isa Lule a non-employee, to handle and transmit car keys for the Kasangati Town Council vehicle. The Applicant and Respondent concurred after a physical inspection that the vehicle in question had been fully repaired by the Respondent and no claim remained for making good the loss or damage occasioned.
9. The Respondent was remorseful and apologetic and prayed for lenience. He regretted having contributed to the abuse of public property by handing over keys to an unauthorized person who unlawfully used the vehicle and caused an accident.
10. Both the Applicant and Respondent agreed that only a caution would be appropriate in the circumstances.

Issue

11. The only issue for determination by the Tribunal was whether the settlement agreed by the parties met the requirements of the LCA.

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Applicable law

12. S.12B of the LCA provides:

Abuse of public property

1. *A leader or a public officer shall protect and preserve public property under his or her personal use and shall not use such property or allow its use for any other purpose other than the authorized purpose.*
2. *In this section "public property" includes any form of real or personal property in which the government or public body has ownership; a plant, equipment, leasehold, or other property interest as well as any right or other intangible interest that is purchased with public funds, including the services of contractor personnel, office supplies, telephones and other telecommunications equipment and services, mails, automated data, public body records and vehicles.*
3. *A leader or public officer who knowingly misuses or allows public property entrusted to his or her care to be misused, abused or left unprotected shall make good the loss occasioned to the property and the value of the property or damage to the property shall constitute a debt from the leader or public officer to the government or public body concerned.*
4. *Notwithstanding the provisions of subsection (3), a leader or public officer who knowingly misuses or allows public property entrusted to his or her care to be misused or abused or left unprotected may, in addition to the sanctions under that subsection be-*
 - (a) Warned or cautioned;*
 - (b) Demoted; or*
 - (c) Dismissed from office*

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Resolution of the matter

13. In view of the admissions by the Respondent we need not labour in detail whether the ingredients for the breach under section 12B were fulfilled. Suffice it to note that in terms of S.12B (3) the Respondent allowed Kasangati Town Council Vehicle No. LG 00039-10G Isuzu Double Cabin to be misused by his personal driver, Isa Lule who was not an employee of Kasangati Town Council. We therefore hold him in breach. We note that the Respondent fully repaired the vehicle to the satisfaction of the Applicant and discharged the liability under S. 12 B (3) which requires the Respondent found in breach “*to make good the loss occasioned to the property*”. We therefore find no basis to make an order for re-imbusement of UGX 4,000,000/=-, the assessed estimated costs of repair originally prayed for by the Applicant which prayer was later abandoned in any event.
14. We have taken into account the Respondent’s admission of breaching the code, his remorsefulness and being a first offender, the fact that the vehicle in question was fully repaired and all the circumstances of the case. We are inclined to accept that the Respondent be warned or cautioned. The Tribunal therefore finds that a caution is appropriate in the circumstances.
15. The Tribunal has taken note of the misuse of Kasangati Town Council vehicle Reg. No. LG 00039-10G which was facilitated by the Respondent Mr. Tom Muwonge, the Mayor of Kasangati Town Council in violation of the Leadership Code Act. Government vehicles and property should only be used for authorized purposes. Vehicles should only be driven by authorized competent officers, which was not the case here. Mr. Tom Muwonge, as a leader and the elected Mayor of Kasangati Town Council, should be exemplary to all the staff of the Council in the way he uses and manages government property in his charge. Accordingly, the Respondent is hereby cautioned and warned never to repeat this. The Tribunal will not hesitate to impose a more stringent penalty should the Respondent breach the Leadership Code of Conduct again.

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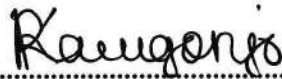
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Orders

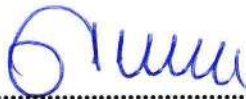
16. The Tribunal hereby makes the following orders:

1. The Respondent is hereby cautioned.
2. Each party shall bear their own costs for this application.

Dated and delivered at Kampala this 8th Day of November 2022.



HON. DR. ROSELYN KARUGONJO-SEGAWA
CHAIRPERSON



HON. ASUMAN KIYINGI
DEPUTY CHAIRPERSON



08/11/2022

HON. DIDAS BAKUNZI MUFASHA
MEMBER