

**THE REPUBLIC OF UGANDA**  
IN THE COURT OF APPEAL OF UGANDA  
AT KAMPALA  
**CIVIL APPLICATION NO. 67 OF 2015**

The Uganda Super League Limited:..... Applicant

*VERSUS*

Federation of Uganda Football  
Associations (FUFA) Limited :.....Respondent

**Before:** Hon. Mr. Justice Remmy Kasule, JA, sitting as a single  
Justice.

**RULING**

The applicant seeks, as against the respondent, an interim order of stay of the execution and implementation of the Ruling and/or orders made by the High Court at Kampala, Civil Division, (Yasin Nyanzi, J.) on 18.03.2015 in **Miscellaneous cause No. 019 of 2015.**

The application is made under Rules 2(2), 6(2)(b), 42(2), 43 and 44 of the Judicature (Court of Appeal) Rules. It is supported by two affidavits respectively dated 19.03.2015 and 31.03.2015 deponed to

by one Julius Kavuma Kabenge, an advocate by profession and Chairman Board of Directors of the applicant.

In opposition to the application, a one Edgar Watson Suubi, Chief Executive Officer of the respondent, swore and filed in this Court an affidavit in reply.

At the hearing learned Counsel Richard Mulema Mukasa assisted by Andrew Oluka appeared for the applicant, while Musa Kabega assisted by Evans Ochieng were for the respondent.

By way of background, both the applicant and the respondent are involved in the management and administration of the game of football in Uganda, each one carrying out different roles from those of the other.

On 14.03.2014 both applicant and respondent executed a written agreement to last for a period of two and half years. By this agreement the applicant, through other contractual arrangements with Uganda Breweries Limited and Supersport International (Propriety) Limited, was to provide support and funding as well as commercial broadcasting of football in Uganda. The respondent's main obligation under the contract was to run the day to day business of the football super league in accordance with the football rules and not to bring in while the agreement remained operative, other parties to compete with the applicant and the applicant's associates in the areas of providing support, funding and commercial broadcasting. Under clause 8.1 the agreement was

liable to termination with immediate effect by written notice by the aggrieved party to the other party where either party becomes insolvent, commits an act of insolvency or ceases to carry on its business the nature of which is stated in the agreement.

In case of a dispute, clause 9.3 of the agreement provided that the parties to the agreement could have the dispute resolved in accordance with Rules of Arbitration, just in case negotiation, mediation/conciliation methods of resolving the dispute had failed.

On 30.01.2015 the respondent terminated in writing the agreement executed on 14.03.2014 on the ground that the applicant had failed to fulfill its obligations under the said agreement. The applicant in a letter dated 02.02.2015 rejected the termination, asserting that:

**“The agreement remains and FUFA is expected to honor its obligations”.**

On the same day of 02.02.2015 a press release was issued to the effect that the respondent had reached agreement with Azam TV to sponsor and broadcast the premier league of Uganda Football. Still opposing the termination, the applicant referred the dispute to arbitration on 03.02.2015. On 09.03.2015 the respondent issued circular No. 1007 to football clubs, referees and stadium owners to the effect that the respondent had permitted Azam TV to broadcast the Premier League matches in Uganda.

Pursuant to **Section 6 of the Arbitration and Conciliation Act, Cap.4, Section 98 of the Civil Procedure Act, Section 33 of the**

**Judicature Act and Rule 13 of the Arbitration Rules**, the applicant moved the **High Court** through **Miscellaneous Cause No. 019 of 2015 (Yasin Nyanzi,J.)** on 04.02.2015, as a very urgent matter, for interim measures of protection, pending conclusion of arbitral proceedings between the applicant and respondent.

The learned Judge dismissed the application on 18.03.2015 on the grounds that, on the evidence availed to Court, the agreement of 14.03.2014 had been terminated, whatever the reasons, by the respondent and as such the Court could not issue an Interim Order to stop the termination of that agreement. To issue such an order would amount to the Court reversing the status quo to that where no termination of the agreement had been effected, and yet the correct status quo was that the said agreement had been terminated and a third entity Azam TV, not a party to the arbitral proceedings, had now come on board.

Further, to issue the Interim Order reversing the status quo would involve the Court, of necessity, to consider the merits of matters that the arbitrator is to resolve upon, such as who of the applicant and respondent breached the agreement and to what extent. The learned Judge thus declined to allow the application and dismissed the same.

On 18.03.2015, the applicant lodged a Notice of Appeal against the Ruling of the High Court Judge and requested in writing, with a copy to respondent's Counsel, to be supplied with the record of proceedings for purpose of lodging an appeal to this Court. The

applicant also lodged this application as well as a substantive application for stay.

Counsel for the applicant has submitted that the trial Judge ought to have granted an interim order of stay as well as an injunction against the respondent from performing, implementing, interfering with, carrying out and/or tampering with the exclusive television broadcast rights over the Uganda premier league created under the agreement of 14.03.2014 pending disposal of the arbitral proceedings. Such a grant would preserve the status quo that was obtaining before the respondent terminated the agreement on 30.01.2015.

The contention of Counsel for the respondent is that the trial High Court Judge was right to find that the agreement of 14.03.2014 had been terminated and as such there were no longer in existence any exclusive broadcasting rights over the Uganda premier league as between the applicant and the respondent.

I will now proceed to determine the application, bearing in mind the law applied<sup>case</sup>, the background facts and submissions of Counsel as set out above.

For the applicant to be granted an Interim Order of Stay, whether by way of Interim Injunction or otherwise, that applicant must make out a case that there is a real, eminent and serious threat of execution of some act against the applicant, and that circumstances are such that, in order to secure justice, a stay is

necessary pending the hearing and disposal of the substantive application of stay by the full bench of three Justices: See: **Hwang Sung Industries Ltd vs Tajdin Hussain and others: Supreme Court Civil Application No. 19 of 2008.** See also: **Sembule Steel Mills Limited vs Uganda Baati Limited: Miscellaneous Application No. 128 of 2011: Court of Appeal.**

In the normal course of things, where a Notice of Appeal has been filed and a substantive application for stay is pending in Court, this Court may grant an order of stay. This is to prevent the applicant's right to appeal and the appeal itself from being nugatory. But the Court will not issue an order of stay if the appeal appears not to be bonafide, or there are other sufficient exceptional circumstances: See: **Somali Democratic Republic vs Anoop S. Sunderlal Treon: Civil Application No. 11 of 1988 (SC).**

An application for an Interim Order of stay is not to be entertained and allowed by Court as a matter of course. It must be based on compelling reasons geared towards preventing a defeat of Justice: See: **Horizon Coaches Ltd vs Francis Mutabazi and others: Civil Application No. 21 of 2001 (SC).**

It is to be noted that as soon as the respondent terminated the 14.03.2014 agreement on 30.01.2015 the same respondent together with 16 football clubs of the Uganda Super League executed a contract with a Tanzania Pay TV known as Azam TV giving broadcasting and other rights to that Azam TV for a period of three and half years. So by 04.02.2015 when the applicant lodged in the

**High Court Miscellaneous cause No. 019 of 2015** the status quo was that the respondent, rightly or wrongly, had no contractual obligations with the applicant and, as regards the broadcast rights of the games of football of the Uganda Super League, these had now been vested by the respondent with Azam TV. The Super league itself had assumed a new name of Azam Premier League. It is not at all disputed that pursuant to that new arrangement Azam TV effected, there and then, steps to broadcast the football games of the now Azam Premier League.

I too, like the trial Judge, do find that to issue an order of stay now would amount to reversing the new status quo that is post 30.01.2015 with Azam TV now supporting, funding and having broadcast rights over the Super League to the pre-30.01.2015 status of the 14.03.2014 agreement.

Such a reversal would result into a lot of inconvenience and suffering to a number of stakeholders in the game of football in Uganda, the majority of whom are not parties to the dispute between the applicant and the respondent. These stakeholders include Azam TV whom the applicant acknowledges is now broadcasting the Super league games. The applicant has not in any way asserted that Azam TV contributed to the termination of the 14.03.2014 agreement between the applicant and the respondent.

It has also to be appreciated that the fixtures of the Premier League football games to be broadcast and televised have a limited period of between 17.02.2015 to 29.05.2015. Any order to stop the

broadcasting of such league games will result in the league being played to the end without such broadcast and necessary funding being effected and delivered to the stakeholders in the game of football in Uganda.

Apart from Azam TV, other stakeholders include the football clubs of the Super league who benefit out of the present arrangement with Azam TV supporting the premier league. Finally there is the football loving section of the public in Uganda who would be deprived of watching the games of football televised on their TV sets should an order to stay or injunction be issued.

The applicant, on the other hand, has the remedy of seeking damages both general and special against the respondent just in case it is proved that the 14.03.2014 agreement was unlawfully terminated. The applicant can thus be compensated in damages and as such the applicant's loss, if any, in case of unlawful termination of the said agreement by the respondent, cannot be said to be irreparable.

It has also to be appreciated that the proposed arbitration proceedings are currently at their very initial stage. No arbitrator has been appointed. No pleadings or documents have been submitted for arbitral purposes. No date has been set for even handling the matters preliminary to the commencement of the process of arbitration. It will thus take some time before the arbitration proceedings are commenced and heard to completion.

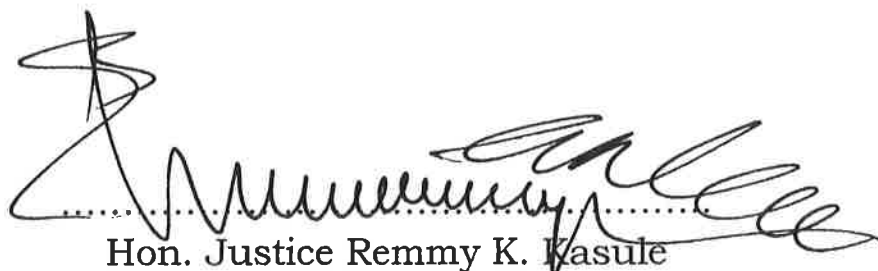


Here in this Court, the process is also likely to take some time because, though a Notice of Appeal has been lodged, the appeal itself has not been lodged in this Court. The applicant availed no reason to this Court as to why it has not been possible to file the appeal by now, given the fact that with improved technology, Court proceedings can be made ready soon after the hearing of a cause is completed.

It follows therefore that on a balance of convenience, given the circumstances of this case, granting the Interim Order of stay or an injunction will result into more inconvenience, loss and suffering than not to grant one.

In conclusion, having considered the law and the facts pertaining to this case, I decline to allow this application. The same stands dismissed. I award the costs of the dismissed application in this Court to the respondent.

Dated this **10<sup>th</sup> Day of April, 2015.**



.....  
Hon. Justice Remmy K. Kasule  
**Justice of Appeal**