THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

Criminal Appeal No. 103 of 2011

Coram: Kiryabwire, Musota, & Tuhaise,JJA

Kenneth Kaawe .....Appellant

Versus

Uganda.....Respondent

[Appeal arising from the judgment/orders of the Anti-Corruption Court of Uganda at Kololo before Catherine Bamugemereire, J (as she then was) in Criminal Session Case No. 167 of 2010 delivered on 17th May 2011]

Judgment of the Court

The appellant, Kenneth Kaawe, was convicted of the offence embezzlement contrary to section 19 (b) (ii) of the Anti-Corruption Act No. 6 of 2009 and sentenced to 8 years' imprisonment. He was also ordered to refund United States Dollars (US$) 50,000 (fifty thousand) to United Bank of Africa (UBA) after serving his prison sentence.

Background.

The appellant was employed as Head of Central Cash with United Bank of Africa (UBA). The case for the prosecution is that the appellant stole US$ 50,000 the property of his employer the United Bank of Africa (UBA). The said money was cash in transit from the William Street Branch of UBA to the head office on Jinja Road.

The prosecution alleged that on 13th July 2009 US$ 50000 was delivered by Cash in Transit (CIT) to the William Street Branch. As Head of

Central Cash of the UBA, the accused (appellant in this case) had a duty to receive and safely store money received on behalf of his employer. The appellant acknowledged receipt of the money alone without the co signatory (PW4 Carol Nakabembwe), which was not in accordance with the bank rules. The money was discovered missing when PW4 notified UBA that the US$ 50,000 that had been loaded on the bullion van from William Street Branch for transmission to the Head office had never been received. After that the appellant immediately resigned and switched off his phones.

The appellant was charged and convicted of embezzlement under the Anti-Corruption Act 2009, and he was sentenced to 8 years' imprisonment. He was also ordered to refund the money he had stolen after serving his prison sentence.

Aggrieved by the court's decision, the appellant appealed to this Court on the following grounds:-

1. That the learned trial Judge erred in law and in fact when she failed to properly evaluate and consider the evidence on record as a whole and as such arrived at a wrong decision.
2. That the learned trial Judge erred in law and fact when she disregarded major contradictions in the prosecution's evidence and relied on the same to convict the appellant.
3. The learned trial Judge erred in law and fact in taking into consideration unproven facts, assumptions and matters that were not canvassed in evidence.
4. The learned trial Judge erred in law and fact when she entirely relied on circumstantial evidence without any independently corroborative evidence on record.
5. The learned trial Judge erred in law and fact when she failed to find that the prosecution's evidence raised many doubts which ought to have been resolved in favour of the appellant.
6. The learned trial Judge erred in law and fact when she accepted and believed the prosecution case in isolation and without

consideration of the defence case thereby arriving at a wrong conclusion.

7. The learned trial Judge erred in law and fact when she held that the appellant received or had possession of money belonging to UBA by virtue of his employment and that he stole the same when there was no such evidence but only mere suspicions.
8. The learned trial Judge erred in law when she admitted in evidence all the prosecution exhibits contrary to the law.
9. The learned trial Judge erred in law and fact when she relied on circumstantial evidence that raised serious doubts and several alternative possible explanation to convict the appellant.
10. The learned trial Judge erred in law and fact when she failed to hold that the evidence adduced by the prosecution did not prove beyond reasonable doubt the offence of embezzlement as charged.
11. The learned trial Judge erred in law and fact to convict the appellant with the offence of embezzlement in the absence of evidence to prove all the essential elements of the offence beyond reasonable doubt.
12. The learned trial Judge erred in law and fact when she failed to draw an adverse inference in the failure by the prosecution to produce close circuit television (CCTV) footage as part of the prosecution evidence.
13. The learned trial Judge erred in law and fact when she selectively weighed evidence only in favour of the prosecution and to the detriment of the appellant.
14. The learned trial Judge erred in law and fact when she sentenced the appellant to 8 years' imprisonment which is excessive in the circumstances.
15. The learned trial Judge erred in law when she made an order in compensation to UBA Bank of US$ 50,000 without due regard to extenuating circumstances.

Representation

The appellant was represented by Mr. Henry Kunya. The respondent was represented by Ms. Caroline Marion Acio from the office of the

Director of Public Prosecutions (DPP). Both parties filed written submissions within given timelines set by this court.

Submissions for the Appellant

The appellant's counsel adopted the 15 grounds of appeal filed by the appellant's former counsel, M/S Tumusiime, Kabega & Co. Advocates. He argued the grounds in three parts. He consolidated grounds 1, 2, 5, 6, 7, 8, 10, 11, 12, and 13 to address evaluation of evidence; grounds 3, 4 and 9 to address circumstantial evidence; and grounds 14 and 15 to address the sentence.

On grounds 1, 2, 3, 5, 6, 7, 8, 10, 11, 12 and 13 covering evaluation of evidence, the appellant's counsel did not dispute that the appellant was an employee of UBA. He submitted however that the prosecution evidence on record fell short of the responsibility of proving the 2 remaining ingredients to the requisite standards.

Counsel submitted that his client was not part of the CIT team nor was he in transit with the money. He pointed out that the learned trial Judge raised the same question at page 11 of the judgment where she asked, *"the question is who stole this money?"* He submitted that in the absence of credible evidence on record, the trial court's finding that the William Street Branch of UBA did expatriate the US$ 50,000 by CIT to UBA Head Office was untenable for failure of the prosecution to avail the requisite cash registers.

Counsel submitted that it was erroneous for the trial court to engage in conjecture, speculation and fanciful theories in an effort to create an impression of the appellant's culpability. He referred this Court to page 12 of the Judgment were the learned trial Judge concluded that the appellant took control of the process of cash delivery from the start and that the disappearance of the supporting documents for the US$ 50,000 naturally flowed from the accused's conduct. He highlighted other aspects of speculation by the learned trial Judge, namely her statement that the appellant needed preparation time to make the money and documents disappear; that he made sure he received the CIT officer

alone so that when he put away the dollars no one else saw where he had put this money; and that he was head of cash and getting in and out of the volt as he willed.

Counsel contended that all the said pieces of evidence were not supported by any other independent corroborative evidence but were premised on mere speculation, suspicion, conjecture and fanciful theories. He contended that to prove the two contentious ingredients, the prosecution was expected to adduce credible documentary evidence in support but they did not. He cited **Okethi Okale & Others V Republic [1956] EA 555** to support his contentions.

Counsel submitted that PW8 (UBA's Internal Auditor) stated during examination in chief that he was given a photocopy of the delivery note from the security company but no copy of the cash in transit of the branch document relating to the US$ 50,000; and that PW8 also confirmed it was possible to duplicate the requisite seals that were placed on the cash boxes. Counsel stated further that it was the bank policy not to take its staff in CIT vehicles. He submitted that PW8 confirmed that according to his interaction with PW3 Opio Steven, the cash box was handed over to both the appellant and Carol PW4 the co-custodian.

Counsel concluded that no credible evidence pertaining to the delivery of US$ 50,000 was adduced before the trial court for it to find that the appellant embezzled the said sum; that failure to produce crucial documents adversely affected the credibility of the prosecution case; and that as a result, the lack of such documents raises one obvious conclusion that the prosecution case was not proven to the requisite standard, and all doubts should be resolved in the appellant's favour. He relied on **Annaliza Mondon & Another V Uganda CACA No. 151 of 2009** (unreported) to support his position.

Counsel invited court to draw an adverse inference regarding the change of heart exhibited by PW3 who wanted to depart from his earlier statement (exhibit D1) dated 08/08/2009 in which PW3 had stated that he handed over the cash box to both the appellant and PW4, but he later

said he handed it only to the appellant in exhibit D2 dated 18/12/2010, one year and 4 months later. Counsel submitted that surprisingly, the trial court found no fault with such delay, stating that PW3 was truthful, yet during cross examination PW3 confirmed having made a second witness statement (exhibit D2) under fear of losing his job, that is, one year and some months after making exhibit D2. Counsel maintained that worse, the trial court observed that this witness struck court as not being self-assured because during cross examination he appeared terrified and conceded to a self-deprecating suggestion by defence counsel that he was a school dropout. Counsel questioned how a testimony of such a crucial witness could be relied upon to convict the appellant. He cited **Kagyenyi Stephen V Uganda CA Criminal Appeal No. 228/2012 unreported**, to support his submissions.

On grounds 3, 4 and 9 concerning circumstantial evidence, Counsel for the appellant submitted that the trial court rightly found that the prosecution case was hinged on circumstantial evidence, but it completely misdirected itself on interpretation and application of the law or principles on circumstantial evidence; and that there was an apparent failure to categorically point out the salient pieces of circumstantial evidence relied on to convict the appellant. Counsel contended that the law on circumstantial evidence is settled law in many decided cases. He argued that the trial court ought to have closely examined, evaluated and analyzed the evidence on record, applied the relevant principles before convicting the appellant which was not done.

Regarding the receiving, taking or stealing of the monies in issue, Counsel contended that it is very apparent from the record that many people were involved in the process of transferring cash right from William Street Branch to the UBA Head Office; that therefore one cannot rule out the fact that this money could have been stolen either at William Street Branch or in transit before getting to the head office especially on account of the seals which by admission were prone to being tampered with. He argued that at worst the appellant was a mere suspect, and mere suspicion cannot form a basis for conviction. He cited **Mulindwa**

James V Uganda, SCCA No. 23 of 2014 (unreported) to support this position.

On grounds 13 and 14 regarding the sentence and compensation order imposed against the appellant upon conviction, the appellant's counsel submitted that in as much as the offence for which the appellant was indicted attracts a sentence not exceeding 14 years, it is a mandatory constitutional imperative that the period spent on remand has to be borne in mind at the time of imposing a custodial sentence as was held in **Kimera Zaverio V Uganda CACA No. 427 of 2014.**

Counsel submitted that he had it on good record that the appellant was charged before the chief magistrate's court at Buganda Road on 27th Oct 2009 and consequently remanded to Murchison Bay Prison until 20th November 2009 when he was granted bail. He submitted that the one month he spent in prison was not considered at all which renders the sentence of 8 years illegal, as a matter of law. He also contended that, on account of the untenable prosecution evidence on record as highlighted above, a sentence of 8 years' imprisonment was manifestly harsh and excessive for a first time offender and a young man with a young family. Counsel argued that at the very worst, reducing it further would be an alternative.

Counsel referred to the testimony of PW8 who testified that UBA rushed to report the matter to the police before concluding the audit process as a way of getting insurance compensation for alleged loss of the US$ 50,000; that from the foregoing the complainant (UBA) did secure compensation from their insurers; and that it would therefore not be in the interests of justice for UBA to benefit from yet another compensation from the appellant.

Counsel prayed to this Court to allow this appeal, quash the conviction, and set aside the sentence and compensation order.

Submissions for the Respondent

The respondent's counsel submitted that the learned trial Judge relied on evidence as presented, and not speculative and fanciful theories as

contended the appellant's counsel. She submitted that the evidence was supported by other independent corroborative evidence; and that the learned trial Judge was right to arrive at the findings she made. Counsel contended that there is no legal and mandatory requirement for corroboration, of the kind of evidence presented, and secondly that it's not correct to say there was no corroboration. She argued that the evidence evaluated as a whole provides a wealth of corroboration and that the witnesses corroborate each other.

Counsel submitted that PW3 satisfactorily explained his earlier contradicting statement when he conceded that the first statement had a false claim that PW4 was present. PW3 attributed this to fear, adding that for the 15 years he had worked, he had never encountered such a thing; and that he also conceded it was a mistake to have handed over the box to one person, the appellant. Counsel submitted that it was clear the US$ 50,000 was packed in a box and sealed together with Uganda shillings (local currency) which was acknowledged. She submitted that one does not need specifically a traditional cash book; that besides there was the bullion suspense account which served the purpose. She contended that there was direct credible evidence to show that they packed the US$ 50,000 and local currency; that PW3 carried the sealed box containing the cash and handed it to the appellant with the delivery note, exhibits P7, P8, P9, P15, and P16, plus CIT forms, which proved that the appellant received and acknowledged receipt of the money.

Counsel submitted that PW4 herself denied receiving the box together with the appellant, that she was instrumental in unveiling the crime; that secondly, PW4 did not sign the delivery note which she should have, had she received the box together with the appellant. Counsel submitted that the appellant also agreed that PW4 did not sign the delivery note.

Counsel submitted that the circumstantial evidence includes the appellant's overriding the dual control procedures, receiving the box alone, and his subsequent conduct of disappearing immediately after the theft was uncovered. Counsel contended that the appellant did not resign but gave notice of his resignation to take effect after one month.

Counsel argued further, that when PW4 approached the appellant when she discovered that the money was missing, he did not deny receipt of the money, but told her he was going to talk to someone, and that she should check the lodgment file; and that the appellant walked away, never returned or answered phone calls until his arrest.

Counsel submitted in conclusion that there was both direct evidence which in law did not require corroboration, and circumstantial evidence; and that all these evaluated together point to nothing other than the guilt of the appellant.

On sentencing, Counsel submitted that, without prejudice, the learned trial Judge considered all the mitigating factors as a whole when imposing the sentence against the appellant; that failure to do so would have the impact of reducing the sentence by one month spent on remand. She submitted in addition that there is no evidence to show that UBA was compensated by insurance; that however, that notwithstanding, it is against public policy to permit criminals to benefit from the proceeds of their crimes just because insurance is believed to have compensated the victim.

Consideration of the appeal by Court

This being a first appeal, this Court has a duty under rule 30 (1) (a) of the Judicature (Court of Appeal Rules) 2005 to re-appraise the evidence adduced at trial, and come to its own findings on issues of law and fact. The Court will do so conscious of the fact that unlike the trial court, it did not have the opportunity to observe the demeanour of witnesses as they testified. See **Kifamunte Henry V Uganda, SCCA No. 10/1997;** and **Bogere Moses V Uganda, SCCA No. 1/1997**.

The appellant raised 15 grounds of appeal which his Counsel argued in three parts. We shall adopt the appellant's counsel's categorization of the fifteen grounds when considering the grounds of appeal. However we shall combine the first and the second categories on evaluation of evidence and circumstantial evidence respectively. We shall address

them together to avoid repetition since they all concern analysis of evidence, and circumstantial evidence is also evidence.

Grounds 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 - Evaluation of evidence including circumstantial evidence.

The offence of embezzlement has the following ingredients:-

i) The person is an employee of a company or corporation.
ii) That the person steals a chattel, money or valuable security.
iii) That the person receives or takes into his possession by himself such chattel, money or valuable property on account of his employment.

The appellant's counsel did not dispute that the appellant was an employee of United Bank of Africa (UBA), which is the first ingredient of the offence of embezzlement. His contention however was that the prosecution evidence fell short of proving the 2 remaining ingredients to the requisite standards. He argued for the appellant that the prosecution did not adduce credible documentary evidence to prove the two disputed ingredients of embezzlement; and that the trial court engaged in conjecture, speculation and fanciful theories in an effort to create an impression of the appellant's culpability.

The record shows that PW1 testified during cross examination that money which included US$ 50000 was loaded into the crate and sealed together with the supporting documents, that he handed it to PW3 who was the Cash Transit Officer. PW3 testified that he picked the sealed crate and handed it to the appellant; that after receiving and opening the crate the appellant handed the signed bank documents, that is, the delivery note (exhibits P7, P8, P9, P15, and P16) plus CIT forms to PW3.

PW2 Tracy Kaggwa, at page 64 of the record, confirmed that the box containing the money was delivered to its right destination because the seal was not broken and they received no complaint to that effect. During cross examination she ruled out the defence's suggestion that PW3 may not in fact have delivered the box containing US$ 50000. PW2 also confirmed the evidence of PW1, at page 7 of the record, that the

local currency that reached, and the US$ 50000 that was stolen, were all packed in the same box.

PW4, who discovered that the money was missing, approached the appellant over the issue. The appellant did not deny receipt of the money. He only told her that he was going to talk to someone and that she should check the lodgment file. PW9 the handwriting expert confirmed that the appellant signed acknowledging receipt of the box of cash in transit forms and delivery notes. The appellant did not deny doing so in his evidence.

This, in our considered opinion, was direct evidence of the movement and proof that the appellant received and acknowledged receipt of the money. There is credible evidence on record that the William Street Branch of UBA did expatriate the US$ 50,000 by CIT to UBA Head Office, and that it was received by the appellant. The learned trial Judge addressed and analyzed all this evidence in her judgment.

In that regard, we do not agree with the appellant's submissions that the prosecution's failure to produce crucial documents adversely affected the credibility of the prosecution case to the effect that the prosecution case was not proven to the requisite standard. In our opinion, the delivery note, exhibits P7, P8, P9, P15, and P16, plus CIT forms were all direct evidence of the movement and proof that the appellant received and acknowledged receipt of the money. The traditional cash book the appellant insists on is not the only document that can prove that money was transited from one place to another. The evidence adduced, in our opinion, is direct and credible. It requires no corroboration, even in the absence of a Delivery Cash Book.

However, even if there was need for corroboration, the evidence evaluated as a whole provides a wealth of corroboration. The witnesses corroborate each other. PW4 in her evidence, denied receiving the box together with the appellant. The bank regulations required her to receive the money together with the appellant. PW3 confirmed this was breach of regulations. There is supporting evidence that PW4 did not sign the delivery note which she should have, had she received the box together

with the appellant. The appellant also agreed in his defence that PW4 did not sign the delivery note.

Counsel for appellant submitted that court completely misdirected itself on the interpretation and application of the law or principles on circumstantial evidence. He contended that there was an apparent failure to categorically point out the salient pieces of circumstantial evidence relied upon to convict the appellant; that the trial court ought to have closely examined, evaluated and analyzed the evidence on record, applied the relevant principles prior to convicting the appellant, which was not done.

The law regarding circumstantial evidence is as follows:-

i. Inculpatory facts must be incompatible with the accused's innocence.
ii. There must be no other explanation other than that of guilt.
iii. There should be no other co-existing circumstances to weaken or destroy the inference of the accused guilt.

If the above principles on circumstantial evidence are applied to the facts of this case, the evidence which points to the guilt of the appellant is discernible from the combined evidence of PW1, PW3 and PW4 regarding the conduct of the appellant immediately before and after the offence was committed. This evidence shows that the appellant overrode the dual control procedures by receiving the box alone; and that he subsequently disappeared and tendered notice of resignation immediately after the theft was uncovered. There is also the testimony of PW4 that when she (PW4) approached the appellant on discovering the money was missing, he did not deny receipt of the money, but told her he was going to talk to someone and that she should check the lodgment file. The appellant walked away, never returned or answered phone calls until his arrest.

We find the foregoing circumstantial evidence, which the learned trial Judge correctly took into account, to be incompatible with the accused's innocence, giving rise to no other explanation other than that of guilt. In

our opinion, there is no other co-existing circumstances to weaken or destroy the inference of the appellant's guilt.

Counsel for the appellant invited court to draw an adverse inference regarding the change of heart exhibited by PW3 who wanted to depart from his earlier statement exhibit D1 dated 08/08/2009, where he stated that he handed over the cash box to the appellant in presence of PW4, to exhibit D2 dated 18/12/2010, where he stated that he handed over the cash box to the appellant alone.

The evidence on record shows that PW1 conceded having made a false claim that PW4 was present when he handed over the sealed crate of cash to the appellant. PW3 attributed this to fear, adding that for the 15 years he had worked, he had never encountered such a thing. He also conceded that it was a mistake to have handed over the box to one person, the appellant. This evidence is in tandem with the evidence of PW4 who denied receiving the sealed cash box together with the appellant. Secondly there is evidence, which the appellant also confirms, that PW4 did not sign the delivery note. If PW4 had received the cash box with the appellant, she would have also signed the delivery note as required by the Bank regulations. The learned trial Judge, who had opportunity to observe the witness, concluded that PW3 was a truthful witness despite his contradicting statements which he convincingly explained to the trial court.

In that connection, based on the adduced evidence and the cited authorities, we do not agree with the appellant's counsel's contention that all the pieces of evidence analyzed above were not supported by any other independent corroborative evidence, or that they were premised on mere speculation, conjecture and fanciful theories. We find that there is evidence adduced by the prosecution beyond reasonable doubt that the appellant embezzled US$ 50000. This evidence was both direct and circumstantial.

Grounds 14 and 15 - the sentence and compensation order

Article 28 (8) of the Constitution stipulates that:-

"Where a person is convicted and sentenced to a term of imprisonment for an offence, any period he or she spends in lawful custody in respect of the offence before the completion of his or her trial ***shall*** *be taken into account in imposing the term of imprisonment."* (emphasis added).

The above provision is mandatory. Also see **Kimera Zaverio V Uganda CACA No. 427 of 2014; Rwabugande Moses V U Criminal Appeal No. 25/2014.**

In **Rwabugande Moses V U, Criminal Appeal No. 25/2014** the Supreme Court held that a sentence arrived at without considering the period spent on remand is illegal for failure to comply with a constitutional mandatory provision.

The record shows that the learned trial Judge, when sentencing the appellant, considered his antecedents. She however did not indicate that the sentence she had passed against the appellant took into account the one month the latter had spent on remand. The submissions for the appellant reflect that he was charged before the chief magistrate's court at Buganda Road on 27th October 2009. He was remanded to Murchison Bay Prison until 20th November 2009 when he was granted bail. This implies he spent 25 days on remand. This period was not considered by the learned trial Judge when sentencing the appellant.

It is a mandatory constitutional requirement that the period spent on remand has to be borne in mind at the time of imposing a custodial sentence. The fact that the said circumstance were not considered by the learned trial Judge renders the sentence of 8 years illegal, and must have prejudiced the appellant.

We therefore accordingly find that the learned trial Judge erred in law in failing to take into account the period the appellant spent on remand when sentencing him to a custodial sentence of 8 years' imprisonment. In that regard, we set it aside and then invoke section 11 of the Judicature Act to arrive at an appropriate sentence. Section 11 provides that:-

"For the purpose of hearing and determining an appeal, the Court of Appeal shall have all the powers, authority and jurisdiction vested under any written law in the court from the exercise of the original jurisdiction of which the appeal originally emanated."

The said provision places this Court in the same position as the trial court which had original jurisdiction to hear the matter and sentence the accused who is now the appellant.

In **Rwabugande Moses V Uganda**, already cited, the Supreme Court reviewed its earlier decisions and stated that the taking into account of the period spent on remand is necessarily mathematical because such period is known with certainty and precision; that consideration of the remand period should therefore necessarily mean reducing or subtracting that period from the final sentence; that the period spent in lawful custody prior to the trial must be specifically credited to the accused. This is in line with the guideline 15 of the Constitution (Sentencing Guidelines for Courts of Judicature (Practice) Directions 2015 which provide that:-

1. *The court shall take into account any period spent on remand in determining an appropriate sentence.*
2. *The court shall deduct the period spent on remand from the sentence considered appropriate after all factors have been taken into account.*

In arriving at an appropriate sentence we shall consider both the aggravating and mitigating factors as well as the period the appellant spent on remand. We take into account the fact that the convict was a first offender. The appellant committed the offence when he was young and we should give him an opportunity to reform. However, we consider it an aggravating factor that he abused the trust put in him by his employer who head hunted him and offered him a job. The offence for which the appellant was indicted attracts a sentence not exceeding 14 years. In our opinion a sentence of 8 years imprisonment is appropriate, taking into account all factors of the case. However in line with Article 23 (8) of the Constitution, the appellant should serve a prison sentence of 7 years and 11 months and 5 days from the time of conviction.

The appellant further prayed that the compensation order issued by the trial Judge against him be set aside. His argument was that the United Bank of Africa secured compensation for the loss of US$ 50000 from their insurers. His counsel contended that it would not be in the interest of justice that UBA benefits from yet another compensation from the appellant.

There is however no evidence on record to show that UBA was compensated by insurance. The record shows this fact (or lack of it) was not clearly established though the defence cross examined PW1 on matters concerning insurance. That notwithstanding however, as correctly submitted by the respondent's counsel, it is against public policy to permit criminals to benefit from the proceeds of their crimes just because insurance is believed to have compensated the victim.

Secondly, we note that the order for compensation is discretionary under section 126 of the trial on Indictments Act. It may be awarded by a trial Judge when a person is convicted and there is evidence that some other person suffered material loss or personal injury in the consequence of the offence committed.

In this case there is evidence that UBA suffered loss in form of US$ 50000 as a result of the appellant having embezzled it. We therefore, in the given circumstances, decline to set aside the compensation order.

Thus, ground 13 of this appeal succeeds while ground 14 fails.

Thus, in view of our findings and analysis of the evidence, we make the following orders against the appellant:-

1. The conviction of embezzlement against the appellant is upheld.
2. The sentence of 8 years is set aside and substituted with a sentence of 7 years and 11 months and 5 days imprisonment.
3. The order to refund the US$ 50000 to UBA is upheld.

We so order.

Dated at Kampala this.....6th.....day of.....Jan.....~~2019~~ 2020

Hon. Mr. Justice Geoffrey Kiryabwire

Justice of Appeal

Hon. Mr. Justice Stephen Musota

Justice of Appeal

Hon. Lady Justice Percy Night Tuhaise

Justice of Appeal.