**THE REPUBLIC OF UGANDA**
**IN THE COURT OF APPEAL OF UGANDA AT KAMPALA**
**CIVIL APPEAL NO. 0059 OF 2014**

**AIDS HEALTH FOUNDATION UGANDA CARES::::::::::::::APPELLANT**

**VERSUS**

**DR. STEPHEN MIREMBE KIZITO::::::::::::::::::::::::::::::RESPONDENT**

*(Appeal from the decision of the High Court of Uganda at Masaka before Oguli-Oumo, J. dated the 20th day of February, 2014 in Miscellaneous Application No. 107 of 2013.)*

**CORAM: HON. MR. JUSTICE GEOFFREY KIRYABWIRE, JA**
**HON. LADY JUSTICE ELIZABETH MUSOKE, JA**
**HON. LADY JUSTICE IRENE MULYAGONJA, JA**

**JUDGMENT OF ELIZABETH MUSOKE, JA**

This appeal is from the decision of the High Court (Oumo-Oguli, J.) rendered in revision proceedings concerning a decision of a Magistrate Grade One.

**Background**

On 20th December, 2010, the respondent made a complaint to a Labour Officer in Masaka District, alleging that he had been unfairly terminated from his employment with the appellant. On assessing the complaint, after both parties had been heard, the Labour Officer accepted the respondent's allegations, and found that the appellant did not accord the respondent a fair hearing prior to terminating his employment. The Labour Officer awarded some statutory remedies to the respondent.

By a plaint dated the 11th day of April, 2011, the respondent commenced a suit vide Civil Suit No. 59 of 2011 in the Chief Magistrate's Court at Masaka for general, special and punitive damages arising from the unlawful termination of his employment. In the plaint, he gave a narration of how the cause of action arose. Notably, the respondent made no reference to the action he had commenced before the Labour Officer.

When the suit was called on for hearing, counsel for the appellant raised a preliminary objection to the suit arguing that the Chief Magistrate's Court did

not have the jurisdiction to entertain a labour dispute, like that instituted by the respondent, before it. In a written ruling, the learned Magistrate Grade One dismissed the preliminary objection.

This prompted the appellant to file an action for revision in the High Court at Masaka vide Miscellaneous Application No. 107 of 2013 for orders that the learned Magistrate Grade One's ruling, referred to earlier be revised. In its ruling, the revisionary Court decided that contrary to her ruling, the learned trial Magistrate Grade One had no jurisdiction to entertain the matter. However, the revisionary Court decided that the respondent was entitled to remedies for breach of contract, and went on to award Ug. Shs. 10,000,000/= as general damages, and 15,000,000/= as punitive damages, with interest at Court rate from the date of the Order until payment in full. As to costs, the revisionary Court ordered that each party bears its own costs.

The appellant was dissatisfied with the part of the decision of the revisionary Court concerning general damages, punitive damages and costs. The appellant now appeals to this Court on the following grounds:

"1. **The Learned Judge erred in law and in fact when she failed to properly evaluate the evidence on the record thereby arriving at the wrong decision.**

2. **The Learned Judge erred in law and fact when she erroneously ruled that the Respondent is entitled to an award of general damages for breach of contract and punitive damages without giving an opportunity to the Appellant to be heard.**

3. **The Learned Judge erred in law and fact when she erroneously ruled and ordered that the Respondent is entitled to Ugx. 10,000,000/= for general damages and Ugx. 15,000,000/= as punitive damages without evidence being adduced before Court.**

4. **The Learned Judge erred in law and fact when she instead of dismissing the suit for being filed in a court without jurisdiction, she ordered for payment of general and punitive damages.**

5. **The Learned Judge erred in law and fact when she refused to award the Appellant costs of the Application and those in the Court below after agreeing with the Appellant that the Magistrate Grade**

**1 did not have jurisdiction to hear the Civil Suit being an employment matter."**

The appellant prayed that this Court: a) allows the appeal; b) sets aside the ruling and orders of the High Court wherein the Court ordered the appellant to pay to the respondent Ug. Shs. 10,000,000/= as general damages, and Ug. Shs. 15,000,000/= as punitive damages, and the order as to costs; and c) awards the costs of the appeal and those in the Court below to the appellant. The respondent opposed the appeal.

## Representation

At the hearing of the appeal, Mr. Opio Moses, learned counsel appeared for the appellant. Mr. Herbert Musinguzi, learned counsel appeared for the respondent. Neither the appellant's representatives nor the respondent were present in Court.

After leave of the Court was granted for the purpose, the written submissions of both parties were filed on Court record, and have been considered in arriving at the decision in this matter.

## Preliminary objection to the appeal

At the date of the hearing, counsel for the respondent informed the Court that he intended to raise a preliminary objection to the appeal on a point of law, which would enable the Court to dispose of the appeal without going into its merits. The Court granted counsel for the respondent leave to raise the said preliminary objection in his written submissions, and for counsel for the appellant to rejoin via his written submissions.

With respect to the preliminary objection, counsel for the respondent submitted that the present appeal is a sham which should not have arisen at all, because the revision proceedings in the High Court from which the appeal arose were instituted prematurely. Relying on **Section 83** of the **Civil Procedure Act, Cap. 71**, counsel submitted that legally, revision proceedings may only be commenced after determination of the suit in the trial Magistrate's Court. The Magistrate's Court must have concluded the hearing of the suit on its merits, and thereafter, if the aggrieved party alleges

that the Court had no jurisdiction over the matter, he/she may then commence revision proceedings.

In the present case, counsel pointed out that the appellant had run to the High Court to have the matter on jurisdiction re-determined in the guise of revision, which was an abuse of Court process. The correct procedure should have been to file an appeal, if the appellant was dissatisfied with the decision of the trial Chief Magistrate. In counsel's view, the duty of revisionary Courts is to correct errors on the record of the Trial Magistrate's Court and nothing else.

Counsel contended that moving the revisionary Court to determine points of law already determined by the lower Court, like the appellant did was an illegality which tainted the whole process that followed thereafter. Counsel relied on **Makula International vs. His Eminence Cardinal Nsubuga Wamala and Another, Supreme Court Civil Appeal No. 4 of 1981** for the legal proposition that a Court will not sanction an illegality once the same is brought to the Court's attention, and submitted that in the present case the Court ought to strike out the appeal, so as not to sanction the illegality highlighted hereinabove.

Counsel submitted that because the error of adopting the wrong procedure happened at the instance of the appellant, he should not be allowed to benefit from the High Court ruling which was made in error. Counsel prayed that this Court strikes out the present appeal with costs to the respondent, as in so doing, the Court will extricate itself from the abyss of illegality which has tainted this matter.

I have considered the preliminary objection raised by counsel for the respondent. I note that counsel for the appellant offered no submissions in rejoinder to the objection. However, being a point of law I shall proceed to evaluate the objection as hereunder.

I have found the principles articulated in **General Parts (U) Ltd and Another vs. Non-Performing Assets Recovery Trust, Supreme Court Civil Appeal No. 9 of 2005**, useful in deciding the objection. In that case,

the respondent instituted a suit by Motion, yet they should have instituted the same by Originating Summons. On second appeal in the Supreme Court, the appellants contended that the suit was brought by the wrong procedure and ought to have been struck out by the trial tribunal or the Court of Appeal as the first appellate Court, and asked the Supreme Court to strike out the appeal for having originated from a matter which was wrongly filed. In resolving the matter, **Mulenga JSC** who wrote the lead Judgment stated as follows:

> **"I now turn to the appellants' contention that the institution of the suit occasioned miscarriage of justice. If the appellants had taken out a preliminary objection that the suit by Notice of Motion was irregular, they would undoubtedly have been entitled to an order striking it out. However, to make such order after trial, albeit on affidavit evidence only, or subsequently on appeal, would amount to having undue regard to technicalities to the prejudice of substantive justice. In his lead judgment, Okello JA correctly observed that the respondent seeks to recover a debt that is owed and that was not disputed throughout the diverse and protracted litigation. I should add that despite the wrong procedure, the appellants could have moved the court to have a full trial or to examine deponents of affidavits as witnesses, to ensure trial of all issues. They chose not to do so. In my opinion they were not prejudiced and no miscarriage of justice was occasioned. In the circumstances I think it was appropriate to invoke the principle preserved in Article 126(2)(e) of the Constitution that substantive justice should not be unduly impeded by technicalities."**

Applying the above principles to the present case, the respondent herein did not raise the preliminary objection to the revisionary remedy pursued by the appellant when the matter came up for hearing in the High Court, in order to give it an opportunity to consider the propriety of the appellant's revision application and whether to have it struck out or not. It must be noted that the respondent fully participated in the revision hearing where he was represented by counsel, who should have raised the objection he now raises in this Court. Therefore, in light of the reasoning articulated in the **General Parts case (supra)**, if this Court were to make an order striking out the appellant's revision Application from which this appeal arose, the same would

amount to having undue regard to technicalities, to the prejudice of the justice of the case, which involves determination of the question, whether the trial Magistrate had jurisdiction to entertain an action for damages arising out of a labour dispute. For the above reasons, I, therefore, conclude that the respondent suffered no prejudice by the adoption of the wrong procedure by the appellant, and accordingly dismiss the preliminary objection raised by counsel for the respondent.

I will now proceed to consider the parties' submissions on the merits of the appeal.

**Appellant's submissions**

Counsel for the appellants relied on conferencing notes filed in this Court. In the conferencing notes, counsel argued the respective grounds of appeal as issues, a mode of proceeding which was adopted by the respondent.

**Issue 1**

**Whether the learned trial Judge erred in law and fact when she failed to properly evaluate the evidence on record thereby arriving at a wrong decision**

In the submissions on issue 1, counsel for the appellant submitted that under **Rule 30 (1) of the Judicature (Court of Appeal Rules) Directions S.I 13-10**, this Court as a first appellate Court has a duty to subject the whole evidence on record to fresh exhaustive scrutiny and to draw its own conclusions of fact giving allowance of the fact that it has not seen the witnesses testify. Counsel also referred to the case of **Non-Performing Assets Recovery Trust vs. S.R Nkabula and Sons Ltd, Civil Appeal No. 34 of 2005 reported in [2007] 1 HCB at pages 74 to 75** where the duty of a first appellate Court was discussed. Thereafter, counsel made no further submissions on the issue.

**Issue 2**

**Whether the learned trial (sic) Judge erred in law and fact when she ruled that the respondent is entitled to an award of general**

**damages for breach of contract and punitive damages without giving an opportunity to the appellant the right to be heard**

Counsel submitted that although the revisionary Court made an award of general damages to the respondent, the parties were not heard prior to the making of that award. There had been no formal trial and hearing of the evidence of the parties in the lower Court, against whose proceedings the application for revision was made. Counsel cited the authority of **National Council For Higher Education vs. Kawooya, Constitutional Appeal No. 4 of 2011** where the Supreme Court, citing the case of **Russell vs Norfolic [1949] ALLER 109**, had this to say on the right to a fair hearing:

> **"The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, and the subject matter that is being dealt with."**

Counsel further relied on the case of **Hon. Kipoi Tonny Nsubuga vs. Rony Waluku Wataka Election Petition Appeal No. 07 of 2011**, where this Court held that:

> **"If the principles of natural justice are violated in respect of any decision, it is indeed immaterial whether the same decision would have been arrived at in the absence of the departure from the essential principles...that decision must be declared to be a non-decision."**

In view of the principles articulated in the above cases, counsel submitted that because the learned trial Judge made an award of damages without hearing the evidence of the parties in support of the said award, she acted in a manner that violated the appellant's right to be heard, to its prejudice. Counsel prayed that the Court resolves this issue in favour of the appellant.

**Issue 3**

**Whether the learned trial Judge erred in law and fact when she ruled that the respondent is entitled to an award of general damages for breach of contract and punitive damages without evidence being adduced before the Court**

This issue is similar to issue 2. Counsel repeated the submissions on ground 2. Further, counsel relied on the case of **Mbogo and Another vs. Shah**

**[1968] EA 93** for the legal proposition that a court of appeal should not interfere with the exercise of the discretion of a Judge unless it is satisfied that the Judge in exercising his discretion has misdirected himself [or herself] in some matter, and as a result has arrived at a wrong decision, or unless it is manifest from the case as a whole that the Judge has been clearly wrong in the exercise of his discretion and that as a result there has been misjustice. Counsel also cited **Crown Beverages Ltd vs. Sendu Edward, Supreme Court Civil Appeal No. 01 of 2005** for the legal proposition that an appellate court may also interfere with an award of damages by the trial Court if it acted upon wrong principle of law or the amount awarded is so high or so low as to make it an entirely erroneous estimate of the damages to which the plaintiff was entitled.

Counsel submitted that, in the present case, the award of damages by the revision Court was erroneous, as no evidence was adduced to support it.

**Issue 4**

**Whether the learned trial Judge erred in law and fact when she instead of dismissing the suit for being filed in a Court without jurisdiction but ordered the appellant to pay general damages and punitive damages (sic)**

Counsel reiterated his submissions on issue 1 and 2, and contended that the acts of the learned revisionary Judge in making an award of general and punitive damages, instead of dismissing the suit in the Magistrate's Court or in the alternative, ordering for the hearing of the said suit to proceed for hearing, amounted to her condoning an illegality. Relying on the case of **Makula International vs. His Eminence Cardinal Nsubuga and Another, Supreme Court Civil Appeal No. 4 of 1981** where it was stated that a Court should not sanction an illegality once brought to its attention, counsel submitted that it was wrong for the learned revisionary Judge to proceed as she did.

**Issue 5**

**Whether the learned trial Judge erred in law and fact when she refused to award the Appellant costs of the application and the costs in the lower court**

Counsel submitted that the learned revisionary Judge erred when she refused to award the appellant the costs of the revision application, and those in the lower Court. Counsel cited the case of **Francis Butagira vs. Deborah Namukasa [1992] KALR 767** where it was stated that costs follow the event and a successful party should be entitled to them except for good cause. Counsel also relied on the legal textbook by **Mulla on Civil Procedure, 12th Edition** at **page 150** wherein it was stated as follows:

> **"...that costs shall follow the event unless the court for good reason otherwise orders. This means that the successful party is entitled to costs unless he is guilty of misconduct or there is some good cause for not awarding the costs to him. The court may not consider the conduct of the party in the actual litigation but in matters which led up to the litigation."**

Counsel submitted that in the instant case, the appellant was the successful party in the revision application, and contended that the learned Revisionary Judge's reasons for refusing to award the appellant the costs of the application were not attributable to the appellant's conduct. Counsel prayed that this Court resolves this issue in favour of the appellant.

**Respondent's submissions**

Counsel for the respondent replied to the appellant's submissions as hereunder.

**Issue 1**

Counsel submitted that by **Section 83** of the **Civil Procedure Act, Cap. 71**, the High Court is vested with jurisdiction to revise cases from Magistrates' Courts. Counsel relied on the **Black's Law Dictionary (9th Edition)** wherein Revision is defined as the re-examination or careful review for correction or improvement or an altered version of work.

Counsel further submitted that in law, while exercising its revisionary jurisdiction, the High Court has powers to make such orders as the justice of the case deems fit. This was done in the present case, when, after it had considered the evidence, the revisionary Court made findings in favour of the appellant that the trial Magistrate's Court did not have jurisdiction in the matter as alleged.

Further, although conceding that the appellant did not file a cross appeal against the decision of the revisionary Court, counsel submitted that the trial Magistrate's Court had jurisdiction to hear the original matter which was for assessment of damages arising out of a labour dispute.

Counsel, then prayed that this Court resolves the first issue in favour of the respondent.

**Issue 2**

In reply on issue 2, counsel for the respondent disagreed with the appellant's assertion that the revisionary Court denied it a fair hearing in making the general damages award. Counsel submitted that the appellant had filed an affidavit in support of the revision application, which could be and was rightly relied on by the Revisionary Court to assess damages which were awarded to the respondent.

Counsel contended that while exercising revisionary powers, the Court may investigate the disputed Magistrate's Court record and make findings aimed at mitigating any further abuse of Court process and/or conclusively determining the matter. This is why the procedure in revision proceedings is flexible.

Counsel submitted that the revisionary court proceeded properly. As the appellant was not contesting the respondent's cause of action in the original action in the trial Chief Magistrate's Court, the revisionary Court's duty was to investigate which party would suffer the greatest prejudice, and consequent upon exercising that duty, the Court decided that it was the respondent who had suffered prejudice. The revisionary court then made an award of damages to the respondent which was legally correct.

Counsel prayed that issue 2, as well, be decided in the respondent s favour.

**Issue 3**

With respect to issue 3, counsel repeated the submissions made on ground 2.

**Issue 4 and 5**

Counsel submitted on the two issues jointly. He supported the findings of the learned revisionary Judge in refusing to award the costs of the application to the appellant. Counsel contended that the learned revisionary judge rightly considered the fact that respondent had been successful in the proceedings he instituted with the Labour Officer; and that he was entitled to remedies for unlawful dismissal from employment. The learned revisionary Judge also rightly considered that there was a lacuna in the Labour Law at the time which made it difficult for the respondent to recover the remedies he was entitled to.

Counsel further contended that the appellant did not dispute the fact that the respondent was successful before the Labour Officer. Counsel, thus submitted that the orders of the learned revisionary Court were befitting of the justice of this case.

Counsel prayed that issue 4 and 5 are resolved in favour of the respondent, as well.

Last but not least, counsel made a prayer to this Court to dismiss the appeal for lack of merit with costs to the respondent.

**Resolution of the Appeal**

I have carefully studied the court record, the parties' submissions and the law and authorities relied on therein. I have also had regard to the law and authorities not cited by the parties but relevant to the determination of the present appeal.

This is a first appeal. It is well established that in a first appeal from a decision of the High Court, this Court has a duty to reappraise the evidence and draw inferences of fact. **See: Rule 30 (1) (a) of the Judicature**

**(Court of Appeal Rules) Directions S.I 13-10**. While discussing the duty of the first appellate court in the case of **Uganda vs. George Wilson Simbwa, Criminal Appeal No. 37 of 2005,** the Supreme Court stated as follows:

> **"This being the first appellate court in this case, it is our duty to give the evidence on record as a whole that fresh and exhaustive scrutiny which the appellant is entitled to expect, and draw our own conclusions of fact. However, as we never saw or heard the witnesses give evidence, we must make due allowance in that respect."**

In deciding this matter, I will set out with an inclination to fulfill the duty referred to above.

## The decision of the High Court on revision

I will begin with an analysis of the revision proceedings and the decision of the learned revisionary Judge arising therefrom. The revision proceedings were commenced by Notice of Motion of the appellant. In the Notice of Motion, it was averred that the appellant was the defendant in Civil Suit No. 59 of 2011, in the relevant Magistrate's Court. When the suit was called on for hearing, the appellant's advocate raised a preliminary objection to the suit, on grounds that under the Employment Act, 2006 no labour dispute could be entertained by a Magistrate's Court. The appellant averred that in dismissing the preliminary objection, the learned trial Magistrate Grade One not only assumed jurisdiction in the matter, but also acted outside the jurisdiction vested in her.

In an affidavit deponed to by Lawrence Kiwanuka, an advocate, on behalf of the appellant, matters of evidence supporting the above averments were stated.

An affidavit in reply for the respondent was deponed by Mugisha Daniel, also an advocate, who deponed interalia that: 1) the learned trial Magistrate Grade One was right to dismiss the appellant's preliminary objection as it lacked merit. This was because the suit before the trial Court was for general, punitive and special damages, and was not a labour dispute; and 2) the learned trial Magistrate Grade One rightly held that she had the jurisdiction

to hear matters concerning damages since the labour officer had earlier heard and disposed of the matters concerning the respondent's employment.

After considering the evidence and the submissions of the counsel, the learned revisionary Judge held that the learned trial Magistrate Grade One did not have the jurisdiction to hear the matter as an original suit and in doing so she acted in the exercise of her jurisdiction illegally or with material irregularity within the meaning of **Section 83** of the **Civil Procedure Act, Cap. 71**.

Thereafter, the learned revisionary Judge, did not follow the orthodox practice in revision proceedings by revising the record of the lower Court, only. I say Orthodox, because, one would ordinarily expect that when a Court makes an order in revision, it does so only to correct errors brought to its attention or those which it discovers. This, in my view, is the import of **Section 83** of the **Civil Procedure Act, Cap. 71** which provides for the remedy of revision on civil cases, and is reproduced below:

> **"83. Revision.**
>
> **The High Court may call for the record of any case which has been determined under this Act by any magistrate's court, and if that court appears to have—**
>
> **(a) exercised a jurisdiction not vested in it in law;**
>
> **(b) failed to exercise a jurisdiction so vested; or**
>
> **(c) acted in the exercise of its jurisdiction illegally or with material irregularity or injustice,**
>
> **the High Court may revise the case and may make such order in it as it thinks fit; but no such power of revision shall be exercised—**
>
> **(d) unless the parties shall first be given the opportunity of being heard; or**
>
> **(e) where, from lapse of time or other cause, the exercise of that power would involve serious hardship to any person."**

Instead, the learned High Court Judge proceeded to hold, in effect, that the lack of jurisdiction of the learned trial Magistrate Grade One, notwithstanding **"the respondent is entitled to remedies as ordered by the Grade 1**

**Magistrate as the Labour Officer did not order them."** She then assessed a quantum of damages, which she felt to be deserving in the circumstances.

To this, counsel for the appellant has taken strong exception. Counsel submitted that there was no hearing before the learned trial Judge made the award of damages to the respondent. It is impossible to reject those submissions. Counsel for the respondent's submissions that the High Court Judge accorded the parties any form of hearing prior to the making of the award of damages are unconvincing.

What really happened, was that the appellant brought proceedings before the High Court for orders in revision of the trial Magistrate's Court's decision. On allowing the application, the learned High Court Judge ought to have made the appropriate declaration, set aside the relevant orders and dismissed the relevant suit on grounds that the learned trial Magistrate Grade One did not have the jurisdiction to entertain it. She could do no more.

Secondly, even if she could award damages in the matter, it is trite law, that an award of damages is made based on a measure which the Court considers judicious. In my view, a judicious award of damages may only be arrived at after hearing evidence. There are general principles on damages which a Court assessing them will base to award damages. **Lord Blackburn** articulated those principles in the case of **Livingstone vs. The Rawyards Coal Company, 5 App Cas 253** as follows:

> **"...Where any injury is to be compensated by damages, in settling the sum of money to be given for reparation of damages you should nearly as possible get at that sum of money which will put the party who has been injured, or who has suffered, in the same position as he would have been in if he had not sustained the wrong for which he is now getting his compensation or reparation."**

In the present case, nothing explains why the learned High Court Judge arrived at the measure of damages, she did. In the absence of that explanation, it can, unfortunately only be reasonably taken that the learned

High Court Judge's award was made arbitrarily. Therefore, it cannot be left to stand.

Having said that, I would observe that there was really, only one question on this appeal, namely: whether the learned High Court Judge's orders in revision awarding general and punitive damages to the respondent; and the order on costs, should be upheld by this Court. For the reasons given above, I would hold that the award of general and punitive damages cannot stand, and the same is set aside.

With respect to the order on costs, I would not interfere with the same. This is because there was reason not to condemn the respondent to costs for the errors of the learned trial Magistrate Grade One. By parity of reasoning, I will not condemn the respondent to pay the costs of this appeal, because it was an error on the part of the learned High Court Judge to award damages without hearing evidence.

For the reasons given above, I would allow the appeal, and set aside the award of general and punitive damages made by the learned High Court Judge in the revision decision. I would order that each party bears its own costs of this appeal and those in the Court below.

Dated at Kampala this ..... 18th ..... day of ..April..... 2021.

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**Elizabeth Musoke**

Justice of Appeal

**THE REPUBLIC OF UGANDA**

**IN THE COURT OF APPEAL OF UGANDA AT KAMPALA**

**CIVIL APPEAL NO. 0059 OF 2014**

**AIDS HEALTH FOUNDATION UGANDA CARES ==========APPELLANT**

**VERSUS**

**DR. STEPHEN MIREMBE KIZITO ==========RESPONDENT**

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**CORAM: HON. MR. JUSTICE GEOFFREY KIRYABWIRE, JA**

**HON. LADY JUSTICE ELIZABETH MUSOKE, JA**

**HON. LADY JUSTICE IRENE MULYAGONJA, JA**

**JUDGMENT OF HON. MR. JUSTICE GEOFFREY KIRYABWIRE, JA**

I have had the opportunity of reading the draft Judgment of the Hon. Lady Justice Elizabeth Musoke, JA.

I agree with her Judgment and I have nothing to add. Since the Hon. Lady Justice Irene Mulyagonja, JA also agrees, we hereby order that:-

1. The Appeal is allowed.
2. The award of general and punitive damages made by the trial Judge is set aside.
3. Each party bears its own costs of this appeal and in the court below.

Dated at Kampala this.....15th..... day of .....April.....2021.

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**HON. MR. JUSTICE GEOFFREY KIRYABWIRE**
**JUSTICE OF APPEAL**

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

***Coram: Kiryabwire, Musoke, & Mulyagonja, JJA***

**CIVIL APPEAL NO. 0059 OF 2014**

**BETWEEN**

**AIDS HEALTH FOUNDATION**
**UGANDA CARES** :::::::::::::::::::::::::::::: **APPELLANT**

**VERSUS**

**DR STEPHEN MIREMBE KIZITO**::::::::::::::::::::::::::::**RESPONDENT**

***(Appeal from the decision of the High Court of Uganda at Masaka, Oguli-Oumo, J. dated 20th February 2014 in Miscellaneous Application No. 107 of 2013)***

**JUDGMENT OF IRENE MULYAGONJA, JA**

I have had the benefit of reading, in draft, the judgment of my sister Elizabeth Musoke, JA

I agree with the findings and the orders made therein that this appeal should succeed and the parties should each bear their costs and those in the courts below.

Dated at Kampala this 15th Day of April 2021.

Irene Mulyagonja

**JUSTICE OF APPEAL**