THE REPUBLIC OF UGANDA
IN THE COURT OF APPEAL OF UGANDA AT KAMPALA
(Coram: Musoke, Madrama & Mulyagonja, JJA)
CIVIL APPEAL NO. 281 OF 2016
BETWEEN

BANK OF UGANDA::APPELLANT

AND

1. JOSEPH KIBUUKA
2. GEORGE TABU
3. NELSON KIBUUKA } **::::::::::::::::::::::::::::::RESPONDENTS**
4. WILSON SEGANE
5. ABUBAKER WASSWA

(Appeal from the award of the Industrial Court, Ruhinda Ntegye, Tumusiime Mugisha, JJ and Nyachwo, Baguma and Ebyau, Panellists, dated 2nd February 2016 in Labour Dispute Claim No. 184 of 2014)

JUDGMENT OF IRENE MULYAGONJA, JA

Introduction

This is an appeal from the Award of the Industrial Court made at Kampala on the 2nd February, 2016 in Labour Dispute No. 184 of 2014, in which the court awarded each of the claimants severance pay and general damages of UShs 100,000,000/=, both with interest at 21% from the date of the award till payment in full.

Background

The facts from which the appeal arises, as can be established from the record, are that on the 28th June 2010, the Executive Director (ED) Administration Bank of Uganda (BOU) sent a memorandum to all staff informing them about resolutions that were made about staff matters at a

meeting of the Board of Directors of the Bank held on 24th June 2010. The resolutions included, among others, decisions about job redesign with the prospect of abolishing some of the less important jobs, and early retirement. With regard to early retirement, it was resolved that the BOU policy on early retirement would continue and that management would put up a request to staff who would wish to retire voluntarily with permission of the Bank. Further that any staff approaching retirement age would be encouraged to take up voluntary retirement but early retirement would be announced annually to all staff. Finally, that the Bank would determine a severance package for staff that would retire under the early retirement arrangement.

The respondents were employees of the BOU, each for a period of over 20 years. By letters to each of them dated 5th August 2010, headed *"Early Retirement,"* the respondents were informed that management of the Bank had decided to retire them with immediate effect. That benefits accruing to them would be calculated and paid. The respondents were requested to hand over all Bank property in their possession and further informed that indebtedness to the Bank was to be deducted from their benefits; but in case of inadequate cover, the outstanding balance would be settled by the respondents, immediately.

In their suits against the Bank, which were consolidated into one action by the trial court, the respondents contended that, among other things, such retirement was illegal and discriminatory. That it resulted in loss to them and mental anguish because they expected to remain employed by the Bank until their retirement age, only a few years away at the time. They further complained that only about 9 months after they were retired involuntarily, on the 19th April 2011, the Bank launched a Voluntary Termination of Service Scheme (VTS) and offered employees the option of

applying to voluntarily terminate their services. Further that employees that retired under the VTS received higher benefits than the respondents. The respondents claimed that they were entitled to and should be paid benefits equivalent to payments under the VTS.

In defence of its actions the Bank stated that the respondents' separation from the Bank was not dismissal but termination. Further that the letters to them were only *"colloquially"* headed *"retirement"* but the term was merely used to connote bringing their employment to an end. That no reason was given for their termination but it was effected lawfully. The Bank denied all liability for all the respondents' claims and losses.

The Industrial Court found that the termination of the respondents' employment was wrongful and illegal and awarded each of them severance pay as one month's salary for each completed year, general damages of UShs 100,000,000/= and interest on both at 21% p.a., from the date of the award till payment in full, with no order as to costs.

Being dissatisfied with the award, the Bank appealed to this court stating 4 grounds as follows:

1. The Learned Trial Judges and Panellists of the Industrial Court erred in law in holding that the termination of the Respondents' employment by the Appellant was wrongful.

2. The Learned Trial Judges and Panellists of the Industrial Court erred in holding that the Appellant cannot in law terminate the Respondents' employment whether by "notice" or "payment in lieu of notice" unless it gives a justifiable reason for the termination.

3. The Learned Trial Judges and Panellists of the Industrial Court erred in law in awarding the respondent "severance allowance" outside the scope and contrary to the provisions of section 89 of the Employment Act, No.6 of 2006.

4. The Learned Trial Judges and Panellists of the Industrial Court erred in law in awarding each of the Respondents UShs 100,000,000/= in general damages, on no basis at all.

The appellant prayed that the appeal be allowed and that the decision of the Industrial Court be set aside and substituted with an order dismissing the claim with costs, in this court and in the court below.

The respondents opposed the appeal.

Representation

At the hearing of the appeal, Mr. Masembe Kanyerezi appeared with Mr. Alex Ntare for the appellant while Mr. Patrick Alunga appeared with Ms. Assumpta Kemigisha for the respondents. The appellant's counsel filed their written submissions on 11th August 2020 and the respondents filed a reply on 2nd September 2020. The appellant's counsel filed a rejoinder on 28th September 2020. Counsel for both parties applied to court to adopt their written submission and the application was allowed.

The appellant's counsel argued Grounds 1 and 2 together and counsel for the respondents presented their response in the same order. Grounds 3 and 4 were argued separately. The same order is followed in this judgment.

Grounds 1 and 2

Submissions of Counsel

Grounds 1 and 2 were briefly that the Industrial court erred when they held that termination of the respondents' employment after payment in lieu of notice was unlawful and reasons had to be assigned for termination with notice. Further that the trial court erred when it held that the respondents were entitled to a hearing before termination.

The appellant's counsel submitted that the termination with notice was lawful because it was provided for in the respondents' employment contracts. Further that there was no need to state any reasons for such termination; neither was there any need for a hearing because there were no allegations of misconduct against any of the respondents. That the applicable rules of the Retirements Benefit Scheme (RBS) of the Bank that were employed in the respondents' termination process were rule 7 (a) which provides for deferred pension and rule 8 (b) which provides for commuted cash payments. That it was for this reason that the termination letters bore the heading *"Early Retirement."*

Counsel for the appellants posited that the determination of the lawfulness or otherwise of the termination has two facets: i) whether termination as distinct from dismissal requires a reason in order for it to be lawful, and ii) whether termination as distinct from dismissal requires a hearing in order for it to be lawful. He contended that the trial court did not distinguish between the two facets and came up with the finding that the termination was unlawful because no reasons were assigned and that the respondents were not afforded a hearing.

With regard to the question whether termination required a reason in order for it to be lawful, counsel submitted that *"dismissal from employment"* and *"termination of employment"* are distinct and they are each defined in section 2 of the Employment Act. Further that expounding the words *"justifiable reasons"* in the definition of termination of employment creates a genus of what that expression in the Act includes. That the examples that are stated in the definition are all instances of the contract coming to an end by operation of the law. That in addition, the expression, *"etc"* at the end of the definition of *"termination"* indicates that the term includes similar instances. And that according to the *ejusdem generis* rule, *"justifiable reasons"* can only refer to other instances where the contract ends automatically by operation of law. Counsel explained that the term *"etc"* is defined in Black's Law Dictionary to mean *"additional unspecified items in a series."* He referred us to the definition of the term *"ejusdem generis"* in Sir Rupert Cross' Statutory Interpretation, 3rd Edition at page 135, where it is given the meaning *"of the same kind."*

The appellant's counsel also referred us to the definition of the term *"termination"* in section 65 (1) of the Employment Act, which includes the ending of a contract by the employer by giving notice. He explained that the definition in that provision does not contain a requirement for a reason for termination; it only indicates that termination is simply the ending of the contract by the employer by giving notice. Further that the requisite periods of notice are provided for in section 58 (3) of the same Act. Counsel then asserted that the definition of *"termination"* is an independent stand-alone definition which refers to a substantive provision of the Act and must be read as it is, as must the definition of *"dismissal"* which has the limitations and the context that was pointed out above.

Counsel went on to explain that the difference between termination which does not require a reason and dismissal, which does, is brought out in section 69 (1) and (3) of the Employment Act, which provide for dismissal, and section 69 (2) which provides for termination with notice. He pointed out that while reasons are required for dismissal, according to the provisions of section 69 (1) and (3), no reason or justification is required for termination under section 69 (2) of the Act. All that is required by that provision is observance of the prescribed period of notice, or payment in lieu thereof.

The appellant's counsel further submitted that the contents of section 69 (2) of the Employment Act has always been the position reflected in case law. He relied on the decisions of the Supreme Court in **Barclays Bank of Uganda v. Godfrey Mubiru, SCCA No 1 of 1998** and **Stanbic Bank Ltd v. Kiyemba Mutale, SCCA No 2 of 2010** to support his arguments.

He further explained that the position of the law on termination did not change after the enactment of the Employment Act in 2006. It remained the same as the decision in **Hilda Musinguzi v. Stanbic Bank (U) Ltd. SCCA No 28 of 2012**. Further that the Supreme Court in that case referred to the decisions cited above, prior to the 2006 enactment, with approval. He specifically referred us to the judgment of Mwangusya, JSC, where he stated that normally an employer cannot be forced to keep an employee on against his will and that section 65 (1) (a) specifies that termination shall be deemed to take place when the contract of service is ended by the employer with notice. He went on to demonstrate that Kanyeihamba, JSC, relied extensively on the decision in **Barclays Bank v. Mubiru** (supra) when he described the process of termination.

Regarding the second question posited by counsel, whether termination as distinct from dismissal requires a hearing in order for it to be lawful, he referred to the authorities cited above for the assertion that if termination can be for a reason or none at all, it follows that there is no legal requirement for the employer to give the employee a hearing. He also referred us to sections 66 (1) and (2) of the Employment Act which provide for a hearing only in cases of dismissal, as opposed to termination.

He further submitted that the appellant gave the respondents three months' pay in lieu of notice, which they admitted to have received and accepted. That the respondents' payments under the Retirement Benefits Scheme and the terms in its deed had no bearing on the lawfulness of the termination. The respondents were entitled to a deferred pension under the Scheme which was paid to them. As a result, the judges and panellists of the Industrial Court erred when they held that the termination of the respondent's employment was unlawful in the absence of a reason. He prayed that grounds 1 and 2 of the appeal be allowed.

In reply to grounds 1 and 2, counsel for the respondents stated that an employer who wishes to terminate the contract of an employee must do so according to the law. He referred us to the decision in **Kiyemba Mutale** (supra) to support the submission that an employer must follow the terms of the contract on termination otherwise they must suffer the consequences of not doing so. He also referred to the provisions of sections 2, 66 and 68 of the Employment Act and stated that they are modelled on International Labour Conventions to which Uganda is a signatory.

The respondent's counsel went on to submit that the Termination of Employment Convention (No 158) specifies the principle that a worker should not be dismissed unless there is a valid reason for it connected to

the worker's capacity or conduct based on the operational requirements of the undertaking or establishment. He contended that the mere fact that there is an exit clause in the contract stipulating notice periods before termination is not sufficient in itself to facilitate legal termination of a contract. He referred us to **Blanche Byarugaba Kaira v. Africa Field Epidemiology Network, Industrial Court Labour Dispute Reference No. 131 of 2018** and **Hilda Musinguzi v. Stanbic Bank (U) Ltd, SCCA No 5 of 2016.**

He reiterated that the respondents' employment was unlawfully brought to an end with no reasons assigned, and with no disciplinary hearing or any other hearing accorded to them. He repeated the dicta of the trial court that since every contract of employment is entered into for a reason there must be a corresponding reason assigned when it is brought to an end. That it is no longer open to an employer to whimsically end the employment relationship without assigning any reason. He referred us to sections 66 of the Employment Act, Articles 28 (1) and (3), and 44 (c) of the Constitution which provide for the right to be heard; and **Yeon Kong Kim v. Attorney General, Constitutional Reference No. 6 of 2007,** for the submission that the right to a fair hearing must contain the right to pre-trial disclosure of material statements and evidence.

The respondents' counsel went on to point out that during the hearing in the lower court, the appellant did not show that they went through any process to accord the respondents a hearing. Further that the appellants relied on the respondents' contracts which provided for payment in lieu of notice to assert that there was no need for a reason for termination. That this undermined the need to accord the respondent a hearing. He relied on the decision in **Mary Pamela Sozi v. Public Procurement and Disposal of Public Assets Authority, HCCS No. of 2012** to support the

submission that the employer cannot unreasonably and without justification terminate the contract of the employee simply because there is a clause in the contract that allows for payment in lieu of notice.

Regarding payment in lieu of notice, he submitted that the appellant acted in breach of the provisions of section 58 (3) of the Employment Act when the three months' pay provided for persons who were employed for a period of more than 20 years was not paid immediately. That as a result, the appellant failed to comply with the provisions of the law and the trial court arrived at the correct conclusion.

With regard to the Bank's rules on early retirement, the respondents' counsel submitted that the respondents were retired under rule 6 of the Bank of Uganda RBS which, according to the appellant, gave them the option of sending employees into early retirement. He contended that a careful perusal of the rule shows that the appellants' arguments could not stand. That this is because it is clear that the *"early retirement"* contemplated by the Bank's Rules was voluntary and exercisable only at the option of the employee, subject to the consent of the employer. That as a result, the rule could not be turned into a weapon for the employer because it was the right of the employee.

He went on to submit that rule 6 of the Bank's RBS could only be relied upon where an employee's contract is terminated on the grounds of redundancy. But the termination letters presented in evidence clearly stated that the respondents were sent into *"early retirement."* He asserted that the evidence of Tabu George (2nd respondent) that his performance appraisals were always positive was not challenged by the appellant. Neither was the evidence that he had risen through the ranks to the level

of Deputy Chief Supervisor on account of promotions for good performance.

Counsel further submitted that the appellant's shifting of its position to rely on rule 7 of the RBS was a departure from the pleadings filed in the Industrial Court. Paragraph 5 (a) of the response to the Claim stated that the phrase *"early retirement"* was colloquially used to connote bringing the respondents' employment to an end. That it was the respondent's argument that the termination of their employment was still unlawful. He then charged that the appellant departed from the position that the employment was brought to an end on the basis of the Trust Deed and the Rules.

In this regard, Counsel referred us to the decision in **Interfreight Forwarders (U) Ltd v. East African Development Bank, Supreme Court Civil Appeal No. 33 of 1999,** where it was held that a party cannot be allowed to succeed on a case that he has not set up at the trial, and set up a different case inconsistent with what was alleged in his pleadings, except by way of amendment. Further that rule 6 of the RBS gave the Bank the option to send an employee into early retirement, thus the appellant departed from its pleadings when they claimed not to have relied on that rule; and that the court should not sanction this illegality. He prayed that the decisions of the trial court challenged in grounds 1 and 2 of the appeal be upheld.

In rejoinder, the appellant's Counsel submitted that the decision in **Kiyemba Mutale** (supra) was not useful to the respondents' submissions because it was about dismissal and not termination. He reiterated his earlier submissions. With regard to the Termination of Employment Convention (No. 158) referred to by the respondent's counsel, he submitted

that it relates to reasons for dismissal and is therefore not applicable to the respondents' case. He reiterated the submissions in relation to the case of **Godfrey Mubiru** and the provisions of the Employment Act and prayed that grounds 1 and 2 be allowed.

Resolution of Grounds 1 and 2

The duty of this court as a first appellate court is stated in rule 30 (1) of the Judicature (Court of Appeal Rules) Directions, SI 13/10 as the re-appraisal of the evidence adduced before the trial court in order for it to reach its own conclusions. And in doing so the court should be cautious that it did not observe and hear the testimony of the witnesses **(Kifamunte Henry v. Uganda SCCA 10/1997).** Pursuant to rule 32 (1) of the Rules of this court, the court may, so far as its jurisdiction permits, confirm, reverse or vary the decision of the trial court and make any orders that are necessary or consequential to its decision, including orders for costs.

According to section 22 of the Labour Disputes (Arbitration and Settlement) Act, No. 8 of 2006, appeals against the decisions of the Industrial Court lie to this court only on points of law and its jurisdiction. I am satisfied that the grounds of this appeal all relate to points of law about the application of several provisions of the Employment Act, vis-à-vis the Rules of the Bank's Retirement Benefits Scheme.

I have therefore considered the whole of the evidence before the trial court, the submissions of counsel for both parties, the authorities cited by counsel and those not cited, the contentious provisions of the Bank's RBS Rules and the relevant law in order to come to conclusions about the questions raised in this appeal. And it is my view that the issues that need to be resolved arising from grounds 1 and 2 are three, as follows:

i) Whether separation of the respondents from the Bank amounted to early retirement; and if not, whether it amounted to termination with notice or payment in lieu thereof.

ii) Whether the separation of the respondents from the appellant was lawful.

iii) Whether the Bank had a legal obligation to give the respondents a reason for ending their employment and to afford them the right to be heard before that.

Issue 1

In order to resolve the 1st issue, it is important to analyse the wording of the appellant's letter to the respondents. In the analysis, I will employ the contents of the letter to Geroge Tabu dated 5th August 2010, which were similar to those in the letters sent to all the respondents, save for the differences in the number of leave days, which were as follows:

> ***"Early Retirement***
>
> *The management of the Bank has decided to retire you from the services of the Bank with immediate effect.*
>
> *You will be paid the following:*
>
> 1. *One months' salary in lieu of notice*
> 2. *Commutation of your 34 earned leave days*
> 3. *An actuarially reduced pension and cash sum calculated using your completed years of service.*
>
> *By copy of this memorandum, Director Human Resource and Chief Accountant are requested to compute and process the above payments less any indebtedness you may have with the Bank. In the event that the funds due to you from the Bank are inadequate to cover your indebtedness, you should settle the outstanding balance immediately.*
>
> *Please ensure that you hand in your identity card and any other Bank property that may be in your possession to Director Security before you leave.*

I take this opportunity to thank you for the services you have rendered to the Bank and wish you the best in your future endeavours.

Signed

Executive Director Administration"

It was stated in the sworn statement of Agnes Kaigana Ibaarah dated 27th October 2015 that the respondents were subsequently paid further sums, amounting to two months' salary, making the payment under item (1) in the letter three months' pay in lieu of notice. Ms Ibaraah stated that the respondents' contracts were terminated by notice or payment in lieu thereof. She did not explain the basis of the payments that were made under item 3 in the impugned letters.

Counsel for the appellant submitted that rules 7(a) and 8(a) (ii) of the Bank's Retirement Benefits Scheme were employed in the respondents' separation process. And that it was for that reason that the impugned letters were entitled *"Early Retirement."* This court must therefore consider what is contained in the rules cited by Counsel and what the Scheme was meant to achieve as a whole, in order to come to its own conclusion about the propriety of the separation of the respondents from the Bank.

Rule 7 (a) of the Bank's RBS Rules, in part, provides as follows:

> **Subject to the provisions of paragraph (b) of this rule:**
>
> **Should a Member leave the service of the Employers for any reason before Normal Pension Date other than an early retirement in accordance with Rule 6 he will be entitled to a deferred pension at the age of 60 of such amount as calculated using the years of service completed to the date of leaving service and the Salary at that date. Such deferred pension actuarially reduced, may be taken from age 55.**
>
> ***{Emphasis supplied}***

Sub-rule (b) thereof provided for persons leaving the Bank to become employees in the pensionable public service. It clearly does not apply to the respondents here.

"Normal Pension Date" was defined in rule 1 of the RBS Rules to mean *"in relation to a member his sixtieth birthday."* The ordinary meaning of the word "leave" given by the English Dictionary includes: "depart from," "withdraw from," "go away from" and "retire from." The term therefore cannot connote a situation where one is asked to retire or leave immediately at the initiative of the employer, as was the case for the respondents.

It appears that rule 7 (a) of the RBS rules envisaged that an employee could at his/her own option, for other reasons other than early retirement, leave the employment of the Bank before the Normal Pension Date. That is a matter of course because an employee has the right to leave his/her employment as and when they choose to, provided that the agreement between them and the employer is followed. The employee would then be entitled to deferred pension under rule 7 (a) of the Scheme.

In view of the use of the word *"leave"* it does not seem that the employer in this case could have recourse to rule 7(a) following management's unilateral decision to bring the employee's contract to an end or to summarily retire them. It also appears to be the case that the rule only applies where the employee has attained the age of 55 years. The provision certainly does not lend itself to a situation where the employer unilaterally decides to retire or terminate the employment of an employee who is below the age of 55 years.

The finding above is supported by the provisions of rule 6 of the RBS, which is referred to in rule 7 (a) above, which provides for *"Early Retirement"* as follows:

> **With the employer's consent a Member may retire from its service at any time after his fifty-fifth birthday or on an earlier date if such retirement be on account of any infirmity of body or mind when he shall be entitled to an immediate actuarially reduced pension of such amount as he is entitled according to his completed years of service. Such pension will be increased as set out in the last paragraph of Rule 5(a). This rule will also apply in the event of Members being *retired* <u>*because of redundancy*</u>.** ***{Emphasis supplied}***

Rule 6 of the RBS Rules confirms that an employee had an option to retire before Normal Pension Date on attaining 55 years, if he/she so wished. In the alternative, an employee could be placed in a position, by infirmity of body or mind, to retire even earlier than the age of 55 years, the earliest age for voluntary retirement before the Normal Pension Date. From the wording of the Rules of the RBS, it becomes amply clear that it was not envisaged that employees would *be retired* from their employment with the Bank in the manner that the respondents were required to leave, that is, *"immediately"* on receipt of letters from management. However, as Counsel for the respondents correctly submitted, the Bank could have had recourse to rule 6, if it had declared redundancies.

It is therefore my conclusion from the provisions above, that the RBS Rules entitled Members to take deferred pension between the ages of 55 and 60 years, on voluntary retirement. There is no evidence about the age of the other respondents in this case on record; but the fact that management decided that they should take early retirement means they were not yet 60 years old. Mr George Tabu, whose age was availed in his statement, had not attained the age of 55 years required by the RBS for him to be eligible

to take deferred pension under rule 7 (a) of the RBS. He was only 52 years old on the 29th June 2012 when he made his statement in this case. This means that at the time he was involuntarily required to take deferred pension on the 5th August 2010, he was only about 50 years old. He did not fall under the employees that were eligible for deferred pension under rules 6 and 7(a) of the Bank's RBS Rules.

But before I take leave of this issue, I must consider rule 8 (a) (ii) of the RBS, which counsel for the appellant stated to be the basis for the payments that were made to the respondents, in addition to the 3 months' pay in lieu of notice. Rule 8 (a) (ii) provides for "Cash sums in lieu of pension" as follows:

> **(a) The Trustees may with the consent of the employers:**
> **(i) .....**
> **(ii) where the annuity to which the member is entitled would exceed shs 240,000/= per annum, grant in lieu or in communication *(sic)* of such pension and payable on the date on which such pension would have commenced, a lump sum payment not exceeding the actuarial equivalent of one quarter of such pension a non-commutable and non-assignable pension in respect of the balance of such pension.**

The amounts that were paid to the respondents under the rule above were not disclosed by either of the parties. If they were paid according to rule 8 (a) (ii), they were paid the equivalent of ¼ of what they would have been entitled to had they retired voluntarily when they attained the prescribed retirement ages of 55 or 60 years. It is this reduction in their pension benefits, due to the involuntary retirement, that resulted in the respondents' feeling that they were discriminated against and cheated out of their legitimate expectations from the RBS. This leads me to the consideration of the respondents' expectations from their future

employment with the Bank at the time they were made to retire involuntarily.

At its Meeting No. 300 held on 24th June 2010, the Board of Directors of the Bank made several resolutions concerning staff. The resolutions included decisions on, among others, early retirement, re-engineering and re-designing of jobs, staff on contract and the effects of automation. The resolutions were communicated to all staff by the ED Administration in a memorandum dated 28th June 2010.

With regard to Early Retirement it was stated in the memorandum that the Board of Directors resolved as follows:

> ***a) Early retirement shall continue in force in accordance with policy.***
> *b) Management will in future put up a request to staff who would wish to voluntarily retire. However, the Bank reserves the right to accept or reject any request.*
> ***c)*** *Any staff approaching retirement age would* ***be encouraged to take up voluntary retirement.***
> *d) Early retirement will be announced to all staff by management, on an annual basis.*
> e) ***The Bank shall determine a severance package for staff that will retire under the early retirement arrangement.*** ***{My emphasis}***

Management of the Bank did not immediately make arrangements to implement the resolutions of the Board that were communicated to staff in the Memorandum. Before they could do so they unilaterally decided to retire the respondents and purported to have terminated their employment according to their contracts with the Bank. The said contracts were never produced in evidence and it is not known exactly what the terms in them were. Therefore, while it is true that section 65 (1) (a) of the Employment Act also provides for termination with notice, in this case the management of the Bank dithered between terminating the respondents' employment

and causing them to involuntarily go into early retirement. It is therefore my opinion that the application of the Bank's RBS Rules brought the end of the respondent's employment nearer to involuntary and premature retirement than termination with notice.

It is pertinent to note that the main objective of the Bank's RBS was stated in rule 2 of the RBS Rules as follows:

> **"The object of the Scheme is the provision of benefits for members on retirement on the normal pension date or relief for their dependants in the event of earlier death, and of such other or ancillary benefits as are secured for members under the rules."**
>
> ***[My emphasis]***

It appears there were no other ancillary benefits for members under the Scheme other than those related to retirement and voluntarily leaving the employment of the Bank by resignation, and the Bank's declaration of redundancies. It was also observed that the only provision that employs the term *"termination"* in the RBS Rules is rule 12 which provides for the "**Employer's Right of Dismissal**" in the following terms:

> **"Nothing in these Rules shall in any way restrict the right of the Employers to terminate the employment of any member and the existence or cessation of any actual or prospective or possible benefit under the Rules shall not increase or affect damages in any action brought against the Employers in respect of any termination of employment or otherwise."**

It is observed that while the sub-heading for this rule refers to dismissal, the body of the provision relates to termination of employment, only. But with regard to dismissal and resignation for misconduct, the Rules provide, in what appears to be a proviso to rule 7 (a) that:

> **"However, in the case of an employee not satisfactorily completing his probationary period (of) service or in the case of a Member**

resigning to avoid dismissal for misappropriation of the Employer's monies or other serious misconduct or if a Member shall at any time be dismissed for the above reasons there shall be payable a return of his contributions only together with interest at the date of his leaving service."

The provision above specifically addresses situations of misconduct of members in the course of their employment, so that where the employee chooses to leave on account of misconduct or is dismissed on account of misconduct, the employee takes the consequences of his misconduct by a denial of the contributions made to the scheme for him/her by the employer, under rule 4 (a) of the RBS Rules.

Having found that rule 7 of the RBS rules only applies to employees who retire voluntarily, and only after attaining the age of 55 years, or less, if they are encumbered by illness or incapacity of body or mind, it is my view that there is a lacuna in the BOU RBS Rules. While it is the employee's right to terminate his/her employment with the Bank under section 65 of the Employment Act, the RBS rules do not provide for payment of benefits in such a situation. The Rules also do not have a provision for payments by the Bank from the Scheme in cases where management decides to terminate the employee's contract by giving notice or payment in lieu thereof.

The findings above are supported by the provisions that were made in the new scheme which the respondents contended should have applied to them, had they not been involuntarily and prematurely retired. The Memorandum dated 19th April 2011 which informed staff of the new scheme was entitled *"Re-structuring – Early Retirement and Voluntary Termination of Service Scheme (ER/VTS) 2011."* It is observed that in order to validate early retirement before the age of 55 years provided for by rule

6 of the RBS Rules, or to create an exception to the provisions of rule 7 (a) thereof, clause 2 of the ER/VTS 2011 provided as follows:

> **"Permanent and pensionable employees are eligible for either early retirement upon attainment of age 50 or voluntary termination of services irrespective of rank before attaining the age of 50 years."**

There is therefore no doubt in my mind that pursuant to rule 2 of the Rules, payments under the RBS were meant to support its members principally on retirement; if not at the age of 60 which was the Normal Pension Date, then at age 55 which was designated to be the age for voluntary early retirement. The RBS could only be reverted to for employees leaving at a lower age than 55 years in the event that they suffered physical or mental incapacity, or in the event of the declaration of redundancy by the employer. Refunds of contributions of members could be made on resignation and dismissal but no provision was made under the RBS Rules for payments on termination by notice at the option of the employer. The appellant therefore misapplied the provisions of the RBS to pay members who had neither attained retirement age nor been declared redundant, within the meaning of the Bank's policies availed in this case.

In conclusion, I find that the separation of the respondents from the Bank by early retirement was not only unlawful but also in contravention of the resolutions of the Board of Directors made on 24th June 2010. Management of the Bank acted *ultra vires* their powers when they unilaterally decided to send the respondents into early retirement. The learned judges and panellists of the Industrial Court were therefore correct when they found that the termination was not only wrongful but also illegal.

As a result, there is no need to consider issue 2 framed above, as to whether the separation of the respondents from the Bank was legal because it has been conclusively determined under the 1st issue.

Issue 3

The third issue that was framed above was whether the Bank had a legal obligation to give the respondents a reason for ending their employment and to afford them the right to be heard before that.

The background to this issue is still the communication to staff by the ED Administration in the Memorandum of the 28th June 2010. I have already considered the resolutions in it about early retirement which were applicable to the respondents in this case but which were not honoured by management of the Bank. The other matters that the Board resolved upon were recruitment of permanent and pensionable staff, secretaries, staff on contract, process re-engineering and job re-design, automation, staff costs in the budget and staff promotional intervals.

Among the various resolutions, it appears to me that process re-engineering, job re-design, and automation were the decisions most likely to affect the respondents' employment and culminate in their separation from the Bank.

In that regard the Board resolved and management informed all staff that:

> **a) The Bank will re-engineer organisational structure and processes and re-design jobs. As a result, some jobs will be combined, unnecessary aspects of *processes which are obsolete and have been overtaken by technology will be eliminated and less important jobs abolished*.**
> **A consultant shall be engaged to undertake the process re-engineering and job re-design exercise starting early next month.**
>
> ***{My Emphasis}***

With regard to Automation, which was clearly related to the re-designing of jobs and re-engineering of processes, the Board resolved and management informed all staff as follows:

> **a) The Bank will review staff skills and retain those with relevant skills.**
> ***b)* Those without relevant skills would be redeployed and *those that cannot be redeployed and/or trained would be retired early.***
> **c) The above will be considered together with the *process re-engineering and job re-design exercise* that will be done by a consultant.**
>
> ***{My Emphasis}***

It is my view that though the ED Administration did not expressly state it in his/her memo, the intention of the Board in the 300th Meeting, was to restructure the human resources of the Bank. It was also envisaged that restructuring would culminate into both voluntary retirement and involuntary retirement, as well as termination of employment and/or a declaration of redundancies. It is for this reason that management had to give staff advance notice of the plans of their employers which were to be implemented after consultation with experts in that field. It is therefore not surprising that the respondents were taken aback and took issue with the Bank in the courts of law when, just one month and seven days after the resolutions were communicated to them, management of the Bank involuntarily sent them into retirement and purported to terminate their employment by paying them in lieu of notice.

It was observed earlier in this judgment that the separation of the respondents from the appellant sat between termination and involuntary retirement, but veered more to the latter. Payment in lieu of notice was made to signify that it was termination under section 65 (1) of the Employment Act together with payments under the RBS yet the respondents were not yet eligible for pension under that scheme. Given the resolutions of the BOU Board of Directors communicated in the

Memorandum of 28th June 2010, it should now be considered whether the respondents were entitled to reasons for their abrupt and involuntary retirement.

The appellant contends that section 65 of the Employment Act does not impose a duty on the employer to give a reason for termination. And that this is supported by section 69 (2) of the Act which provides that except in cases of summary dismissal, no employee may terminate a contract without giving the period of notice provided for in the contract and under the law. That is the correct position of the law and the courts have consistently held so in numerous cases including **Barclays Bank of Uganda v. Godfrey Mubiru** (supra), **Stanbic Bank v. Kiyemba Mutale** (supra) and **Hilda Musinguzi v. Stanbic Bank (U) Ltd** (supra). **Hilda Musinguzi** was decided after the enactment of the Employment Act in 2006, and the Supreme Court (Mwangusya, JSC) held that,

> *"The respondent exercised a recognised right to terminate the appellant's contract. It was admitted at the trial that the appellant was paid a sum of Shs 3,440,569/= in lieu of notice, 12 days outstanding leave, half pay for December 2007 to February 2008 and the March salary. The payment in lieu of notice was made after the appellant had raised a complaint that her termination had not complied with the Employment Act and in compliance with the Act a payment was made and to me it is immaterial that the payment was made after the termination of the contract because once the payment was made as a corrective measure the respondent cannot be faulted for not meeting the requirements of the Employment Act. 2006."*

I respectfully agree with the Justices of the Supreme Court on their findings and the statement of the law about termination of employment by the employer by notice to the employee. However, in this case, the circumstances that preceded the separation of the respondents from the Bank, and what transpired after they were separated are peculiar. They must be considered before it is established whether the terms of

employment of the respondents, to the effect that their contracts could be terminated with notice, remained the same after the representations made by management to all staff of the Bank on the 28th June 2010.

In his statement before the trial court, George Tabu averred that due to his satisfactory performance in his work, he was looking forward to retirement five (5) years ahead because he thought he would retire in 2015, had it not been for the involuntary early retirement. Further that the Bank also had a periodic policy on early retirement and had sent a memorandum to all staff, dated 28th June 2010. That this was followed by subsequent memoranda, particularly the one dated 19th April 2011, under which voluntary retirement and termination were announced and conducted.

He asserted that considering that his satisfactory performance thus far was reflected in his performance appraisals during his years of service, he saw no reason for considering early retirement or any reason for the Bank terminating his services on the basis of involuntary early retirement. Further that the involuntary retirement led to his loss of full benefits on attainment of the retirement age, as well as loss of the continued earning of a salary. That it also caused him loss of the huge compensation benefits paid to those who were allowed to retire voluntarily a few month after he was involuntarily retired.

Mr Tabu further stated that the Bank's Human Resource Department and senior managerial heads over the years often advised those with unsatisfactory performance records, and for other reasons, to take up the opportunity of early retirement and benefit from the substantial retirement packages that were usually paid. That in contrast, on involuntary retirement he was paid one month's salary in lieu of notice, commutation

of his 34 days earned leave and an actuarially reduced pension based on the number of years he had served.

In addition, Mr Tabu averred that he believed his involuntary early retirement was unlawful because no reason was assigned for it. Further that having worked for the Bank for 21 years, he ought to have been given three months' pay in lieu of notice, severance pay and repatriation. Further that he believed the Bank was selective and engaged in discriminatory practices in the way it treated its employees. And that if management thought that his performance was unsatisfactory or had other reasons, the Bank's senior management should have advised him to consider early retirement which they had intimated would be allowed soon. That the Bank ought to have been patient and allowed him to take early retirement rather than involuntarily retire him without any justification. Finally that those who retired voluntarily a few months thereafter were paid compensation packages in excess of Shs 100 million; even staff at lower levels in the Bank than he was.

It was proved that the respondents were paid a further two months' pay in lieu of notice; the employer complied with the law in that regard and there is no contest about it. But apart from that, George Tabu's statement shows that he had a set of expectations to be fulfilled by the Bank after the unilateral communication that was made to all staff in the memorandum, dated 28th June 2010. These were not just illusory expectations; they were based on an official communication from the management about resolutions of the Board of Directors of the Bank, the employer. In my view these representations comprised legitimate expectations for all employees about the future of their employment with the Bank.

The court also considered the question whether the employee's furnished consideration for the promise in order for it to become contractually binding on the employers and it was held that:

> *"Similar points arise in relation to the contention that there was no consideration for the promise of a guaranteed minimum bonus pool. But the internal company documents to which I have referred earlier demonstrate quite clearly that the purpose of DKL and DBAG in establishing a guaranteed minimum bonus pool was to retain their staff. The evidence suggests that it was largely successful. The continued work of the employees is, at least arguably, adequate consideration for the establishment of the guaranteed minimum bonus pool."*

Finding for the employees, it was finally held that:

> *"It is clear from the evidence, as to which there is no dispute that the boards of DKL and DBAG intended to establish a guaranteed minimum bonus pool. Their intention was communicated to all those eligible for allocation and payment of a bonus out of such pool if their employment continued until the bonus payment date. The employment of the claimants did so continue. In my view the judge was wrong to grant the Bank summary judgment on this part of the claim. I would set it aside in that respect."*

In view of the decisions above, I think that the case made by the Bank here goes against the grain. Though the Bank claims that the respondents' employment was terminated according to their service contracts with the Bank, they offered no explanation as to why they went against the policy direction of the Board that was communicated to all employees in the Memorandum of 28th June 2010. Instead, there is on record another Memorandum dated 19th April 2011 which confirmed the resolutions of the Board that were communicated on the 28th June 2010. The

The doctrine of legitimate expectation has its roots in public law. But in many jurisdictions it has been extended to apply to private law, including employment law. A legitimate expectation, whether substantive or procedural, arises where an express promise, representation or assurance that is clear, unambiguous and devoid of relevant qualifications is made by an authority to an individual or group of persons. It may also arise where a practice develops that is tantamount to a promise that is consistent as to imply clearly, unambiguously and without qualification that it will be followed in future [**The Queen (MP) v. Secretary of State for Health and Social Care, [2020] EWCA Civ 1634**].

In **Oloniluyi v. Secretary of State for the Home Department, [1989] Imm AR 135**, Court of Appeal for England and Wales, were the rights of the appellant to return to the UK as a student, when she left the country shortly on a Christmas holiday were in dispute, the court liked the doctrine of legitimate expectation to that of estoppel. The court observed that estoppel may lie against the Crown. Further that, *"The argument under the lebel 'estoppel' and the 'legitimate expectation' argument were substantially the same."*

Ordinarily, the doctrine of legitimate expectation is applied in actions for judicial review. The case now before us could have been originated as an action for judicial review but the respondents chose to file a claim in the Industrial Court instead. I therefore see no reason not to extend the application of this doctrine to this matter. I will therefore next consider some cases in which the doctrine had been applied in employment law.

In **Albion Automotive Ltd v. Walker [2002] EWCA Civ 946**, the employees were all employed by the appellant, Albion. There was a communication to the employees, after extensive negotiations, that each

redundant employee would receive 12 weeks' pay at £1000 per annum of service. The redundancy exercise began a few years later. For the employees, it was contended that the redundant employees were entitled to the enhanced benefits referred to above, over and above the statutory minimum. Albion contended that they were only entitled to the statutory minimum.

None of the employees had a written contract with specific terms and conditions of employment. The collective agreements negotiated each year were in writing but the redundancy terms had never formed part of the annual negotiations and so the collective agreements said nothing about the issue. The employment tribunal found in favour of the employees and held that the enhanced redundancy terms had become a term in the applicant's employment contracts on the ground that it was an established custom and practice. The tribunal considered, among others that the employees, including the applicants before it, had a reasonable expectation that the enhanced redundancy payments would be made and the terms of the policy had been clearly reduced into writing. Regarding whether the policy had become contractual, the tribunal ruled as follows:

> *"We are satisfied that the nature of the communication of the policy to the employees supports the inference that the company intended to be contractually bound by it. For example, in the May 1993 newsletter it was stated that 'the redundancy terms which will apply to these redundancies are those which are currently in operation.' We consider that by reason of the fact that the company used such words it is proper for us to infer that the company intended to be contractually bound by the enhanced redundancy terms policy."*

The Court of Appeal of England and Wales approved the guiding factors that were advanced for the employees to suggest that the employer intended to be contractually bound by the policy, including: (i) whether the

policy was drawn to the attention of the employees, (ii) whether the nature of the communication of the policy supported the inference that the employers intended to be contractually bound and (iii) whether the employees had a reasonable expectation that the enhanced payment would be made.

The Court agreed with the contentions for the employees that such facts were proved, among others, that the policy was reduced into writing and communicated to all the employees and they were all aware of it; the policy was subsequently followed by the company in redundancies on six occasions; all employees had a reasonable expectation that the enhanced redundancy payments would be made. It was therefore ordered that the enhanced redundancy payments be made to the employees.

In **Attrill & Others v. Dresdner Kleinwort Ltd & Commersbank AG [2011] EWCA Civ 229**, at a town hall meeting for the employees held by video link and involving employees of the first appellant based in London, Moscow, Frankfurt and New York, the Chief Executive of the first respondent informed the employees of the first respondent that there would be a guaranteed minimum bonus pool of €400 million to be allocated to individuals on a discretionary basis, according to individual performance. The decision to set up a minimum bonus pool was confirmed on a number of occasions, including in answers to frequently asked questions posed on the intranet of the parent company. Subsequently, the Human Resource department sent to each of the employees a letter informing them that a discretionary bonus for the year 2008 had been awarded, specifying an amount, but subject to review of earnings of the employer as against the forecast during the annual financial statements.

After the sale of the first respondent to the second respondent, the new Chief Executive Officer informed the employees who had received the *"bonus letter"* that their provisional award which was subject to the first respondent companies' financial targets would be cut by 90% *pro rata* to the stated provisional amount. Bonuses were thus paid to employees entitled to guaranteed and discretionary bonuses comprising of 10% of the allocation of €400million. The balance was retained by the parent company. The employees that received the bonus letters sued claiming for the balance of 90% of what was announced as the bonus pool. The trial court dismissed the claim in a summary hearing for 4 reasons that: (i) the communication of the bonus pool was informal; (ii) there was no allocation of the pool to individuals; (iii) the quantity of the fund was uncertain; and (iv) the promise did not comply with the Employee Handbook.

On appeal, the Court of Appeal of England and Wales found for the appellants and held that the method of communication by the Town Hall meeting had been approved by the Board and that it was one of the recognised means of communication to send information to employees via intranet. Regarding the allocation of the pool it was held by the Chancellor, who wrote the lead judgment, and the rest of the court agreed with the decision, that:

> *"I see no reason why a promise of a guaranteed minimum bonus pool cannot be contractually binding even though individual employees cannot at that time point to an entitlement to a specific bonus payable out of it. At the very least each of them would be entitled to nominal damages for its breach. I cannot regard this consideration as determinative either."*

Regarding the parties to the contract it was held that:

> *"There is no conceptual uncertainty as to those with whom the alleged contract was made or those entitled to share in the guaranteed minimum pool. ... The class of the former clearly includes all those to whom the*

promise was made, namely the employees at the time of the Town Hall meeting held on 18th August 2008. It may also include those who became employed later to whom the promise was repeated by subsequent announcements."

The court also considered the question whether the employee's furnished consideration for the promise in order for it to become contractually binding on the employers and it was held that:

"Similar points arise in relation to the contention that there was no consideration for the promise of a guaranteed minimum bonus pool. But the internal company documents to which I have referred earlier demonstrate quite clearly that the purpose of DKL and DBAG in establishing a guaranteed minimum bonus pool was to retain their staff. The evidence suggests that it was largely successful. The continued work of the employees is, at least arguably, adequate consideration for the establishment of the guaranteed minimum bonus pool."

Finding for the employees, it was finally held that:

"It is clear from the evidence, as to which there is no dispute that the boards of DKL and DBAG intended to establish a guaranteed minimum bonus pool. Their intention was communicated to all those eligible for allocation and payment of a bonus out of such pool if their employment continued until the bonus payment date. The employment of the claimants did so continue. In my view the judge was wrong to grant the Bank summary judgment on this part of the claim. I would set it aside in that respect."

In view of the decisions above, I think that the case made by the Bank here goes against the grain. Though the Bank claims that the respondents' employment was terminated according to their service contracts with the Bank, they offered no explanation as to why they went against the policy direction of the Board that was communicated to all employees in the Memorandum of 28th June 2010. Instead, there is on record another Memorandum dated 19th April 2011 which confirmed the resolutions of the Board that were communicated on the 28th June 2010. The

memorandum of 19th April 2011 from the Deputy Governor of the Bank addressed to all staff informed them, partly as follows:

> *Restructuring – Early Retirement and Voluntary Termination of Service Scheme (ER/VTS) 2011*
>
> *Reference is made to the EDA's memos to All Staff dated 28th June 2010 and 13th April 2011, in which employees were informed of the Board resolutions pertaining to various issues that would impact on employees, including Early Retirement or Voluntary Termination of Services.*
>
> *At its meeting No 113 held on 06th April 2011, the Human Resource and Compensation Committee of the Board (HRCCB) considered and resolved to approve Management recommendations on right sizing of the Bank as follows:*
>
> 1) *Following outsourcing of some non-core services, some support staff to be systematically disengaged from the services of the Bank without disrupting the operations of the Bank.*
> 2) *Permanent and Pensionable employees are eligible for either early retirement upon attainment of age 50 or voluntary termination of service irrespective of rank before attaining the age of 50 years.*
>
> b) *Under the Early Retirement and Voluntary Termination of Service Scheme (ER/VTS) 2011:*
>
> i) *Eligible Permanent and Pensionable staff above the age of 50 years may in accordance with the RBS Rules apply for early retirement.*
>
> ii) *Those below the age of 50 years may voluntarily terminate their services and remain eligible for a deferred pension under the RBS rules.*
>
> c) *Employees whose normal retirement age dates are before 3rd June 2012 shall not be eligible to apply for early voluntary termination of services under the scheme.*
>
> d) *Acceptance of an application made under the early retirement/voluntary termination of service shall be at the discretion of the Bank*
>
> 3) *Management shall involuntarily retire some employees after considering a number of factors.*
> 4) *A severance package equivalent to 1.5 months' salary for every completed year of service be paid for Permanent and Pensionable employees who opt to leave (1.5 x gross salary x no of years served in the Bank under either early retirement or voluntary termination of service scheme. For contract*

employees, the terms and conditions of service as provided for in the Service Agreements shall apply.

5) *Outstanding annual leave days of a retiring employee under the scheme shall be commuted and benefits paid to the retiring employee before leaving employment of the Bank under the prevailing regulations.*
6) *All employees on permanent and pensionable terms who will leave the Bank under the scheme shall be paid a cash sum in lieu of notice in accordance with the law. For contract employees the terms and conditions of service as provided for in the Service Agreements shall apply.*
7) *Save for loans secured with land and buildings with a duly registered mortgage, all other loans, advances and imprest, shall be offset from the severance package and any other payment due to the retiring employee in full. ... Staff may opt to offset any outstanding amounts secured on loans from the package and other payments under this scheme."*

{My Emphasis}

I find that this subsequent memorandum confirmed that the Board of Directors intended the resolutions communicated to staff in the Memorandum of 28th June 2010 to have been contractually binding on the Bank. The Memorandum of the Deputy Governor actuated the resolutions of the Board into matters for action by management and according to the respondents what was contained in the 28th June Memorandum was implemented. However, management had already implemented the Board resolutions prematurely against the respondents before putting proper arrangements in place, and contrary to the resolutions of the Board.

Having found so, it must now be determined whether the respondents were entitled to reasons and a hearing before their premature and involuntary retirement from the Bank.

In **Council of Civil Service Union v. Minister for Civil Service [1985] AC 374, 408-409,** it was stated that a legitimate expectation to the right to a hearing arises, among others, when a decision made by the decision maker affects another by altering rights or obligations of that person which

are enforceable by or against him in private law, or by depriving him of some benefit or advantage which he had in the past been permitted by the decision-maker to enjoy and which he can legitimately expect to be permitted to continue to do. Further that this inures until there has been communicated to him some rational grounds for withdrawing it on which he has been given an opportunity to comment.

Employing the analogy in **Council of Civil Service Union** (supra) I reiterate the fact that the Bank issued a memorandum informing all its staff about policy decisions regarding their future employment with the Bank on 28th June 2010. Before the proposed policies bore fruit, the management of the Bank, without any notice, made a decision to end the employment of the respondents by retiring them, with immediate effect. Given the representations that were made by the Bank, the respondents who were affected by this abrupt decision were entitled to a hearing as to why a different policy had been employed to end their employment in such a manner. In this regard, though based on an incorrect reliance on the provisions of the Employment Act, I find that the Judges and Panellists of the Industrial Court, as a matter of fact, came to the correct decision on this point.

However, in principle, their decision was based on their earlier decision in **Florence Mufumba v. Uganda Development Bank Ltd** (supra). In coming to their decision the court held that:

> *"In the recent case of **Florence Mufumba vs U.D.B (Labour Claim 138/2014)** this court at page 5 after distinguishing "termination" from "dismissal" said, 'In our opinion, whether the employer chooses to terminate or dismiss an employee, such employee is entitled to reasons for dismissal or termination. In employing the employee, we strongly believe that the employer had reasons to so employ him/her. In the same way, in terminating or dismissing the employee there ought to be a reason for the decision.'*

The above opinion is grounded in the provision of section 66(4) of the Employment Act which states that:

> 'Irrespective of whether any dismissal which is summary is justified or whether the dismissal of the employee is fair, an employer who fails to comply with this section is liable to pay the employee a sum equivalent to four weeks' pay.'

It seems to us that this section of the law is a sanction to the employer who fails to given reasons for the termination or dismissal of the employee thus giving credence to the above opinion.

The evidence of the respondent is to the effect that the claimants' employment contracts were terminable by notice and that on termination, each of them was paid three months' salary in lieu of notice.

It is the position of this court that in accordance with the authority of ***Mary Pamela Sozi v. The Public Procurement & Disposal of Public Assets authority, HCCS 63/2012*** *an employer cannot unreasonably and without justification terminate the contract of the employee just because there is a clause in the employment contract that allows for payment in lieu of notice."*

With great respect to the learned Judges and Panellists of the Industrial Court, the decision above went against long standing decisions of the Supreme Court referred to earlier in this judgment, such as **Hilda Musinguzi v. Stanbic Bank (U) Ltd** (supra). In that case, which was decided after the enactment of the Employment Act in 2006, the Supreme Court (Mwangusya, JSC) held that,

> *"The starting point is that normally, an employer cannot be forced to keep an employee against his will and s.65 (1) (a) provides that termination shall be deemed to take place where the contract of service is ended by the employer with notice."*

In support of the decision of the trial court that termination with notice requires the employer to given a reason, the respondents' Counsel referred us to International Labour Organisation Convention 158 of 1982. Uganda ratified the Termination of Employment Convention, No 158 of 1982, on 18th July 1990. It is therefore in force and ought to be applied in the

employment laws of Uganda. Application of the Convention is provided for in Article 1 thereof as follows:

> **The provisions of this convention shall, in so far as they are not otherwise made effective by means of collective agreements, arbitration awards or court decisions or in such other manner as may be consistent with national practice be given effect by laws or regulations.**

Justification for termination is provided for in Article 4 of the Convention as follows:

> **The employment of a worker shall not be terminated unless there is a valid reason for such termination connected with the capacity or conduct of the worker or based on the operational requirements of the undertaking, establishment or service.**

The Judges and Panellists of the Industrial Court may have relied upon the principles set out in this Convention, though they did not say so. It is also observed that though Parliament drew important principles from the Convention in the re-enactment of the Employment Act of 2006, it omitted to include the overriding principle contained in Article 4 thereof to bring the important principles in it into force in the laws of Uganda. The omission of the principle should be brought to the attention of the Attorney General who should ensure that it is incorporated into the Employment Act.

I therefore find that in the absence of a specific provision in the law and in the face of the decisions of this Court and the decisions of the Supreme Court on that point of law which are binding on this Court, there is no support for the finding of the trial court that in every situation where an employer terminates employment under section 65 (1) (a) and subsection 2 of the Employment Act, and/or the terms of the contract of employment,

reasons have to be provided to the employee for their action. However, reasons are required for termination of a contract under section 65 (1) (c) of the Act. This is supported by section 68 (1) of the Act which provides that:

> **"In any claim arising out of termination the employer shall prove the reasons for the dismissal, and where the employer fails to do so, the dismissal shall be deemed to be unfair within the meaning of section 71."**

Reasons are also required for termination under section 69 of the Employment Act which provides for summary termination. These categories of separation, fall under the definition in section 2 of the Act, which defines dismissal as *"discharge of an employee from employment at the initiative of his or her employer when the said employee has committed verifiable misconduct."*

It has been established that the respondent's employment was not brought to an end under any of the two provisions above but by involuntary early retirement. This was done in a manner that went against the resolutions of the Board of Directors and the policies of the Bank at the time. Management did not have the power to do this in the face of very clear resolutions of the Board that had been officially communicated to all staff. I therefore find that the respondents were entitled to a reason or reasons for this abrupt decision to bring their employment to an end in a manner that was inconsistent with the Board's resolutions communicated to staff and contrary to the legitimate expectations that arose from them.

Grounds 1 and 2 of the appeal therefore fail and they are dismissed.

Ground 3

Submissions of Counsel

With regard to Ground 3, the complaint that the Industrial Court erred when they awarded severance allowances to the respondents outside the scope of and contrary to the provisions of section 89 of the Employment Act, counsel for the appellant submitted that section 87 (a) to (f) of the Act deal with circumstances in which severance allowances are paid. Further that the allowances would have been payable under section 87 (a) of the Act if the respondents were dismissed unfairly. Counsel concluded by asserting that the respondents' employment was terminated lawfully and they were not entitled to severance allowances under the law. That as a result, ground 3 of the appeal ought to be allowed.

In reply, counsel for the respondents submitted that a severance package is a benefit that an employee receives when they leave employment unlawfully and it is accorded to an employee who has stayed in employment for continuous service of at least 6 months. He explained that severance pay was introduced to protect employees who become victims of arbitrary and irrational decisions of employers to terminate contracts. He added that this payment was similar to gratuity in the public sector. He cited the provisions of section 87 which provides that severance pay is due to an employee whose contract is ended unfairly and where a public office is abolished.

He relied on the decision in **Amandua & Others v. Bank of Uganda HCCS No. 395 of 2006** where it was held that employees who lost jobs as a result of a sale and merger were entitled to severance pay at the time when they were made redundant since they did not resign or leave their jobs willingly. Counsel also referred us to section 88 of the Employment Act which provides for the various scenarios where severance pay is due, and section 89 which provides for the calculation of severance pay, and states that it shall be negotiable between the employee and the labour union. He added

that where a policy exists for the award of severance pay the employer is bound by the terms of the clause on calculation in the policy. He relied on several decisions that I have not found it useful to reproduce.

Counsel for the respondents finally contended that if the respondents had not been involuntarily retired, they would have served until retirement and at that stage they would have been entitled to receive the hefty retirement packages according to the policy of the appellant. Since they retired involuntarily, they were entitled to severance pay as was held in **Amandua & Others v. Bank of Uganda HCCS No. 395 of 2006.** That as a result, the trial court applied the correct principles of law and made no error regarding the award of severance allowances to the respondents and their award should be upheld by this court

Resolution of Ground 3

It is observed that in his submissions, the respondent's counsel referred us to several decisions of the High Court and the Industrial Court. The said decisions are not binding on this court and they were not considered in arriving at the decisions here.

In their decision, the learned trial judges and panellists correctly stated that severance allowance is paid under section 87 of the Employment Act, in cases were the employer unfairly dismisses the employee. They reasoned that the respondents were entitled to severance pay because the termination of their contracts was unlawful. They referred to section 89 which requires negotiations between the employee and the employer to arrive at the figure to be awarded. But since there had been no such negotiation, the trial court relied on its decision in the case of **Donna Kimuli v. Dfcu Bank, Labour Dispute Claim No. 2 of 2015,** where they

awarded the equivalent of one months' salary for each year of service and made the same award for the respondents.

Section 87 of the Employment Act provides that severance allowance is due where an employee has been in continuous service for a period of 6 months. That the allowance is payable in cases where the employee is unfairly dismissed by the employer; or dies in service of the employer otherwise than by an act occasioned by his own serious and wilful conduct; or where the employee terminates his contract due to physical incapacity not occasioned by his own conduct; death or insolvency of the employer; and where the contract is terminated by the labour officer for non-payment of wages.

While making the award for severance pay the judges and panellists of the Industrial Court stated that the separation of the respondents amounted to unfair *dismissal.* The statement was not entirely correct. The respondent' separation did not amount to dismissal within the terms of section 2 of the Employment Act because there was no *"verifiable misconduct"* attributed to any of them by the employer. Counsel for the appellant emphasised this in his submissions. Instead, it has been established here that the separation amounted to a premature, unlawful and involuntary early retirement carried out contrary to the policies of the Bank and the resolutions of the Board of Directors.

However, the trial court's finding that the separation was unfair may be correct on the basis of the facts before them, though they did not correctly state the reasons why they came to their decision that it was. In my view, it was particularly unfair given the expectations that had been created by the employer which, given the long service of the respondents to the Bank, were callously disregarded by management. In the circumstances, the

respondents could fall under the category of employees that was envisaged by section 73 (1) (b) of the Employment Act, which provides for the criteria for unfair termination in the following terms:

> **"(1) A termination shall be unfair for the purposes of this part where-**
>
> **a) ...**
>
> **b) it is found out *(sic)* that in all the circumstances of the case, the employer did not act in accordance with justice and equity in terminating the employee from service.**

In all of their pleadings, the respondents claimed that the management decision to bring their employment to an end was unfair and discriminatory. In paragraphs 10 and 11 of his statement of claim, George Tabu stated thus:

> *"10. The Claimant will contend that his termination/retirement contravened provisions of the Employment Act as he was forcefully retired without according him a hearing. For this he will seek compensatory awards.*
>
> *11. The Claimant will contend and aver that the Respondent conducts its affairs and business in a discriminatory manner and does not treat all its employees fairly and justly.*
>
> *12. The Claimant will contend that he was entitled to severance pay at the point of his termination/retirement."*

Evidence to support these claims was contained in his sworn statement in paragraphs 11, 12 and 13. The arbitrariness and unfairness of the decision was demonstrated in the contradictions between the terms that were offered to the respondents on 5th August 2010 and the terms of the Restructuring-Early Retirement and Voluntary Termination of Service Scheme that was subsequently communicated to all staff in the memo of 14th April 2011.

According to the memorandum of 28th June 2010, management could have bided their time and allowed the respondents' employment with the Bank

to continue till the proposed arrangements were announced on the 19th April 2011. Alternatively, management could have assessed the respondents' jobs to establish whether they were to be eliminated or abolished, as was envisaged in the memorandum dated 28th June 2010. In the circumstances, the respondents would have been lawfully and properly declared redundant and procedures that are attendant thereto under the law and the Bank's Human Resource Policies would have applied to them. However, management, for reasons best known to them, chose a different route.

It is also observed that as a result of the premature decision to end their employment, the lump sums that were paid to the respondents were calculated on the basis of years they had served. Each of them was paid a lump sum that was for less than 55 years, the earliest age at which they could have chosen to retire. I therefore find that the management decision to retire the respondents earlier than was provided for in the RBS Rules and contrary to the resolutions of the Board of Directors was manifestly discriminatory and unfair within the meaning of section 73 (1) (b) of the Employment Act.

Regarding the quantum of allowances to be paid to them, in cases where an employee makes a complaints to the labour officer under section 71 (2) of the Employment Act, a compensatory order is made under section 78(1), if it is established that the employee's termination was unfair. Further in all cases, the compensatory order should include four weeks' wages. However, the respondents did not make their complaint to the labour officer; they chose to go to the Industrial Court and they were within their rights to do so.

Section 89 of the Employment Act provides that the calculation of severance pay shall be negotiated between the employer and the workers of the labour union that represents them. In view of what transpired after their involuntary retirement, the respondents may not be in a position to negotiate with the managers of the Bank. The Bank's representatives have asserted here that the departure of the respondents from the Bank was lawful and that severance pay ordered by the Industrial Court was not due to them because it was outside the scope of section 89 of the Act.

However, the argument does not hold water because this court has established that the respondents are entitled to severance pay under the same provision. The respondents sued the employer and got judgment against them. There may not be room for cordial negotiations between the two parties anymore. This court therefore has to make a decision whether the award made by the trial court was appropriate or not in view of the slightly different reasons that have been given for finding in favour of the respondents.

The trial court awarded a month's pay for each completed year of service to each of the respondents because there was no negotiated amount between the employer and respondents or a labour union representing them. As a consequence of the unfair, discriminatory and premature actions against the respondents, I am of the view that the employer should meet the expectations of the respondents of which all staff were notified. Their expectations ultimately bore fruit in the memo of 19th April 2011. Clause 4 thereof provided for a severance package due to employees eligible for early retirement, as well as those who opted to leave by voluntary termination as follows:

> **"A severance package equivalent to <u>1.5 months' salary for every completed year of service to be paid for Permanent and Pensionable employees who opt to leave (1.5 x gross salary x no of years served in the Bank)</u> under either early retirement or voluntary termination of service scheme. For contract employees, the terms and conditions of service in the Service Agreements shall apply."** ***{My Emphasis}***

I am mindful of the fact that the application of this formula might be perceived as retrospective because the respondents had already left the Bank and their dues had been paid by the 19th April 2011 when the VTS/ER Scheme was announced to staff. However, the ground for its application has already been explained above in the analysis of the terms of the memorandum that was issued to all staff of the Bank on 28th June 2010. The resolutions therein were binding on the Bank and in particular, clause 3 (e) thereof, under *Early Retirement* which provided that:

> **"The Bank shall determine a severance package for staff that will retire under the early retirement arrangement."**

Implementation thereof was therefore binding on the Bank. If any untoward action was taken by management before the arrangements following the resolutions of the Board were put in place, they should answer for it to the Board.

The order for severance allowance at the rate of one months' pay for each completed year of service ordered by the Industrial Court is therefore set aside. The respondents shall instead be paid severance allowances, according to their reasonable and justified expectations, in the terms set out in clause 4 of the memorandum to all staff dated 16th April 2011.

Ground 3 of the appeal therefore also fails and it is dismissed.

Ground 4

Submissions of Counsel

With regard to ground 4, the complaint that the members of the Industrial Court erred when they awarded UShs 100,000,000/= to each of the respondents, counsel for the appellants submitted that the award was not justified by evidence. Counsel pointed out that the trial court recognised that the averment in George Tabu's statement that some of the employees who separated from the appellant Bank under the VTS/ER 2011 received payments of more than UShs 100 million and that it was not supported by any evidence. However, the court went ahead to award the alleged sum of UShs 100 million to each of the respondents as general damages. Counsel argued that the award had no basis because the termination of the respondents' employment was lawful. Further, and in the alternative, that if this award was lawful on account of unlawful termination, the claim and award of general damages was arbitrary and improper and ground 4 of the appeal should succeed.

In response, counsel for the respondents submitted that general damages are awarded at the discretion of the court, as a natural consequence of the omission they are entitled to cure. He referred to the definition of general damages in Black's Law Dictionary, that these are damages that the law presumes follow from the type of wrong complained about. That specifically, they are compensatory damages for harm that so frequently results from tort for which a party has sued that is reasonably expected and need not be specifically alleged or proved. He submitted that the rule is that the injured party is awarded a sum of money that would put him in the same position as he would have been had he not sustained the injury complained of. He relied on **British Transport Commissioner v. Gourley [1956] AC 185** to support his submission.

Counsel also referred us to **Robert Cousens v. Attorney General, SCCA No 8 of 1999** where the court proposed a formula for calculating damages for loss of employment and **Cookson v. Knoweles [1979] AC 556.** He cautioned that this court should not interfere with the decision of the trial court based on its discretion unless the award of damages is so high or so low and there was a failure to take into account a material consideration or an error in principle was made resulting in the award of damages being inordinately low or high. Counsel referred to **Robert Cousens** (cited above) and **Matiya Byabalemba & Others v Uganda Transport Company [1975] Ltd, SCCA No. 10 of 1993**, among others in support of his submission.

Turning to the complaint of the respondents that the appellant acted in a discriminatory manner contrary to Article 21 of the Constitution and section 6 of the Employment Act, counsel for the respondents submitted that this was the basis of the award of UShs 100 million as general damages to each of the respondents. He explained that the trial court followed the award in **Bank of Uganda v. Betty Tinkamanyire, SCCA No. 12 of 2008**, where the court awarded UShs 100 million as general damages for unlawfully bringing the respondents employment to an end when the employee was not at fault.

As justification for the decision of the trial court, Counsel for the respondents referred us to the statement of George Tabu who stated that the Bank had a policy in the pipeline that had attractive retirement packages for early retirees, which had been debated and was in its final stages. That the policy was applied to them and they received benefits in excess of UShs 100 million.

Counsel further submitted that his clients satisfied the trial court and intimated that the involuntary retirement made them miss their full

benefits that were only five years ahead. Further that they were deprived of the benefit of continuing to earn a salary for no reason. And that at the time of their retirement they were each at the age of 50 years and so could not find alternative employment due to advanced age. He contended that for those reasons, the respondents were entitled to the award of UShs 100 million. He concluded that the trial court made no error and this court should confirm the award.

In rejoinder counsel for the appellant that the only reason UShs 100 million was awarded was that the respondents claimed it as due to them, alleging that it was paid to employees who voluntarily retired after they were separated from the Bank. He asserted that it was not due to them and was awarded in error by the Industrial Court. He prayed that this court sets the award aside allows ground 4 and the whole of the appeal.

Resolution of Ground 4

Before awarding the respondents each Ushs 100 million as general damages, the trial court stated thus:

> *"The claimants claimed that hardly a few months after they had been involuntarily retired, some other employees were voluntarily retired and paid packages of over 100,000,000/=. These assertions were not proved, although the respondents did not deny that after their termination of the claimants, subsequently employees were retired under a new and conducive arrangement for the said employees. Given that the claimants were involuntarily retired, and almost, if not actually forced into retirement without any of them having breached any term of the employment relationship, the court considers 100,000,000/= as general damages sufficient for each of the claimants."*

I am mindful of the principle that the appellate court will not interfere with the discretion of the trial court in its award of damages unless that court acted upon a wrong principle of law or that the amount awarded is so high

or so low as to make it an entirely erroneous estimate of damages to which the claimant is entitled **[Rambhai Manjibhai Patel v. The Patidor Samag & Another (1944) 11 EACA 1].**

The paramount principle for the award of general damages was re-stated by the Supreme Court in **Omunyokol Akol Johnson v. Attroney General, Civil Appeal No 6 of 2012,** where Odoki, then Ag JSC, distinguished between special and general damages as follows:

> *"Special damages represent actual losses suffered by the claimant as a result of the wrong committed and must be specifically pleaded and proved. General damages are at large and are assessed by the Court on the basis of the injury, suffering and inconvenience caused to the plaintiff."*

In that case, the Supreme Court took into account that the appellant was awarded special damages of his arrears of salary. The court also recognised the fact that the appellant lost his employment while he was still young and as a result, he suffered embarrassment and inconvenience, as well as loss of future earnings. The court awarded him UShs 150 million as general damages, instead of UShs 180 million general and aggravated damages that had been awarded by the trial court and upheld by this court. The decision was handed down in April 2015, 6 years before the decision in this matter.

In **Betty Tinkamanyire** (supra) the trial court awarded general damages of UShs 30 million and punitive damages of UShs 20 million. The award was confirmed by this court. On appeal to the Supreme Court, before modifying the orders of the trial court that were confirmed by this court, the Supreme Court observed that,

> *"From the facts and evidence as well as submissions of counsel in this case, the respondent was only four years from the date of retiring with full pension rights. The evidence shows that she would have continued to serve the*

appellant and in an exemplary manner. In my opinion therefore, it would be iniquitous for her to lose any of her pension rights. Consequently, in conformity with the principles laid down in ***Barclays Bank v. Godfrey Mubiru,*** *(supra), while the court may not order her reinstatement, it is my view that I can save her pension rights she had already earned."*

The court then ordered that the respondent be paid her accrued pension and other terminal benefits and aggravated damages in the sum of UShs 100,000,000/=.

The facts in the case of **Tinkamanyire** (supra) were in some ways similar to those in the instant case in that she too was a permanent and pensionable employee of the appellant Bank. After her long and exemplary service to the Bank she was retired involuntarily when she had only a few years left to reach the normal age of retirement under the Bank's policy. She was retired in circumstances that led to her embarrassment because the management of the Bank had a short while before that issued a memorandum where it was stated that *"staff who are incompetent, poor time managers (particularly later coming), alcoholic, thieves, fraudsters and those who are insubordinate, will no longer be tolerated by the Bank."*

Because of what Kanyehamba, JSC described as degrading, callous and unfair treatment meted to her and the embarrassment she suffered, the Supreme Court held that the purported termination of her employment by the Bank amounted to unlawful summary dismissal. The Supreme Court thus deemed it fit to award her aggravated damages of UShs 100,000,000/= to express its disapproval of the actions of the Bank in addition to the pension and terminal benefits that were due to her and the costs of the suit.

On the basis of the two decisions above, the submissions of counsel for the appellant was only correct to the extent that the award of UShs 100

million was not supported by any evidence. I therefore find that the Industrial Court acted upon a wrong principle when they relied on the statement of George Tabu that employees of the Bank who retired voluntarily under the VTS/ER of 2011 were paid sums that were over UShs 100 million, without any evidence to support it. The learned judges and the panellists also erred when they awarded that amount without their own assessment of what was due to the respondents. I would therefore set aside the award and proceed to assess what, in my opinion, would be due to the respondents in this case.

It is clear from the evidence and the RBS Rules of the Bank that the respondents could have continued to serve the Bank until the normal retirement age of 60 years, if they did not opt to retire at 55 years. Instead, they were involuntarily retired without any explanation even before attaining the age of 55 years. As a result, they lost out on salaries that they would have earned up to their normal retirement age of 60 years according to the RBS Rules. Instead the respondents were paid three months' pay as compensation for these lost earnings for which no reason was assigned.

In addition, the respondents lost out on pension benefits that would have accrued had they continued in their employment until normal retirement age or even the earliest retirement age of 55 years. In that regard, rule 5 of the RBS Rules provided for benefits under the Scheme as follows:

> **(a) <u>Pension Benefit</u>. Subject to the provisions of paragraph (b) of Rule 4, each member on his retirement from the permanent service of the Employers on the Normal Pension Date shall be entitled to a yearly pension calculated at the rate of one sixtieth of the Salary payable to the Member at the Normal Pension Date for each complete year and month of service with the employers between**

the date of his entry into the Employers service and the Normal Pension Date.

The Trustees will review the amount of deferred pensions and pensions in payment on a regular basis annually and subject to receiving actuarial advice that adequate funds are available, increase them. The total percentage increase may not exceed the total percentage increase in annual headline price inflation.

The mode of payment of pension under this head was provided for by rule 5 (e) of the RBS Rules. Pensions are paid in equal monthly instalments, the first due on the Normal Pension Dates of the Members, to continue through the remainder of their lifetime and cease with the monthly instalment due immediately before the date of their death. There is in addition to this provision for payment of pension to the dependants of the pensioners, on specified terms, in the event of their death 5 years into retirement.

Analysis of the provisions of rule 5 of the RBS results in the conclusion that the employee who chooses to retire early volunteers to give up his/her right to the additional benefits that could accrue to his dependants if he retired at the Normal Pension Date. In this case, the respondents involuntarily gave up that benefit. The involuntary retirement also means that the respondents lost out on the full pension benefits, that is, the comfort of a monthly payment on retirement for the rest of their lives, which is the paramount expectation of any employee who chooses to join any superannuation scheme. They also lost the opportunity of the payment of any balance to their dependants, in the event that they should die early in their retirement.

In addition, the payment of lump sums of money to an employees who were not yet prepared to retire may not result in the social security that

was expected by employees who contributes to a pension scheme. They may not have been ready to invest the money for their benefit when they could no longer work and/or live without a salary. These are important aspects of social security that an employee should only lose if they chose to. The abrupt payment of reduced lump sums of money was therefore prejudicial to the respondents' economic welfare.

The situation was made even worse for the respondents because he terms of the involuntary and abrupt retirement included that in the event that there were funds due from them to the Bank they would be offset from their retirement and pension benefits. And in the event that the benefits were insufficient to cover the indebtedness, the respondent had to settle the outstanding balance immediately. In this regard, the respondents were treated like employees that had committed grave misconduct for which they were being punished.

Finally, because they were forced to retire, the respondents lost the opportunity of having their benefits under the scheme augmented in the event of any review to increase pension, as is provided for in paragraph 2 of rule 5 (a) of the RBS Rules. They were also particularly disadvantaged because their benefits were not calculated on the basis of the earliest retirement age of 55 years. The terms of payment in the letters of 5th August 2010 were that they would be paid an *"actuarially reduced pension and cash sum calculated using their completed years of service."*

In this case, the respondents already received what that Bank considered were their just dues. However, the managers of the Bank acted in a callous manner and did not take into account the effect of their decision, which I have laid out above. Having taking the factors above into account, I would maintain the award of the Industrial Court to the respondents of general

damages of UShs 100,000,000/= as a suitable amount to compensate each of them for their pain and suffering and the losses enumerated above.

Ground 4 of the appeal therefore also fails and it is dismissed.

It is observed that the trial court did not make any orders for costs and no reasons were assigned for the decision. The appellant's counsel prayed that the costs of this appeal be paid by the respondents while the respondents prayed that the costs of this appeal and in the court below be paid by the appellant.

It is a well settled principle that the successful party in civil litigation is awarded costs but the court or judge may hold otherwise, and lawfully so. The principle flows from section 27 (2) of the Civil Procedure Act which provides that the costs of any action, cause or other matter or issue shall follow the event unless the court or judge shall for good reason otherwise order.

The discretion accorded to the court to deny a successful party the costs of litigation must be exercised judicially and for good cause. Costs are an indemnity to compensate the successful litigant for the expenses incurred during litigation. Costs are not intended to be punitive but a successful litigant may be deprived of his costs only in exceptional circumstances; **Wambugu v. Public Service Commission [1972] E.A. 296**.

In awarding costs therefore, the courts must balance the principle that justice must take its course by compensating the successful litigant against the principle of not gaging poor litigants from accessing justice through the award of exorbitant costs. In this case, the trial court gave no reason for not awarding costs to the successful litigants and I have found

none. I would therefore order that one half of the respondents' costs of this appeal and the costs in the court below be paid by the appellant.

In my opinion therefore, this appeal substantially fails and I would confirm the findings, decisions and orders of the Industrial Court but I would modify them as follows:

i) The appellant shall pay, to each of the respondents, severance allowance equivalent to 1.5 months' salary for each completed year of service.

ii) The appellant shall pay to each of the respondents general damages of Ushs 100,000,000/=.

iii) Interest of 21% p.a. on (i) and (ii), as was ordered by the Industrial Court.

iv) One half of the respondents' costs of this appeal and the costs in the court below be paid by the appellant.

It is so ordered.

Dated at Kampala this 11th Day of May 2021.

Irene Mulyagonja

JUSTICE OF APPEAL