

REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA

HOLDEN AT KAMPALA  
(Commercial Court Division)

HCT -00-CC-CS-0708 OF 2002

G.W. Nsohya Plaintiffs

Edward Kato

Versus

Uganda Posts and Telecommunications Employees Defendant  
Cooperative Savings and Credit Society Ltd

*Employment-Saving-Interest-Damages.*

**Brief facts:**

*The plaintiffs were employees of Uganda Posts and Telecommunications, and had accounts with the defendants to which were deposited monthly deductions from their salaries. They stopped working with UPTC and demanded payment of this money to no avail, save for Shs500, 000.00, paid to each of the plaintiffs after this suit was filed. In spite of service of court process, the defendant did not turn up on the hearing date so the plaintiffs proceeded ex parte.*

**Issues:**

*Whether the plaintiffs succeeded on a balance of probabilities to prove their claim.*

**Held:**

*Plaintiffs Shs.500, 000.00 as general damages for inconveniences suffered.*

*Judgment entered for the plaintiffs*

BEFORE: THE HON. MR. JUSTICE F.M.S. EGONDA-NTENDE

JUDGMENT

1. The two plaintiffs, G.W. Nsobya and Edward Kato, are former employees of the defunct Uganda Posts and Telecommunications Corporation. During their tenure there were members of Uganda Posts and Telecommunications Corporation Employees Cooperative Savings and Credit Society Ltd, the defendant in this case. Monthly deductions were made from their salaries and deposited on their savings account with the defendant.
2. In March 2001 the plaintiffs ceased being employees of the Uganda Posts and Telecommunications Corporation. They demanded their savings from the defendants which stood at Shs. 2,064,202.00 and Shs.3, 688,807.00 for Plaintiff No. 1 and Plaintiff No.2 respectively. The defendant did not pay them, hence this action, filed on 2<sup>nd</sup> December 2002, claiming the said amounts together with general damages, interest and costs of the suit.
3. In its written statement of defence the defendant claimed that this suit was premature, improperly instituted, disclosing no cause of action, prolix, frivolous, misconceived, vexatious and an abuse of court process which should be dismissed with costs. In addition, the defendants denied that refunds to the plaintiffs were due in accordance with the bye laws of the society and members resolutions. Without prejudice the defendants asserted that they had offered part payments of the sums claimed by the plaintiffs but the plaintiffs did not pick up the payments or had refused to pick the same. The defendant prayed that this suit be dismissed.
4. When this suit initially came up for hearing, neither the defendant nor his advocates, M/S Katende, Ssempebwa and Co. Advocates were present. I adjourned the case to 3<sup>rd</sup> March 2005 to allow time to notify the defendant directly of that hearing date. In spite of service of court process, the defendant did not turn up on 3<sup>rd</sup> March, 2005. I allowed the plaintiffs to proceed ex parte.
5. The two plaintiffs testified and closed their case. PW1 was G.W. Nsobya. In his brief testimony to this court he stated that he had worked for 30 years with the UPTC, during which period there were monthly deductions from his salary credited to his account with the

defendant. When he ceased work with UPTC, in March 2001, the savings stood at a sum of Shs.2, 064,202.00 only as shown by the Passbook, tendered into evidence as exhibit P1. He demanded payment of the said amount and was only paid Shs.500, 000.00 after he instituted this action. He now claims the balance, and profit on his money. He claimed interest, general damages, and costs of the action.

6. Edward Kato was PW2. He testified that he was an employee of Uganda Posts and Telecommunications, and had an account with the defendants to which were deposited monthly deductions from his salary. He stopped working with UPTC in March 2001, and by that time, his balance with the defendant was Shs.3, 188,807.00, as shown in the passbook, admitted into evidence as exhibit P3. He demanded payment of this money to no avail, until he filed this suit, after which he received part payment of Shs.500, 000.00 only through the defendant's lawyers. He now claims the balance and costs of this suit.

7. The hearing in this case proceeded ex parte, in the absence of the defendants who had been duly served with court process. The evidence of the plaintiff stands uncontroverted.

Nevertheless, it still must be evaluated to determine if the plaintiffs have succeeded on a balance of probabilities to prove their claim. In the defence put forward by the defendant it was alleged that there was no valid claim on the defendants, as this claim was basically in breach of the bye laws of the defendant and the members resolutions. These bye laws and members' resolutions were not provided to the court by the defendant. That defence remained unsubstantiated.

8. The plaintiffs have proved that they made deposits with the defendant the sums of money claimed on their savings account with the defendant. When they ceased employment with the UPTC they demanded for their savings. These were not paid save for Shs500, 000.00, paid to each of the plaintiffs after this suit was filed. I am satisfied that the plaintiffs have proved their claim on a balance of probabilities, and that they are both entitled to the sums claimed. I allow the principal amounts claimed.

9. There was a claim for interest. It is clear that after March 2001, no further interest was posted to their accounts in the savings books, yet the defendants continued to retain these moneys. Prior to March 2001, interest was being credited to the savings accounts. Counsel for the plaintiff claimed interest at 30% p.a. without establishing a basis for it in evidence. I find that the amounts claimed should bear interest from March 2001 but as there is no evidence to support a particular rate, I fix this at court rate of 12% p.a. from March 2001 till payment in full.

10. There was a claim for general damages but no evidence put forward to support it. No

doubt the plaintiffs must have suffered some inconvenience while their savings were being denied to them and as they made unsuccessful demands for payment. On this account, I award each of the plaintiffs Shs.500, 000.00 as general damages for inconveniences suffered. 11. In the result Judgment is entered for the plaintiffs as set out above with costs of this suit.

Dated at Kampala this 10<sup>th</sup> day of March 2005

FMS Egonda-Ntende  
Judge