

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

COMMERCIAL COURT DIVISION

HCT-00-CC-MA-0654-2006

(Arising from HCT-00-CC-CS-0245-1999)

Argus Construction & Joinery Ltd

Applicant

Versus

Attorney General

Respondent

BEFORE: THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE

RULING

1. The applicant was the successful party in the suit, and is now the judgment creditor in respect of a decretal sum of shs.20,579,751.00, interest at the rate of 12 per cent annum from March 1999 till payment in full and the costs of the suit, taxed and allowed at Shs.12,661,000.00. The applicant now seeks an order of Mandamus directing the Commissioner/Treasury Officer of Accounts to comply with the decree of this court by paying all the monies due to the applicant there under.
2. The respondent did not oppose this application. At the hearing of this application Ms Fatuma Nanziri, the learned state attorney, representing the Attorney General stated,
‘I do not object to the application. Apparently this case has been listed as 118 in the priority list. It is just that funds have not been availed but the same has been listed for payment in this quota.
What we need is more time to enable government get the funds.’
3. Asked as to how much time Government needed to pay, Ms Nanziri was unable to give any idea about the time Government needed to be able to pay.
4. As this application is not opposed, I am satisfied that this is an appropriate case in which this court should issue an Order of Mandamus, directing the Commissioner/Treasury Officer of Accounts of Government of Uganda to pay without further delay, the decretal

sums of money due to the applicant, which have remained outstanding since the decree was entered in this suit. Accordingly the application is allowed.

5. The Commissioner/Treasury Officer of Accounts is ordered to pay the decretal sums, interest and costs as allowed by the court, forthwith, and without further or any delay. I further direct that the Attorney General shall meet the costs of these present proceedings.
6. Before I take leave of this matter I must turn to another matter that was raised by Ms Fatuma Nanziri, the learned State Attorney, at the hearing of this application. Ms Fatuma Nanziri raised a preliminary objection that this application was time barred. I dismissed the objection, and promised to give my reasons in this ruling, and I now do.
7. Ms Fatuma Nanziri, learned state attorney, for the Attorney General, submitted that this application was time barred, contrary to Rule 5(1) of The Civil Procedure (Amendment) (Judicial Review) Rules, S.I. 75 of 2003. She submitted that the decree in this case was extracted in October 2002, and that time started to run then, which was more than the 3 months allowed under Rule 5(1) of the Rules aforesaid. Ms Nanziri prayed that this application should therefore be struck out.
8. Ms Nanziri referred this court to what she called a decision of this court, in *Rwomushana v Attorney General*. She provided no other particulars of the case. Obviously it is unreported, or must be presumed unreported as no citation was provided. No case number was provided. In short, counsel was hardly helpful.
9. Mr. Bakwega, learned counsel for the judgment creditor/applicant, opposed the preliminary objection. He submitted that in terms of the Government Proceedings Act, Section 19, a judgment creditor must obtain a certificate of order against government, in order to be able to initiate proceedings to compel government to comply with a decree. The certificate was obtained only on 19th May 2006, and time does not start to run until then. These proceedings were commenced only on 12th July 2006, less than 3 months from the issue of a certificate of order against government. The proceedings were therefore within time.
10. I take the view that the reference to 'when the grounds of the application first arose' to refer, not to the date of the decree or for that matter the date of issue of the certificate of order against government, but refers to when the applicant is satisfied that the officer in question, will not obey the certificate of order against government. This may well be long

after the issue of a certificate of order against government. It is only after the applicant determines that the officer in question is not going to comply with the order that time will start to run. In this case this could only have happened after the issue of the certificate of order against government. As proceedings were brought in less than 3 months from the date of issue of the certificate of order against government, I was satisfied that this application was not time barred.

Signed, dated and delivered this 2nd day of November 2006

FMS Egonda-Ntende
Judge