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Godfrey Sentongo V Stanbic Bank Uganda Ltd- HCT-00-CC-MA-0059-2007 [2007] UGCommC 27 (4 April 2007)

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

COMMERCIAL COURT DIVISION

**HCT-00-CC-MA-0059-2007**

(Arising from HCT-00-CC-CS-0454-2005)

Godfrey Sentongo  
Applicant  
Versus

Stanbic Bank Uganda Ltd Respondent

**4 April 2007**

**BEFORE: THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE**

**RULING**

1. This application is seeking the review of an earlier order that I made declaring that the plaintiff no.3, now applicant, had not established a cause of action against the defendant/respondent. The application is made under Order 46 Rules 1 and 8 of the Civil Procedure Rules. It is supported by an affidavit sworn by Joseph Balikuddembe, learned counsel for the applicant. The ground upon which it is made is that there is an error apparent on the face of the record and in the alternative that the applicant may suffer injury and damages, if unheard.
2. The affidavit in support is quite short, and the relevant portion thereof is paragraph 3, which I set out in full below.

‘That having looked at the plaint again, I have discovered that an error apparent on the face of the record was committed occasioned by counsel for the plaintiffs failing to draw the court’s attention to the provisions of paragraphs 3(a) (i) and (ii); 4 (f); 6(a); 7 and 9, copies of which are annexed hereto and highlighted for ease of reference.’

3. Mr. Joseph Balikuddembe, learned counsel for the applicant, submitted that the plaint in this case does disclose a cause of action for the applicant/plaintiff no.3 against the defendant/respondent but that learned counsel for the plaintiff no.3, presumably the one who argued that objection when it arose, inadvertently failed to point out to the court the provisions of the plaint which showed that the plaintiff no.3 had a cause of action against the defendant. He then went on to argue that that the plaint in fact does disclose

a cause of action against the defendant in respect of the applicant/plaintiff no.3.

4. Mr. Masembe Kanyerezi, learned counsel for the respondent, opposed this application, arguing that the applicant had failed to establish that there was a viable ground for review of the order of this court. The applicant had not shown which error was apparent on the face of the record. The error was not mentioned in the application or in the applicant's supporting affidavit.

5. It appears to me that the contentions of the applicant substantially are to the effect that this court reached a wrong decision in finding that the plaintiff did not disclose a cause of action in respect of the applicant/plaintiff no.3 against the defendant. There is no error on the record as such that the applicant points too. Arguments of counsel, on their own, whether adequate, or inadequate, can hardly, in my view, appear to be errors that are anticipated to lead to review of a court's decision under Order 46 Rule 1 of the Civil Procedure Rules.

6. It appears to me that all that the applicant is raising here is that this court made a wrong decision given the material and information at its disposal, i.e. the plaintiff, at the time it made the decision sought to be reviewed. In such a case, it would appear to me, the applicant may have a good ground of appeal against that decision, but not a ground for review of the said decision. As was noted in the head note in **Abasi Balinda v Frederick Kangwamu and Another [1963] E.A. 557**, a point that may be a good ground of appeal may not be a ground for an application for review and an erroneous view of evidence or of law is not a ground for review though it may be a good ground for an appeal.

7. An erroneous decision that the plaintiff did not disclose a cause of action may be appealable and there may well be good grounds of appeal but such good grounds can hardly form the basis for review of that decision under Order 46 Rules 1 and 8 of the Civil Procedure Rules. I reject this application as it has not established any ground upon which the decision sought to be reviewed can be reviewed.

It is accordingly dismissed with costs.