

**THE REPUBLIC OF UGANDA**

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

**[COMMERCIAL DIVISION]**

**Civil Suit No.15 of 2021**

**HOUSING FINANCE BANK LIMITED:.....PLAINTIFF**

**VERSUS**

**MTK UGANDA LIMITED:.....DEFENDANTS**

**BEFORE; HON. JUSTICE DUNCAN GASWAGA**

**JUDGMENT**

- [1] This is a judgment on a claim for recovery of a liquidated sum of Ugx 207,326,980.23 (Uganda Shillings two hundred seven million three hundred twenty-six thousand Nine Hundred Eighty and Twenty-three cents) with interest and costs of the suit.
- [2] The cause of action arose as follows; that the plaintiff granted the late Francis Xavier Kitaka Ssebampitako a credit facility of Ugx 250,000,000 for thirty-six months on 28/01/2019 and the borrower was required to pay the loan in equal monthly instalments of Ugx 9,290,896/=. The defendant consequently issued to the bank a deed of undertaking on 29/01/2019 wherein it committed to immediately remit the borrower's terminal benefits at the date of termination of employment with it in settlement of outstanding loan obligations and accrued interest. Further, on 04/03/2019 the defendant issued in favour of the bank a corporate guarantee that the defendant would on demand pay to the bank all moneys and discharge all debt obligations

of the deceased. However, since the death of the borrower the defendant has not remitted the borrower's terminal benefits to the bank despite various demands. The plaintiff issued a demand notice to the defendant on 24/11/2020 for the borrower's terminal benefits and also made a call on the guarantor to pay the guaranteed facility which has been ignored to date.

[3] It should be noted that the defendants applied for leave to appear and defend vide M.A No. 62 of 2021 which was dismissed for failure to disclose any triable issues or reasonable grounds of defence. As such the main suit was left un defended.

[4] Order 36 rule 5 CPR states thus;

***Judgment upon refusal to give leave.***

*Where, after hearing an application by a defendant for leave to appear and defend the suit, the court refuses to grant such leave, the plaintiff shall be entitled as against the defendant to a decree such as is described in rule 3 of this Order.*

[5] I have had opportunity once again to peruse the pleadings. I find that the evidence on record clearly establishes a debt of Ugx 207,326,980.23(Uganda shillings two hundred seven million three hundred twenty-six thousand nine hundred eighty and twenty-three cents) owed by the defendants as per the deed of undertaking and deed of corporate guarantee. The debt is not challenged.

[6] Accordingly, I hereby enter judgment against the defendant in the sum of Ugx 207,326,980.23(Uganda shillings two hundred seven million three hundred twenty-six thousand nine hundred eighty and twenty-three cents) plus interest at 23% per annum from the date of default till payment in full. The defendant shall also pay costs of the suit to the plaintiff.

Dated, signed and delivered at Kampala this 30<sup>th</sup> day of April, 2021

  
Duncan Gaswaga

JUDGE