THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA SITTING AT KAMPALA

(COMMERCIAL DIVISION)

MICELLANEOUS CIVIL APPLICATION No. 0089 OF 2021

(Arising from Civil Suit No. 0579 of 2019).

1. FRIEDHELM ERWIN JOST }
2. KURT WALTER BLATTER } …… APPLICANTS

VERSUS

1. ROKO CONSTRUCTION LIMITED }
2. MARK WALTER KOEHLER } ……..… RESPONDENTS
3. JEAN MANN FRANCEY KOEHLER}

Before: Hon Justice Stephen Mubiru.

RULING

a. Background.

The applicants are minority shareholders in the 1st respondent company. A dispute between them and the majority shareholders having arisen, the applicants filed a suit and at the same time entered into protracted negotiations with the respondents which culminated in a Confidential Settlement Agreement. The applicants as well executed a Share Acquisition Agreement on 18th May, 2020 by which a one Mr. Peter Mugarura, who is also a director in the 1st respondent, agreed to acquire all shares of the applicants at a specified price, payable within eighteen (18) months from the date of signing that agreement. On basis of that agreement, the applicants entered into a consent judgment with the respondents that was filed in court on 2nd June, 2020. The said Mr. Peter Mugarura though failed to honour the terms of the Share Acquisition Agreement despite having been accorded an extension of time and this prompted the applicants to issue a statutory demand upon the 1st respondent and Mr. Peter Mugarura under *The Insolvency Act*. In proceedings seeking to set aside that demand, Mr. Peter Mugarura contended that he had been inhibited from paying the agreed purchase price by challenges arising from restrictions on air travel as a result of Covid19 control measures. In a subsequent affidavit in rejoinder which he filed on 27th July, 2020 in those

proceedings, Mr. Peter Mugarura categorically stated that he was not interested in the shares anymore due to the economic effects of Covid19 which had reduced drastically the value of the 1st respondent as a going concern.

5b. The application.

The application is made under the provisions of section 33 of *The Judicature Act*, section 98 of *The Civil Procedure Act* and Order 52 rules 1 and 3 of *The Civil Procedure Rules*. The applicant seeks an order setting aside a consent judgment between the parties dated 2nd June, 2020. The grounds are that the consent judgment was procured by misrepresentation to the applicants by the respondents and therefore was entered into under mistake of fact. The consent judgment is not supported by consideration, contravenes public policy and constitutes an abuse of court process. The applicants contend that during negotiations leading to the execution of the Share Acquisition Agreement, they were assured by the respondents that Mr. Peter Mugarura had funds at his disposal capable of paying off the applicants, whereas not. Had the applicants obtained prior knowledge of his impecuniousness, they would never have entered into the consent judgment. The respondents falsely induced the applicants to enter into the consent judgment with the hidden motive of fraudulently terminating the proceedings against them. Mr. Peter Mugarura acted as an agent of the respondents in signing the Share Acquisition Agreement with a view to compromising the suit filed against the by the applicants. The respondents are beneficiaries of Mr. Peter Mugarura's dubious scheme, having acquiesced to it by executing the consent judgment, of leading the applicants into a consent judgment he had no intention of fulfilling.

c. Affidavits in reply

In the respondents' respective affidavits in reply, it is contended that neither the 1st respondent nor the 2nd respondent as its Managing Director and the 3rd respondent as the majority shareholder is a party to the Share Acquisition Agreement between the applicants and a one Mr. Peter Mugarura. That agreement therefore cannot be enforced against the respondents. At the execution of that agreement, the applicants were at all material time aware of the fact that Mr. Peter Mugarura intended to finance his obligations using funds sourced from outside the country, despite the then

existing travel restrictions, yet Mr. Peter Mugarura was required by his bankers to physically sign off a transfer of funds to the applicants. The applicants sought to take advantage of the delay in payment by the imposition of an 8% interest on the purchase price which Mr. Peter Mugarura contested. When the applicants issued a statutory demand this resulted into litigation as a result of which Mr. Peter Mugarura lost interest in acquisition of the shares. By their unreasonable conduct, the applicants have frustrated performance of the Share Acquisition Agreement. Allegations of fraud cannot be adjudicated based on an application of this nature, but by plaint.

d. Submissions of counsel for the applicants.

M/s BKA Advocates on behalf of the applicants submitted that Mr. Peter Mugarura as director of the 1st respondent was fronted by the respondents as a person capable of facilitating a compromise of the suit, by acquisition of the applicant's shares. Mr. Peter Mugarura was misrepresented as a person with the financial means to do so. A specific timeline of payment within eighteen working days was agreed upon. It is on that basis that the consent judgment was then executed. When he breached the agreement, a statutory demand was made. In seeking to have the statutory demand made on him set aside, he categorically stated that he was no longer interested in purchasing the shares. Both parties executed the consent judgment under a mistake of fact believing that Mr. Peter Mugarura had the capacity to acquire the applicants' shares. Both believed he had the financial ability whereas not. The consent judgment references a Confidential Settlement Agreement. The consent judgment is incapable of being executed; the terms of the confidential settlement agreement are undisclosed and yet the respondent is not privy to the Share Acquisition agreement that formed the basis of the consent judgment. It is against court policy to have a judgment that cannot be enforced by reason of ambiguity.

e. Submissions of counsel for the respondents.

M/s Kirunda and Wasige Advocates on behalf of the respondents submitted that the respondents are not party to the Share Acquisition Agreement between the applicants and a one Mr. Peter Mugarura. That agreement therefore cannot be enforced against the respondents. At the execution of that agreement, the applicants were at all material time aware of the fact that Mr. Peter Mugarura

intended to finance his obligations using funds sourced from outside the country. By their unreasonable conduct, the applicants have frustrated performance of the Share Acquisition Agreement. The grounds advanced cannot form the basis of setting aside the consent judgment. The application ought to be dismissed with costs to the respondents.

f. The decision.

A consent Judgment is a judgment of the court in terms which have been contractually entered into by parties to the litigation, validated by Court under O.50 rule 2 and Order 25 Rule 6 of *The Civil Procedure Rules* (see *Brooke Bond Liebeg (T) Ltd v. Mallya [1975] E.A 266*). A consent judgment once recorded or endorsed by the Court, becomes the judgment of the Court and binding upon the parties. For that reason, in *Nshimye and Company Advocates v. Microcare Insurance Limited and Insurance Regulatory Authority, H.C. Misc. Application No. 231 of 2014*, it was decided that by consent judgments, the Court assists and facilitates parties to meet the ends of Justice and that it would therefore be unfair and cause injustice to nullify a consent judgment properly concluded. It is however unique in that it is not a judgment of the Court delivered after hearing the parties. It is an agreement or contract between the parties. As such it can only be set aside for a reason which would enable the court to set aside or rescind on an agreement.

Historically, therefore, it was considered that a fresh suit was necessary where a party sought to establish that a consent judgment was tainted by fraud or mistake (see *Jonesco v. Beard [1930] AC 298* and *de Lasala v. de Lasala [1980] AC 546*). The logic of this approach was that a fresh suit would be required as the main proceedings were no longer existent, having been concluded, and could not be revived by an application made within the proceedings. Fresh pleadings would be required setting out the allegation of fraud, mistake or non-disclosure and seeking the set aside of the order by way of relief and the matter would proceed to a trial of the allegations. However in *Hirani v. Kassam [1952] EA 131*, followed in *Attorney General and another v. James Mark Kamoga and others, S. C. Civil Appeal No. 8 of 2004*, it was held, inter alia, that;

> Prima facie, any order made in the presence and with the consent of counsel is binding on all the parties to the proceedings or an action, and it cannot be varied or discharged unless obtained by fraud or collusion, or by an agreement contrary to the policy of the

> court…..or if the consent was given without sufficient material facts, or in general for a reason which would enable a court to set aside an agreement.... It is a well settled principle therefore that a consent decree has to be upheld unless vitiated by a reason that would enable Court to set aside an agreement such as fraud, Mistake, Misapprehension or Contravention of Court policy. The principle is on the premise that a consent decree is passed on terms of a new contract between the parties to the Consent Judgment.

Similarly in *Babigumira John and others v. Hoima Council [2001 – 2005] HCB* 116, it was held, *inter alia,* that a consent order can be set aside if it was given without sufficient material facts or in misapprehension or in ignorance of material facts or in general for a reason which would enable the court to set aside such an agreement. In *Pavement Civil Works Ltd v. Andrew Kirungi, High Court Misc. Application No. 292 of 2002,* it was held that a consent Judgment and decree cannot be set aside by appeal but rather by a suit, or by an application for a review of the Judgment sought to be set aside; but that the more appropriate mode is by an application for review.

There may be a change in the parties' circumstances which has taken place since the consent judgment was sealed. However, this would not normally give rise to any case for reopening matters. Settlements are intended to be final and they must be based on a snapshot taken at the time of the trial or agreement. A consent judgment therefore cannot be set aside on account of one of the parties having a change of heart. A party should not expect to profit from, or lose by, later changes in the other's fortune. A party who at the time of the agreement choses a speculative position will have no justification for subsequently seeking to be relieved of the consequences of his or her speculation. A party who chooses to take a gamble by agreeing to a specific method of settlement cannot subsequently ask the court to remedy the situation if the gamble turns out to be a loss due to fluctuations in market prices, however drastic. A significant increase or decrease in the value of a key asset would never be sufficient. It cannot be varied or set aside merely on the ground of a greater benefit or convenience arising from its variation or from setting it aside, except of course by consent of parties.

A consent judgment has to be upheld unless it is vitiated by the fact that if it was entered into without sufficient material facts or in misapprehension or in ignorance of material facts, or it was actuated by illegality, fraud, mistake, contravention of court policy or any reason which would

enable the Court to set aside an agreement (see *Hirani v. Kassam [1952] EA 131; Attorney General and Uganda Land Commission v. James Mark Kamoga, S.C. Civil Appeal No. 8 of 2004*; *Brooke Bond Liebig (T) Ltd v. Mallya [1975] 1 EA 266; Edison Kanyabwera v. Pastori Tumwebaze [2001 – 2005] HCB 98; Kenya Commercial Bank Ltd v. Specialised Engineering Co. Ltd [1982] KLR 485; Huddersfield Banking Co. v. Hy. Lister & Sons [1895] 2 Ch. 271; Wilding v. Sanderson [1897] 2 Ch. 534* and *Babigumira John and others v. Hoima District Council [2001 – 2005] HCB 116*). A consent judgment is a mere creature of the agreement on which it is founded, and may be set aside on any ground which will invalidate an agreement between the parties, such as mistake as to fact or law, or fraud committed by the other party at the time when the it was entered.

In the instant application, the applicants advance a three pronged attack for seeking an order setting aside the consent judgment, in that; it was procured by misrepresentation of material facts, the applicants were laboring under a mistake of fact when they signed it and that it is against court policy. Each will be considered separately.

i. Misrepresentation of material facts.

Parties entering into a contract will no doubt recognise and accept the risk of errors and omissions in the preceding negotiations, even negligent errors and omissions. But each party will assume the honesty and good faith of the other; absent such an assumption they would not deal (see Lord Bingham of Cornhill in *HIH Casualty and General Insurance Ltd v. Chase Manhattan Bank [2003] 2 Lloyds Rep 61, para 15*). If a party was in breach of the duty of candour, whether by actively giving a false case or positively failing to reveal relevant circumstances, then the court has the power to set aside the order even if that order had been reached by consent.

A misrepresentation is a false statement of fact made that has the result of inducing the other party to enter a contract. According to section 2 of *The Contracts Act, 7 of 2010* misrepresentation occurs when; (a) a positive assertion is made in a manner which is not warranted by the information of the person who makes it or by making an assertion which is not true, though the person who makes it believes it to be true; (b) any breach of duty which without an intent to deceive, gains an advantage to the person who commits it or anyone who claims under that person by misleading

another person to his or her prejudice or to the prejudice of any one claiming under that other person; or (c) causing, however innocently, a party to an agreement, to make a mistake as to the substance of the thing which is subject of the agreement;

Courts have the right to set aside a contract obtained by a fraudulent misrepresentation (see *Lord Gilbert Kennedy v. The Panama, New Zealand, and Australian Royal Mail Company (Limited) (1867) LR 2 QB 580*). It is enough to show that there was a fraudulent representation as to any part of that which induced the party to enter into the contract which he seeks to rescind. On the other hand, where there has been an innocent misrepresentation or misapprehension, it does not authorise a rescission, unless there is a complete difference in substance between what was supposed to be and what was taken, so as to constitute a failure of consideration.

The question is whether or not the terms of the agreement would have been substantially different had the applicant been aware of the facts. The hurdle is that non-disclosure would otherwise make a "substantial difference," and not just any difference. It is contended by the applicants that Mr. Peter Mugarura was misrepresented as a person with the financial means to purchase the applicant's shares. A specific timeline of payment within eighteen working days was agreed upon. It is on that basis that the consent judgment was then executed. It turned out later that Mr. Peter Mugarura neither had the means nor the will to carry the agreement through. No evidence was adduced to prove the contrary to be true. The respondent's contention that Mr. Mugarura was only prevented by travel restrictions from fulfilling his undertaking too is not supported by evidence. By his conduct, it is evident that Mr. Peter Mugarura neither had the means nor the will to carry the agreement through, yet the applicants relied on his statement to enter into the share Acquisition agreement and the consent judgment.

I come to the conclusion that non-disclosure of Mr. Peter Mugarura's financial incapacity would otherwise have made a "substantial difference," and not just any difference to the applicant's decision to execute the Share Acquisition Agreement, and subsequently the consent judgment. When a misrepresentation is shown to have occurred, the effect will be that the contract becomes voidable. Any consent judgment based on an underlying contract which is voidable, one which a court would be bound to set aside if asked to do so, cannot stand.

ii. A mistake of fact.

This ground focuses on events arising at or before the time of the consent judgment which formed its basis. Where parties reached a consensus but with divergence of minds on a fundamental or material fact, a court may set aside such a judgment. A fact may is material, which if known at the time would have led to a different decision being made. The basis of this reasoning is that there is actually no consent or the "consent" is but in name. In these circumstances, the court may set aside the consent judgment, provided that the mistake was not the fault of the applicant. The difficulty in every case is to determine whether the mistake or misapprehension is as to the substance of the whole consideration, going, as it were, to the root of the matter, or only to some point, even though a material point, an error as to which does not affect the substance of the whole consideration.

The principles which apply when an order for setting aside a consent judgment is sought on the ground of mistake were summarised in *J v. B [2016] 1 WLR 3319,* as follows; (i) the court may set aside a consent judgment on the ground that the true facts on which it based its disposition were not known by either the parties or the court at the time the order was made; (ii) the applicant must show that the true facts would have led the court to have made a materially different order from the one it in fact made; (iii) the absence of the true facts must not have been the fault of the applicant; (iv) the applicant must show, on the balance of probabilities, that he or she could not with due diligence have established the true facts at the time the consent judgment was made; (v) the application to set aside should be made reasonably promptly in the circumstances of the case; (vi) the applicant must show that he or she cannot obtain alternative mainstream relief which has the effect of broadly remedying the injustice caused by the absence of the true facts; and (vii) the application, if granted, should not prejudice third parties who have, in good faith and for valuable consideration, acquired interests in property which is the subject matter of the relevant order.

If there is no agreement there is no consent upon which judgment can be founded. According to section 17 (2) of *The Contracts Act, 7 of 2010* a contract is void where one of the parties to it operates under a mistake as to a matter of fact essential to the contract. Such unilateral mistake is considered sufficient to give the Court jurisdiction to discharge an order made by consent (see *Mullins v. Howell (1879) 11 Ch. D. 763*).

Where the parties are not at one as to the subject of the contract there is no agreement. This applies where the parties have misapprehended each other as to the corpus.

There was a mutual mistake existing between the parties, the applicants on the one hand believing that the Share Acquisition Agreement when honoured would result in compromising the suit, and the respondents on the other hand believing they were not bound by the agreement. In this crucial aspect, therefore, the consent judgment was made on a fundamentally false and mistaken basis. A consent judgment founded upon the premise that there was an underlying contract when in fact there was none could fairly be described as suffering from a fundamental defect.

iii. Contravention of court policy.

It is the policy of courts to give effect to agreements which are freely entered into by each party with a full appreciation of its implications unless in the circumstances prevailing it would not be fair to hold the parties to their agreement. The courts have long upheld the principle that it is highly desirable to have finality in civil litigation. The law wants finality. It does not want parties forever being able to reopen, take back and change orders once made. For public policy reasons, setting aside a consent order is very hard. In addition, the courts worry constantly about the so-called opening of the floodgates of litigation. However Lord Denning in *Lazarus Estates Ltd v. Beasley [1956] 1 Q.B. 702* stated that:

> No courts in this land will allow a person to keep an advantage obtained by fraud. No judgment of the court can be allowed to stand if obtained by fraud. Fraud unravels everything. The court must be careful not to find fraud unless it is distinctly pleaded and proven, but once proven, it vitiates judgments.

Where fraud is present, finality will give way to the responsibility of the court to protect its process so as to ensure that litigants do not profit from their improper conduct. A party who seeks to set aside a judgment on the basis that it was obtained by fraud does not have to demonstrate that he or she could not have discovered the fraud by the exercise of reasonable diligence.

The principles which govern applications to set aside judgments for fraud had been summarised by Aikens LJ in *Royal Bank of Scotland plc v. Highland Financial Partners lp [2013] 1 CLC 596, para 106*. There, Aikens LJ said:

> The principles are, briefly: first, there has to be a 'conscious and deliberate dishonesty' in relation to the relevant evidence given, or action taken, statement made or matter concealed, which is relevant to the judgment now sought to be impugned. Secondly, the relevant evidence, action, statement or concealment (performed with conscious and deliberate dishonesty) must be 'material'. 'Material' means that the fresh evidence that is adduced after the first judgment has been given is such that it demonstrates that the previous relevant evidence, action, statement or concealment was an operative cause of the court's decision to give judgment in the way it did. Put another way, it must be shown that the fresh evidence would have entirely changed the way in which the first court approached and came to its decision. Thus the relevant conscious and deliberate dishonesty must be causative of the impugned judgment being obtained in the terms it was. Thirdly, the question of materiality of the fresh evidence is to be assessed by reference to its impact on the evidence supporting the original decision, not by reference to its impact on what decision might be made if the claim were to be retried on honest evidence.

New or supervening circumstances could permit the court to set aside a consent judgment. A court may properly exercise its discretion to set aside a consent judgment on the ground of new events, provided that certain conditions are satisfied. Something unforeseen and unforeseeable must have happened since the date of the consent judgment, which changes its effect so dramatically in a way which could not have been anticipated that it results in a substantial change in the status quo brought about by the consent judgment, so as to render it unfair and unworkable. The consent judgment will be set side where new events have occurred since it was entered, which invalidate the basis, or fundamental assumption, on which it was made.

This will be justified where the underlying basis on which it was made has now been fundamentally undermined due to circumstances which were completely unforeseen. The new events should have occurred within a relatively short period of time since the judgment was made. In most cases it would be no more than a few months (see *Barder v. Barder (Caluori intervening) [1988] AC 20; [1987] 2 All ER 440; [1987] 2 WLR 1350*). The application should be made reasonably promptly and setting it aside should not prejudice third parties who have acquired, in good faith and for

valuable consideration, interests in property which is the subject matter of the relevant consent judgment.

Under Order 25 rule 6 of *The Civil Procedure Rules*, where it is proved to the satisfaction of the court that a suit has been adjusted wholly or in part by any lawful agreement or compromise, or where the defendant satisfies the plaintiff in respect of the whole or any part of the subject matter of the suit, the court may, on the application of a party, order the agreement, compromise, or satisfaction to be recorded, and pass a decree in accordance with the agreement, compromise or satisfaction so far as it relates to the suit.

This provision requires the court to be satisfied that the suit has been adjusted wholly or in part by a "lawful agreement or compromise." Courts will not blindly lend their imprimatur to stipulated consent judgments because enforcement may affect the rights of third parties or otherwise be unjust or illegal. The court does have the prerogative and the duty to at least make the minimal determination of whether the agreement is appropriate to be accorded the status of a judicially enforceable decree. The court will therefore want to know the background and specific terms of any consent judgment and insist on deciding whether the order is one that the court would approve. The criteria applied in deciding whether to approve and enter a proposed consent decree are whether it is fair, adequate, and reasonable, as well as consistent with the law and public interest. The language contained in a consent judgment should be unambiguous and clearly state what each party is required to do under the judgment. When the reading of the judgment leads to multiple reasonable interpretations, it may become impossible to enforce.

The court may not modify a consent judgment *sua sponte*. The court should inform the parties of any concerns regarding a proposed consent decree and give them an opportunity to address them, otherwise it must approve or reject the consent judgment as it is presented. Parties need to understand though that by choosing the consent judgment route, they are inviting the court to have a say on the terms of settlement. If the court's concerns are not adequately addressed, it may refuse to endorse the proposed judgment because when court orders are involved, courts have a say in their contents. A judgment entered pursuant to a settlement agreement need not be limited to relief the court could grant on the merits. Court cannot refuse to enter a consent judgment merely because

it would afford greater relief than that which could have been awarded after trial. So long as the pleadings state a claim within the court's subject matter jurisdiction and the settlement is within the general scope of the case made by the pleadings, the consent judgment can grant whatever relief is agreed to by the parties.

Standing alone, a settlement agreement is nothing more than a contract. A settlement agreement is the parties' document. It will reflect whatever the parties have agreed to. Whereas a settlement agreement is a private document, does not have a requisite level of particularity (although specificity in a contract can be a good thing), such that the drafters are free to incorporate other documents by reference and its terms can be kept confidential, a consent judgment on the other hand is a public document that can be accessed by anyone. Therefore, the settlement terms included in a consent judgment will not remain secret. Provisions of a consent judgment must be stated in reasonable detail and cannot incorporate other documents by reference, even publicly available court records, because this does not make it clear that compliance with that agreement is mandated by an order of court and not by the principles of the law of contract. Settlement provisions that are not set forth in the judgment cannot be enforced by court as its decree. The terms must be made part of the consent judgment for them to become enforceable as part of the decree. To ensure enforcement by court, the parties must actually put the settlement terms into a consent judgment that directs the parties to perform those obligations.

Article 28 (1) of *The Constitution of the Republic of Uganda, 1995* guarantees every citizen the right to a "public hearing." The public-hearing guarantee comprises two distinct aspects; on the one hand as an individual right of the litigant. On the other hand, it constitutes an institutional guarantee, a way of ensuring that the administration of justice is subject to public scrutiny and contributes to respect for the law and the persons involved. Courts have recognised the right of public access to civil proceedings. Unfettered access to court proceedings promotes public respect for the judicial process. The right applies to all civil proceedings on the theory that broad public access to civil proceedings serves strong societal interests in promoting judicial and lawyer accountability and deterring court and advocate misconduct.

The right of access to civil proceedings and accompanying court papers is only worthwhile if members of the public can ascertain the material aspects of the case. The public has a right to know about the entry of consent decrees, as well as their modification, and their enforcement. The confidentiality of a private agreement will be lost when enforcement of the agreement is sought by way of a consent decree. Confidentiality of a settlement agreement is forfeited when the parties seek to have it enforced in court. Including settlement terms in a consent decree will preclude confidentiality because they will become part of a public document that is available for inspection. Therefore when settlement terms are incorporated into a consent decree, those terms irretrievably enter the public domain. If the parties are only concerned with keeping the settlement amount confidential, they can best protect that from disclosure by not including that term in the consent judgment.

Courts have an interest in the contents of their orders. The incorporation of a publicly inaccessible settlement agreement by reference contravenes the Constitutional and common law right to inspect consent decrees. Members of the public and press would lack material portions of a court order because those provisions would be secret. The terms consent decree should be publicly available such that if third parties believe that they are adversely affected by the decree, they can move to intervene and to modify the decree. Whereas parties may opt to keep monetary terms of a settlement in a settlement agreement out of the consent judgment in order to ensure that the financial terms remain confidential, what parties cannot do is incorporate an entire settlement agreement by reference into a court order and then not file the agreement.

I find in this case that the consent judgment entered into on 2nd June 2020 not only contravenes the Constitutional and common law right to inspect consent decrees, but was also based on a fundamental assumption that Mr. Peter Mugarura would meet his obligations under the Share Acquisition Agreement of 18th May, 2020. That assumption was invalidated by his declaration under oath on 27th July, 2020, within five weeks of the consent judgment having been sealed, that he was repudiating his obligations. Consequently the underlying basis upon which the consent judgment was made was as a result of that repudiation fundamentally undermined, due to circumstances which were completely unforeseen by the parties to the consent judgment. That repudiation changed the purpose of the consent judgment so dramatically in a way which could

not have been anticipated that it resulted in a substantial change in the status quo brought about by the consent judgment, so as to render it unfair and unworkable. For all the foregoing reasons, the consent judgment cannot stand.

Consequently the application is allowed. The consent judgment is hereby set aside. The parties should now proceed to file their respective trial bundles, witness statements and a joint memorandum of scheduling within twenty-one (21) days from today. Hearing of the suit is fixed for 14th April, 2022 at 9.00 am. The costs of this application shall abide the outcome of the suit.

Delivered electronically this 7th day of March, 2022

……Stephen Mubiru……..
Stephen Mubiru
Judge,
7th March, 2022.