

**THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL DIVISION)
Misc CAUSE NO. 0094 OF 2022**

HENRY MITEGYEKO NTARO:.....:APPLICANT

VERSUS

**1. GOLDMINE FINANCE LIMITED]
2. TAYEBWA ALLAN]:.....:RESPONDENTS**

Before: Hon. Lady Justice Patricia Kahigi Asimwe

Ruling

Introduction:

1. This Application is brought by way of Notice of Motion under section 89 of the Tier4 Microfinance Institutions and Money Lenders Act, Regulation 26 of the Tier4 Microfinance Institutions and Money Lenders Regulations, section 98 of the Civil Procedure Act, Order 52 Rules 1, 2 & 3 of the Civil Procedure Rules S.I 71-1 seeking for orders that:
 - a) The Money lending transaction between the Applicant and the Respondent be reopened;
 - b) The money lending transaction between the Applicant and the Respondent be deemed harsh and unconscionable;
 - c) The Respondent illegally sold off Motor Vehicle Reg. No. UAW 951V BMW valued at 120,000,000;
 - d) The Respondents pay the Applicant the market value of the motor vehicle, less of the loan amount and 25% interest per annum; and
 - e) Costs for the application.

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2. The Application was supported by an Affidavit sworn by the Applicant who deponed as follows:
- a) In December 2016 he needed to borrow some money for family engagements and he approached a neighbour, Mark Kabonero who introduced him to a money lender known as Teyebwa Allan;
 - b) Mr. Teyebwa Allan is a shareholder and director in Goldmine Finance Ltd a money lending company;
 - c) He informed Mr. Teyebwa that he urgently needed a loan and that he was willing to use his Motor Vehicle BMW Reg. No. UAW 951V as security. The vehicle was valued by a company selected by Teyebwa at 120,000,000;
 - d) Based on the valuation, Mr. Teyebwa agreed to lend him UGX. 23,000,000 at an interest of 10% per month through Goldmine Finance Ltd;
 - e) Mr. Teyebwa Allan further told him that he should transfer the vehicle into his name as one of the conditions, before being given the loan, which he reluctantly agreed to as he needed the money urgently;
 - f) That, however, Teyebwa Allan gave him only UGX 18,000,000 and attributed the difference of UGX. 5,000,000 to the costs and expenses of comprehensive insurance, valuation of the vehicle, and transfer and installation of a car tracker;
 - g) That he requested Mr. Teyebwa Allan to furnish him with a copy of the loan agreement which he refused to do and informed me that the company doesn't furnish customers with copies of the loan agreements;

- h) That he later saw the vehicle being advertised for sale on a website known as OLX; and
 - i) That he was never given a chance to redeem the Vehicle, by the Respondents.
3. The 1st Respondent filed an affidavit in reply sworn by Alex Kisolo Herbert the legal manager of the Respondent Company who stated as follows:
- a) That the 1st Respondent shall raise a preliminary objection that the application is bad and barred in law as it does not disclose a cause of action against the 1st Respondent and that it should be dismissed with costs,
 - b) That the 1st Respondent has never had any loan transaction with the Applicant as alleged and the Applicant shall be put to strict proof.
4. The 2nd Respondent swore an Affidavit in Reply and stated as follows:
- a) That the Application is bad and barred in law by the statute of limitation and a preliminary objection to that effect shall be raised at the trial;
 - b) That sometime in 2016, he bought a motor vehicle Reg. No. UAW 951V from the Applicant;
 - c) He paid for the said motor vehicle and it was effectively transferred to his name; and
 - d) He has never entered into any money lending transaction with the Applicant.