

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
[COMMERCIAL DIVISION]
MISCELLANEOUS APPLICATION NO.0777 OF 2023
(Arising from Civil Suit No.0418 of 2023)

- 1. FARM UGANDA FARMERS' GROUP LTD]**
- 2. SOSIMU TWESIGA]**
- 3. KALIHANYA KALOUDIAN] ::::::::::::::::::::::::::::::::::: APPLICANTS**

Versus

STANBIC BANK UGANDA LTD:::::::::::::::::::::::::::::::::RESPONDENT

Before Hon. Lady Justice Patricia Kahigi Asimwe

Ruling

Brief background:

1. The Respondent filed Civil Suit No. 0418 of 2023 under Order 36 of the Civil Procedure Rules seeking an order that the Applicants be directed to pay UGX 263,072,329 and interest.
2. The Applicants then filed this Application by Notice of Motion under Order 36 Rules 3 & 4 of the Civil Procedure Rules seeking an order for unconditional leave to appear and defend the suit.
3. The Application was supported by an Affidavit in Support deponed by Sosimu Twesiga, the 2nd Applicant and the Managing Director of the 1st Applicant who stated as follows:
 - a) On 21st December 2021, the Respondent advanced a loan facility in sum of UGX 500,000,000 as working capital for buying barley produce from contracted farmers under the SACCO/VSLA Preposition programme to the 1st Applicant.

- b) That him and the 3rd Applicant executed personal guarantees guaranteeing to pay on demand the money owed by the 1st Applicant to the Respondent.
- c) The Applicants proceeded to service the loan to the tune of UGX 263,072,329 and were left with a balance of UGX 236,072,329.
- d) The Applicant's ability to pay was constrained by delayed payments from a third party M/S Blue Cup Company Ltd and this was duly communicated to the Respondent's officials.
- e) By June 2019, M/s Blue Cup Company Ltd was indebted to the 1st Applicant to the tune of UGX 650,000,000.
- f) The directors of the 1st Applicant and M/s Blue Cup Company Ltd decided to enter into a joint venture and made a resolution to open a joint account in the Respondent Bank in the names of Opio Patrick and Mr. Bamutaze Julius who were the directors of M/s Blue Cup Company Ltd.
- g) The Respondent was aware that the facility was supposed to be funded by monies which were to be deposited on the joint account.
- h) The Respondent neglected its duty of deducting the said monies from the Joint Bank account by failing to effect the bank transfer of funds from the bank account of M/s Blue Cup Company Ltd to the joint Account of Opio Patrick and Batamuze Julius as had been agreed in the Memorandum of Understanding dated 9th August 2022 which affected the loan repayment schedule.
- i) The Respondent was aware that the monies to repay the said loan obligations were to be paid from the monies on the joint bank account and of the 1st Applicant Company and the 3rd party.
- j) Failure to make the transfers frustrated the loan repayment obligations.