

**THE REPUBLIC OF UGANDA**

**IN THE HIGH COURT OF UGNADA**

**HOLDEN AT MUKONO**

**MISCELLANEOUS CAUSE NO. 22 OF 2017**

**FORMERLY JINJA HIGH COURT MISC. 22 OF 2016**

**1. YASIN SENTUMBWE MUNAGOMBA**

**2. SIMON SEMUWEMBA:::APPLICANTS**

**VERSUS**

**UGANDA CHRISTIAN UNIVERSITY::: RESPONDENT**

**BEFORE HON.LADY JUSTICE MARGARET MUTONYI, JUDGE HIGH COURT**

**RULING**

**INTRODUCTION**

Yasin Ssentumbwe Munagomba and Simon Semuwemba herein after referred to as Applicants brought this application for judicial review under rules 3,6,7,8 of the Judicature Act (judicial Review) Rules S1 No. 11 of 2009 against Uganda Christian University herein after referred to as the University.

The Applicants sought the following orders:

**1. Certiorari to call for and quash**

- a) The university's decisions purporting to expel them
- b) All yearly publications of the university's code of conduct handbook or rules 6(v) 8(iv) and 8(vi) of the code of conduct 2015-2016 in particular

**2. Prohibition barring the University, its agents and the servants or any person from:**

- a) Enforcing the impugned decisions, code of conduct and or rules

b) Victimizing, dismissing or otherwise penalizing the applicants without just cause

### **3. General, aggravated and punitive damages**

The grounds for the application are contained in the NOM but briefly are that the University is a chartered body exercising statutory authority derived from its charter (a legal notice) and other Tertiary Institutions Act while the applicants are law students and students rights activists who were prematurely, unlawfully, unjustly, unfairly and irrationally expelled by the university allegedly for violating its code of conduct yet according to them, the said code of conduct is nonexistent and unenforceable because it was not gazetted as required by law.

As a result of the university's ill will and bad faith, the two students have suffered harm through violation of their fundamental rights and freedom, loss of dignity and reputation, stress, embarrassment, inconvenience, disruption of academic progression, loss of monies so far sunken into the university's coffers in pursuit of higher learning, risk of loss of sponsorship and job opportunities among others.

They further contend that unless the university is restrained, it will continue to flout the laws of Uganda, suffocate academic freedom, and create a dictatorial regime at its campuses which is detrimental to the welfare of Yasin and Simon and other students.

They prayed to court to allow the application and grant the reliefs sought.

The Application was supported by the affidavits of Yasin and Simon. However in the course of the hearing all prayers concerning the University code of conduct 2015-16 were abandoned.

The University filed a response to the application through the affidavit of John Tao Bahemuka and Rev Canon Dr Anthony Kakooza.

### **LEGAL REPRESENTATION**

Yasin and Simon were represented by Counsel Isaac K Ssemakadde of the Centre for Legal Aid while the University was represented by counsel Mpanga from AF Mpanga Advocates. Both Counsel filed written submissions with very many authorities which have been put into consideration while writing this Ruling.

I do however believe in brevity and will therefore not refer to all the authorities cited or reproduce the lengthy submissions.

### **BRIEF SUMMARY OF THE CASE**

The brief summary of the case is that the Applicants who are law students at the university were expelled after The Students Disciplinary Committee sat in an extra ordinary meeting on 5<sup>th</sup> and 16<sup>th</sup> May 2016 which recommended their immediate expulsion. They claim they were not accorded a fair trial, while the university claims the application is incompetent for having been filed prematurely without exhausting all alternative remedies first and that they were accorded their right to a fair hearing.

### **LEGAL ISSUES**

Counsel for the Applicants framed three issues namely.

1. Whether the respondent's student's disciplinary committee that sat on 6<sup>th</sup> May 2016 and 16<sup>th</sup> may 2016 had the power to recommend the expulsion of the 1<sup>st</sup> and 2<sup>nd</sup> Applicants.
2. Whether the Applicants were accorded a fair hearing before they were purportedly expelled by the Respondent.
3. What remedies are available?

However after reading through the pleadings and submissions, the main issue before court is in respect of the expulsion of Yasin and Simon from the university and the process that led to the expulsion. I am therefore exercising my discretion to reframe the first two issues as follows:

1. Whether the process that led to the expulsion of Simon and Yasin was flawed
2. What remedies are available

### **THE LAW APPLICABLE**

The high court derives its judicial review power from the Judicature Act Cap 13 Laws of Uganda, the Judicature Review Rules 2009 and the Constitution of the Republic of Uganda, The Universities and other Tertiary Institutions, Act 7/2001.

### **RESOLUTION OF ISSUES**

**Whether the process that led to the expulsion of Yasin and Simon was flawed:**

Judicial review is an audit of the legality of decision making process by Public bodies. The role of the court is not to remake the decision being challenged or inquire into the merits of the decision, but to conduct a review of the process by which the decision was reached in order to assess whether that decision was flawed and should be revoked or quashed.

The Applicant or complainant challenges the nature of the act or the decision.

In the instant case, Uganda Christian University was established by legal notice No.2 of 2005 under section 10 2(3) of the Universities and other Tertiary Institutions Act, Act No. 7 of 2001 as per Exhibit marked RE10.

Much as it is a Private University, its administrative functions under section 10 of the Uganda Christian University charter 2003, Code of Conduct, Regulations and Government and statute on student and staff discipline with quasi-judicial functions in disciplinary proceedings against students fall within the ambit of Public Law.

**The grounds for judicial review are the following:**

1. That the decision was illegal. Illegality arises when the decision maker, body or authority misdirects itself in law, exercises power vested in it wrongly or improperly purports to exercise power that it does not have which is commonly referred to as acting ultra vires in Latin.
2. That the decision was irrational. This is when a reasonable authority or person could not have come to such a decision.
3. That there was Procedural impropriety. This is when there is a failure to observe statutory procedures or natural justice either procedural or substantive by a public body or administrative body when it is expected to act or required to respond in a particular way but fails to do so.

Needless to mention, nobody expects any public body or authority having quasi-judicial functions to act unfairly or beyond its powers in the process of exercising its unfettered administrative authority.

It must however observe rules of natural justice where statutory rules do not apply.

In this case, court is expected to review the decision of the students' disciplinary committee which sat on 5<sup>th</sup> May 2016 and 16<sup>th</sup> May 2016 where it resolved to expel Yasin and Simon from the university as per the expulsion letters marked AE2 and AE3 respectively which is the core of this application.

The undisputed fact is that the university expelled Yasin and Simon allegedly after the students disciplinary committee found them guilty of offences under the code of conduct Handbook 2015-2016.

Yasin was found guilty of behaving in a manner that damaged the good name and image of the university when he allegedly participated in a demonstration on university premises without informing the vice chancellor in advance and without obtaining his approval and police permission contrary to Regulations 6(V) and 8(ii) of the Code of Conduct handbook.

He was also found to have been guilty of insubordination and being disrespectful to members when he refused to obey legitimate instructions of the committee to undergo a security check, contrary to regulations 6(V) and 8(V) of the code of conduct handbook and that he fervently denied any involvement in the above mentioned demonstration despite the evidence availed. He opted to be silent to any questions regarding his involvement in the same which the committee found disrespectful and a waste of its time.

The demonstrations are said to have happened on the 20<sup>th</sup> day of April 2016. The committee therefore resolved to expel him from the university with immediate effect.

The expulsion letter was dated 19<sup>th</sup> April 2016 under reference DC/20/16 signed by Rev. Canon Dr. John Senyonyi Vice Chancellor.

The expulsion letter for Simon was also dated 19<sup>th</sup> April 2016 under reference DC/21/16.

He was found guilty of acting contrary to regulations 6(V) and 8(ii) of the code of conduct handbook with facts similar to those of Yasin as regards his conduct on 20<sup>th</sup> day of April 2016

Simon was also found guilty of publicly using abusive language against the Vice Chancellor when he uttered “**you Senyonyi, first put off your arrogance and address us** “in front of the principles hall on 20/4/2016 contrary to regulations 6(I) of the code of conduct.

Simon was further found guilty of spreading false and libelous information about the university to students and threatened to resort to other measures in a letter written to the director of students affairs on 20<sup>th</sup> April 2016 and that he informed the Committee members of how he intends to appeal to the speaker of the Parliament of Uganda, write to the university chancellor and use the press to resolve his concerns contrary to regulation 6(ii) of the code of conduct handbook 2015-2016 and inciting others to riot and breach peace contrary to regulation 6(iv) of the code .

The code of conduct was admitted in evidence and marked as exhibit AE5

The fact of conviction by the students disciplinary committee is not disputed.

What is contentious is the process that led to the finding of guilty and immediate expulsion.

Both Yasin and Simon in their respective affidavits in support made so many averments including irrelevant ones.

I will therefore refer to the relevant ones to the issue at hand pertaining to the process of arriving at the decision. I will not consider the affidavits in rejoinder at all because it is all very irrelevant. This court will also not address the issue of the applicant’s rights under the constitution because that is not within the legal context of judicial review. They are at liberty to pursue their human rights cause in another suit.

Paragraph 2-14 of the affidavit of Yasin dated 23/5/2016 allude to the process that was followed before he was expelled. He was informed on phone that he was required to appear before the disciplinary committee on 5<sup>th</sup> May 2016 at 9am by one David Tsubira. The phone communication is not denied by the University.

He denied the accusations particularly of participating in the alleged demonstration and refused to answer the other questions having realized that the committee had prejudged his fate (see paragraph 10 of the affidavit).

Paragraphs 2-10 of the affidavit of Simon alludes to the process that was followed before he was expelled.

In brief they all claim they were never given a fair hearing and never heard from any witnesses during the proceedings.

In response to the NOM and affidavits in support, one Bahemuka John Tao attempted to give an account of what transpired before the disciplinary proceedings in paragraphs 2-13 of the affidavit dated 24/6/2016 which in my view was irrelevant.

Judicial review is not concerned with what led to the administrative decision but the process of arriving at the decision.

The relevant parts of his affidavit evidence is paragraphs 14-42.

Under paragraph 14 and 15 he avers that David Tusubira informed Simon and Yasin of the reasons and charges for which they were required to appear before the disciplinary committee.

He attached a letter to the 2<sup>nd</sup> Applicant.

No letter was exhibited that was written to Yasin inviting him to the disciplinary proceedings. This court concludes that there was no such letter written to Yasin.

Dr. Anthony C.K Kakooza in his supplementary affidavit in reply dated 17/8/2016 attached minutes of the disciplinary committee meeting held on 5<sup>th</sup> May 2016 and 16<sup>th</sup> May 2016 .Under paragraphs 18 and 20 both Yasin and Simon appeared before the committee for the first time together with other students who were charged with more or less similar breaches of the regulation but were not expelled. Some were suspended for a year while others were asked to apologize.

The applicants were found guilty of breaching regulations under the code of conduct handbook 2015-2016 which was admitted in evidence and marked as Exhibit RE6.

This code of conduct applies to all university students. It provides for enforcement on page 6 as follows.

**“Enforcement of the code of conduct is accomplished through five disciplinary organs”**

The Student Disciplinary Committee

The University Disciplinary Committee

The Academic Disciplinary Committee

The Vice Chancellor and the University Council or Senate.

These disciplinary organs shall operate according to the general rules but they will not be required to conform to strict rules of legal procedures with the University council and senate being the highest organ of discipline

Of interest is the jurisdiction of the Student Tribunal or Students Disciplinary Committee which recommended the expulsion of the applicants.

This tribunal handles minor nonacademic offenses under the code of conduct and can take any of the several punitive actions that are listed but none of these include recommending immediate expulsion to the Vice Chancellor.

Regulation 1(a) (ix) under enforcement by student tribunal provides for recommendation of the case to be referred to the University Disciplinary Committee.

A student who is convicted by the Student Disciplinary Committee may therefore appeal to the University Disciplinary Committee.

The University Disciplinary Committee handles among others major nonacademic offenses under the code of conduct, cases referred to it by the director of student affairs or by the student tribunal or appeals from the student tribunal.

Under paragraph 2(a) x, the University Disciplinary Committee can recommend to the vice chancellor that the student be suspended or expelled from the university.

Perusal of the entire code of conduct did not however reveal any definition of a minor or major offense, neither does it prescribe any penalty for the specific offenses.



This makes the code under review ambiguous and subject to different interpretation which is very dangerous for the persons who would be subject to it. This makes it prone to abuse and misinterpretation.

It is however my considered opinion that expulsion being the maximum penalty a student can get must be for a major offense.

Looking at the minutes of the Students Disciplinary Committee meetings held on the 5<sup>th</sup> May 2016 and 16<sup>th</sup> May 2016, court observed that under min 4/5/2016, students disciplinary case of Sentumbwe Yasin Munagomba Reg. No. BS14B11/789 was discussed. He was summoned to explain on matters pertaining to behaving in a manner that damaged the good name of the university when he participated in a demonstration on university premises without informing the Vice Chancellor in advance and without obtaining his approval and police permissions.

The above was akin to an indictment.

It was recorded that he appeared for the first time, he saw no reason to be searched by a security personnel since he was not a thief, objected to surrendering his phone before hearing and generally denied being involved in the demonstration on 20/4/2016.

The secretary went on to record that after deliberations the committee found Yasin guilty of having committed the following offenses on 20<sup>th</sup> April 2016.

1. That he behaved in a manner that damaged the good name and image of the university when he participated in a demonstration on University premises without informing the Vice Chancellor in advance and without obtaining his approval and police permission contrary to regulation 6(v) and 8(ii) of the code of conduct handbook 2015-2016.
2. That he was guilty of insubordination and being disrespectful to members when he refused to obey legitimate instructions of the committee to undergo a security check contrary to regulations 6(V) and 8(V) of the code of conduct handbook 2015-2016.
3. That he feigned ignorance over the fees issue and yet he had been at the fore front of the student demonstrations. The committee found this disrespectful and a waste of its time.

They recommended to the Vice Chancellor that he is expelled from the University with immediate effect with orders enabling his immediate exit.

In a letter dated 19<sup>th</sup> April 2016, the date before the alleged commission of the offense on 20<sup>th</sup> April 2016, the Vice Chancellor communicated what the Student's Disciplinary Committee resolved.

In his letter, the Vice Chancellor further stated and I quote, ***“on the 20<sup>th</sup> of April 2016, you were found to have behaved in a manner that damaged the good name and the image of the University.....”***

Mr. Bahemuka claimed the date of 19<sup>th</sup> April 2016 was a typing error. Even if it was, there is no evidence whatsoever in the minutes of the Students Disciplinary Committee dated 5<sup>th</sup> and 16<sup>th</sup> May 2016 which is the only available record of proceedings that was adduced in support of the allegations against the two applicants which formed the basis of their extreme decision to expel them.

The wording of the expulsion letter and the date of the letter and the manner in which the proceedings were held and decision made indeed portray material impropriety on the side of the University.

The Students Disciplinary Committee under ideal circumstances without even following any semblance of formal procedure, ought to have referred the case to the University Disciplinary Committee since the committee doesn't have the mandate to expel a student. It deals with minor offenses which ideally should not attract the maximum punishment of expulsion unless exceptional circumstances exist and if they exist, they should be spelt out clearly to enable the student appreciate the circumstances under which he is being expelled.

The decision to recommend the expulsion to the Vice Chancellor contravened regulation 1(a) (ix) of the Enforcement by Students Tribunal under the University Code of Conduct Handbook mentioned above.

Shocked with their own decisions, members under minute 6/5/16 (3) raised the concern of revising the code to include the time frame within which a student is permitted to appeal a suspension or expulsion, because it is not provided for. This court has construed their concern to

mean that the Committee members also realized they had gone overboard which would entitle the student a right of Appeal. Unfortunately they never even communicated that right of Appeal to them.

The Students Disciplinary Committee members exercised authority they did not have in as far as resolving to expel Yasin from the University which act was illegal as it was ultra vires their powers.

The minutes do not disclose the source of evidence against Yasin at all. It doesn't show why they did not believe him.

The Code of Conduct does not spell out silence to questions as an offence neither do they reflect which kind of questions were asked.

The minutes do not also indicate whether he was charged with a minor or major offense that attracts expulsion as this was very important in this quasi-judicial proceedings

Summoning Yasin by telephone calls when the matters to be discussed were grave with a possibility of leading to an expulsion breached the rules of natural justice and amounts to procedural impropriety on the part of the university.

Court has not believed paragraph 19 of the affidavit of Dr. CK Kakooza where he stated that **“on the basis of the first Applicants behavior during Disciplinary Committee hearing as well as the evidence the committee had before it and his lack of remorse, the Committee resolved to recommend to the University.”**

Exhibit RE7, the minutes attached to Dr. Kakooza's affidavit and the expulsion letter contradict.

The letter was written, and signed before the meeting on 5<sup>th</sup> May 2016 and it talks of resolving to expel him not recommending him for expulsion.

The only logical conclusion is that the decision to expel Yasin was made on 19<sup>th</sup> April 2016 as per the expulsion letter.

The Extra Ordinary Student Disciplinary Committee Meeting called on 5<sup>th</sup> May 2016 was called to regularize the illegal expulsion without a fair trial.

In the absence of any official communication calling Yasin for the meeting clearly spelling out the charges against him, court has no cogent reason to believe that David Tusubira explained to him why he was required to appear before the disciplinary committee.

This takes me to Simon Semuwemba's case.

His case appears to be worse in terms of irrationality and procedural impropriety.

Exhibit AE8 is a letter by David Tusubira secretary to Students Disciplinary Committee inviting him.

It is dated 6/5/2016. It was regarding his alleged participation in the demonstration held on 20<sup>th</sup> April 2016 contrary to regulation 8 of the code of conduct 2015-2016

Under minute 11/05/2016 Semuwemba Simon Reg. No. CS13B11/766 was summoned to explain on matters pertaining to;

1. Behaving in a manner that damaged the good name and image of the university when he participated in a demonstration on university premise without informing the Vice Chancellor in advance and without obtaining his approval and police permission.
2. Inciting others to riot or breach the peace by misinforming them. He gave his response and the minutes read that after deliberations the Committee found Semuwemba guilty of having committed the following offences on 20 April 2016

In brief he was found guilty of:

1. Participating in the demonstrations or contrary to Regulation 6(V) and 8(ii)
2. Publicity using abusive language against the Vice Chancellor when he uttered you **“Senyonyi first put off your arrogance and address us”**... contrary to regulation 6(I)
3. With ill intent spreading false and libelous information about the University to students and threatened to resort to other measures in a letter written to the director students affairs on 20/4/2016 contrary to regulation 6(i)
4. Inciting others to riot and breach peace contrary to regulations 6(iv), all of the Code of Conduct Hand Book 2015-2016.

Court observed that the letter inviting him mentioned one offence yet minutes indicate he was found guilty of 4 offences. The principles of natural justice demands that a party should be informed of his or her offence before trial. He had a right to know the nature of the offences against him before appearing before the committee.

Like in Yasin's case, there is no record of any evidence that was adduced by any witness against him.

The deliberations of the committee are not reflected in the minutes and therefore not known. It is therefore difficult to know how they arrived at their decision and the basis for recommending the maximum punishment.

From the affidavit of Dr. Kakooza paragraphs 11,12,13,14 and 21, his Disciplinary Committee relied on information from some undisclosed person described as the whistle blower and the Vice Chancellor who actually signed the expulsion letters, yet the students were supposed to appeal to him under the appellate system of the University.

The above information is contained in the second supplementary affidavit of John Toa Bahemuka dated 7/9/2016 paragraph 10 where he attached Statute on Student and Staff Discipline.

Section 3 of the said Statute is very clear. An aggrieved party makes an appeal to the next appropriate body. This Appeal is addressed to and received by the Vice Chancellor.

Under the enforcement of the code of conduct, section3, the vice chancellor is the highest organ of discipline within the University administration.

He or she takes among others the following actions:

***3(v) recommends to the University Council expulsion from the University of the Student convicted by the University Disciplinary Committee.***

In view of the hierarchy of the Vice Chancellor in the appellate process in disciplinary matters, it was erroneous and irrational for him to sign a letter communicating the decision of the first disciplinary body, since an aggrieved person is required by regulation and procedure to address his or her appeal to him.

What happened in this case if I were to compare it with our Local Council informal court system is for the LCI Court to make a decision that is apparently beyond its jurisdiction and the Chief Magistrates with his legal expertise merely endorses its decision for execution.

The Vice Chancellor being the highest organ of the disciplinary process according to the code of conduct handbook sealed the fate of Yasin and Simon without giving them a chance to go through the Appellate system.

Not only that but he was the complainant in the allegation of the alleged demonstration without his permission and alleged abusive language against him.

He became the judge in his own case which is against the rules of natural justice.

## **CONCLUSION**

In view of the above, the court finds that:

1. The decision of the Students Disciplinary Committee of recommending expulsion of Yasin and Simon was illegal since the committee could only recommend the matter to the University Disciplinary Committee according to section 1(ix) under Enforcement which would in turn, after hearing the case, recommend to the Vice Chancellor that the student be suspended or expelled from the University as per section 2(a)(x) of the code Of Conduct under Enforcement and the Vice Chancellor then recommends to the senate the expulsion from the university of the student convicted by the University Disciplinary Committee.

This process is provided for under the University Code of Conduct Handbook 2015-2016 which process exhibit some natural justice if strictly followed.

The Student Disciplinary Committee improperly purported to exercise the power that they did not have that is the power to recommend directly to the Vice Chancellor to expel the two students.

2. The decision of the Vice Chancellor of signing the expulsion letters that were dated 19<sup>th</sup> April 2016 which clearly indicated that he was a complainant in the matter, and that the Committee resolved to expel them from the University which decision was erroneous coupled with the fact that the letter was dated before the alleged offenses were committed was irrational.

3. The minutes of the proceedings that led to the expulsion of Yasin and Simon shows that the University did not observe the principals of natural justice at all.

Yasin and Simon were not accorded a fair trial because there is no evidence on record against them.

The proceedings before the student's tribunal did not reflect anywhere what information the whistle blower gave to Dr. Kakooza and the evidence of Dr. Senyonyi which indeed made the applicants to rightly conclude that their case was prejudged and fate determined long before the sham hearing.

I do agree with my brother Stephen Mubiru J in his holding in the case of **Ebereku vs. Moyo District Local Government HCMA 005/2016 where** he held that an administrative tribunal is free with reason to determine its own procedures adopted to suit the nature of the complaint and circumstances of the case.

But much as the administrative tribunal may not be required to meet the high standard of court, where the decision fundamentally affects the rights of the complainant like in the instant case where, their rights to university education and future is affected, some degree of fairness and impartiality must be exhibited which was not the case here.

In the result, I find that the applicants established the grounds for judicial review, hence the first issue is resolved in favor of the applicants'.

The procedure adopted by the Student Disciplinary Committee which led to the expulsion of Yasin and Simon was flawed on all fours. It was illegal, materially irregular and gravely improper.

### **WHAT REMEDIES ARE AVAILABLE**

I have carefully read the submissions of Counsel for both the Applicants and the Respondent on the issues of remedies and the authorities cited.

**The Applicants prayed for an order of certiorari to issue.**

It is apparent from the evidence of the minutes of the Student's Disciplinary Committee proceedings in respect of both Applicants and the provisions of the code of conduct handbook 2015-2016 that the procedure leading to the expulsion was ultra vires.

It is also apparent from the proceedings that Rev. Canon John Senyonyi the Vice Chancellor and the highest disciplinary organ of the University is the one who signed the expulsion letters.

I am of the view that he did that after making up his mind about expelling the Applicants.

It would therefore be very unfair, unjust and a mockery of justice to refer them back to the administrative authority over the same case that was determined erroneously by the highest organ of discipline, the Vice Chancellor.

The Applicants prayed for general and aggravated damages. They abandoned punitive damages.

General damages are the direct natural or probable consequence of the act complained as per the definition by ***Lord Macnaghten in Stoms vs. Hutchinson [1905] AC 515***

While aggravated damages reflect the exceptional harm done to a Plaintiff of a Tort action. This is not a case of a Tort action. I will therefore not consider aggravated damages.

General damages are awarded for pain, suffering and loss of amenities. These damages are by their nature non-financial losses and compensation can only be awarded judiciously.

It is apparent that both Yasin and Simon suffered physical, emotional and intellectual pain after they were summarily expelled from the University.

Simon would have completed by now, while Yasin would be in his 4<sup>th</sup> year.

They were discriminated against as their fellow students who committed similar and or worse offenses were given different less severe punishments.

Needless to mention, they have lost a lot of time and resources and their relationship with whoever was paying their tuition must have been affected.

The manner in which the disciplinary process was handled was ruthless, unchristian, inhuman, degrading and lacking parental characteristic which is expected of student/lecturer relationship. I do not agree with the submission of Counsel Mpanga that there is no loss suffered. The reckless conduct of the University administration through its Student's Disciplinary Committee inevitably



caused a lot of anxiety, embarrassment and distress. Their expulsion from the University was high handed if I may put it; it aimed at destroying the future of their very own students and creating fear among the student community. They deserve some general damages as an atonement for the psychological, mental and physical anguish they have suffered all this time.

This does not mean that this court condones indiscipline among students and unruly behavior at tertiary institutions.

Not at all, but where a student has breached the code of conduct, proper disciplinary proceedings should be held while applying the rules of natural justice and equity following the laid out procedure in the regulations.

A fair trial involves prior knowledge of the accusation, adequate time for preparation of the defense, following the known procedures if they are in place like in this case and impartiality on the part of the arbiters.

In this case, the University if at all it had evidence, should have started with suspension and then proceed to hear their case. But everything was very arbitrary which calls for an award of damages.

In the result the application is allowed with the following orders.

1. An order of certiorari is hereby issued quashing the decision of Uganda Christian University of expelling Yasin Sentumbwe Munagomba and Simon Semuwemba vide the Vice Chancellor's letters dated 19<sup>th</sup> April 2016 under ref DC/20/2016 and DC/21/16.
2. An order of prohibition is hereby issued prohibiting the respondent University from enforcing the impugned decision, and victimizing, the applicants in any way over the allegations of 20<sup>th</sup> April 2016.
3. Both Applicants are awarded general damages of 10,000,000/= (Ten Million Uganda Shillings each).
4. Costs follow the event. I do not have any reason for not awarding costs to the applicants. Consequently I award costs of the Application to the Applicants.

5. Interest of 8% per annum on (3) above until payment in full.

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Mutonyi Margaret

**RESIDENT JUDGE**

**MUKONO HIGH COURT**

**17<sup>th</sup> January 2018.**