

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(CIVIL DIVISION)
CIVIL SUIT NO. 128 OF 2014

ABDU MATUMA SALI **PLAINTIFF**

VERSUS

UMEME LIMITED **DEFENDANT**

BEFORE: LADY JUSTICE LYDIA MUGAMBE

JUDGMENT

A) Introduction

1. The Plaintiff's claim against the Defendant was for; (a) a declaration that the Plaintiff's power supply was illegally and oppressively disconnected; (b) an order that the Defendant reconnects the Plaintiff's power supply; (c) special damages; (d) general and aggravated damages for the inconvenience and loss suffered as a result of the disconnection of the Plaintiff's power supply by the Defendant; (e) interest on damages at a court rate from the date of judgment till payment in full; and (f) costs of the suit.
2. The Plaintiff was represented by Mr. Moses Kimuli of M/s. United Advocates and Mr. Byrd Ssebuliba of M/s. Shonubi, Musoke & Co. Advocates represented the Defendant.
3. Briefly, on 12th December 2012, the Plaintiff applied to the Defendant for electric power connection to his premises located off Tula road, Kakungulu zone LC1, Kawempe parish, Kawempe Division, Kampala district. The Plaintiff was accordingly connected to electric power and was allocated account/service No. 5567150 pursuant to him paying Ug. shs: 41,300 on 17th December 2012. He also made further payments on 21st December 2012

and 27th December 2012 of Ug. shs. 41,300/= and 198,000/= respectively, on account of power bills. However in total disregard of the Plaintiff's rights as a consumer of electric power, and without any prior notice or bill, in January 2013, the Plaintiff's power supply was illegally and oppressively disconnected by the Defendant and/or its agents or servants acting in the course of their employment with the Defendant allegedly for fraud/illegal connection/meter bypass with an attendant false demand of Ug. shs: 2,177,630/=.

4. The Plaintiff had repeatedly requested to have his power reconnected to no avail. As a consequence, the Plaintiff and his family had not been able to use their home appliances which are the hallmark of modern living, and had suffered deprivation of the amenities of life, great inconvenience and discomfort for which the Plaintiff is entitled to damages. The Plaintiff also averred that this was a proper case for aggravated damages against the Defendant.
5. The Defendant denied the Plaintiff's claim and averred that the payment by the Plaintiff of Ug. shs: 41,300 was in respect of connection fees which are a legal requirement in order to complete the process of connection to electricity supply. It did not receive the other sums as alleged, and in the alternative, if it received this money it was not in respect of the electricity consumed by the Plaintiff but in respect of connection fees. The disconnection notice the Plaintiff relies on refers to a meter that is registered for another person.
6. While carrying out a site visit, the Defendant's employee found that prior to the Plaintiff's official application to be connected to electricity supply, the Plaintiff had been illegally connected to existing electricity supply. The Plaintiff was issued with a bill for the electricity he had consumed amounting to Ug. shs: 2,177,630 and he was accordingly disconnected for the outstanding unpaid bill. The Plaintiff's electricity was disconnected in accordance with the law governing the Defendant's activities in relation to customers with unpaid bills and the Plaintiff had ignored and/or refused to pay the outstanding

electricity bill. The Plaintiff's electricity shall be reconnected upon payment of the outstanding bill.

7. Further that the Defendant was not responsible for the failure of the Plaintiff and his family to utilize their home appliances and the Plaintiff was not entitled to any damages. The Defendant prayed that the suit is dismissed with costs.
8. When the suit came up for scheduling, the following issues were framed for determination;
 - i) Whether the Plaintiff's power supply was legally disconnected.
 - ii) What remedies, if any, are available to the parties
9. The parties proceeded by witness statements in lieu of examination in chief. The Plaintiff testified as PW1 and the Defendant called Mr. Hussein Mubiru, its employee who in 2012 was the district manager at the Wandegeya office and covered areas like Kawempe, Kakungulu zone.
10. Regulation 7.6.1 of the Electricity (Primary Grid Code) Regulations, 2003 (herein after the Regulations) provides that "where a consumer has obtained supply otherwise than as permitted by this Code, the licensee may (a) estimate the usage for which the consumer has not paid; (b) take debt recovery action for the unpaid amount; or (c) take action in accordance with Part 15.0 to disconnect supply to the consumer's premises.
11. Regulation 15.5.1 provides that "notwithstanding any other clause in this part, a licensee may disconnect supply to a consumer's supply address immediately where the consumer has obtained the supply of electricity at the supply address otherwise than in accordance with this Code.
12. Regulation 15.6.1 provides that " a licensee shall not disconnect supply to a consumer's supply address- (a) where a consumer has made a complaint directly related to the reason for the prepared disconnection to ERA, the tribunal or the court or another external

dispute resolution body and the complaint remains unresolved; (b) where the consumer has failed to pay an amount on a bill which does not relate to the standing service fee, the electricity usage charge, capacity charge, or charges for other services rendered by the licensee; (c) after 3p.m. on a weekday, or on a friday, on a weekend, on a public holiday or on the day before a public holiday, except in the case of a planned interruption.

B) Analysis

13. I have considered all the pleadings and submission of the parties. The Plaintiff denies and the Defendant insists that the Plaintiff prior to his official application to be connected to its official supply, illegally connected and had electricity supply from an already existing connection. For this alleged illegal connection, the Defendant assigned a total bill of Ug. Shs. 2,177,630/=. When the Plaintiff failed to clear this bill, the Defendant acted under regulation 7.6.1 to recover this bill from the Plaintiff by making monthly deductions from his yaka payments.
14. The Plaintiff has not demonstrated any malice or ill intentions, to my satisfaction, in the actions of the Defendant assigning this bill in issue. The Defendant had committed to avail the report from the site visit from which it found the Plaintiff to have been illegally connected but it did not. Such report could have assisted the court in certifying the Defendant's claim of illegal connection by buttressing the Defendant's witness testimony.
15. However even in the absence of that report I find no reason to disbelieve the Defendant evidence of illegal connection. In the circumstances of this case, I am convinced that the only reason the Defendant assigned the bill in issue to the Plaintiff was because he was found to have been illegally connected as claimed. I therefore do not believe the Plaintiff's version that he was not illegally connected. I also take the view that the alleged bills he presented were connection fees and not electricity bills as clarified by the Defendant witness. The Plaintiff paid for yaka which is prepaid and has no receipts for these payments.

16. I am therefore satisfied that the Defendant properly assigned the bill in issue to the Plaintiff under regulation 7.6.1 for the illegal connection. The Defendant therefore lawfully made the deductions under regulation 7.6.1 from the Plaintiff's monthly yaka payments as part of the debt recovery action for this bill.

17. The Plaintiff's disconnection from the power supply by the Defendant when he failed to pay this bill and also before deductions were made from his monthly yaka payments, was legal and within the provisions of regulations 7.6.1 and 15.0 above. As a result the Plaintiff has no remedies. Issues one and two are resolved in the negative. Accordingly the Plaintiff's suit is dismissed with costs for the Defendant.

I so order.

Lydia Mugambe

Judge

11th June 2019.