

IN THE HIGH COURT OF UGANDA AT SOROTI

MISC. APLIC. NO. 81 OF 2014

ARISING FROM CIVIL APPEAL NO. 29 OF 2009

ARISING FROM SOROTI LAND CLAIM 18 OF 2006

OPOLOT JUSTINEAPPLICANT

V

AURA LIVINGSTONE.....RESPONDENT.

BEFORE HON. LADY JUSTICE H. WOLAYO

RULING

This taxation reference arises from the taxation of costs by the Ag. Assistant registrar HW Rwatooro, as he then was, in High Court HCCA. No. 29 of 2009 where costs of the appeal were awarded to the respondent Aura Livingstone in a judgment dated 21st October 2013.

The bill was taxed at 7,386,500/ under a certificate of taxation dated 21st November 2014.

Apart from the bill of costs and the certificate of taxation, I have no proceedings and taxation ruling that would form the basis of evaluation as I am about to do on appeal.

Both Opio, Ossoto & Co . Advocates and Erabu & Co. Advocates for the applicant and respondent respectively, filed lengthy written submissions that I have read.

These submissions are based on guesswork of what the taxing officer considered because as mentioned earlier, there are no proceedings nor a ruling on record. counsel for the respondent made reference to a ruling but I did not see any on record. I only have the taxed bill of costs as the record.

In the chamber summons, the applicant seeks orders to set aside the taxation and the bill of costs to be re-taxed.

In the absence of a ruling by the taxing master, I am unable to determine if he proceeded on a wrong principle . However, it is possible for me to determine if the amounts awarded were excessive and in the process determine whether the taxing officer proceeded on a wrong principle.

It is apparent from submissions of counsel for the applicant that he contested the awards on all items.

I will start with the instruction fees. As rightly cited by counsel for the applicant, the Supreme Court held in **Patrick Makumbi v Sole electrics CA 11 of 1994** that instruction fees cover the advocates work, includes taking instructions and work necessary for presenting the case for trial or appeal.

In this case where the value of the subject matter cannot be determined from the judgment, the instruction fee should be not less than 75,000/ (**rule 1 (a) Roman v of the 6th schedule to the Taxation of costs rules.**).

The appeal called for research and analysis of documents presented during the trial , a study of the lower court record and preparation of written submissions. Counsel for the respondent deserves instruction fees commensurate with work done. As held in the often cited case of **Premchand Raichand v Quarry Services of East Africa, 1972 EA 162** , an advocate ought to be adequately remunerated for work done without making costs so high as to deny access to courts.

Considering the work done on appeal, a sum of 2,000,000/ is adequate as instruction fees. I therefore find that the sum of 3,500,000/ awarded was excessive under the circumstances.

Items on court attendances will be allowed at 100,000/ for the sake of consistency with my ruling in Misc. applic. 79 of 2014 between the same parties.

Item 16 transport from Amuria for counsel will be disallowed.

Item 17 on making copies will be allowed at 10,000/ . The provision for making copies was based on the high cost of duplicating copies using the machines in place at the time . Presently, counsel simply prints copies off the printer. The cost of doing so is very minimal.

In the result, a sum of 350,000/ is deducted from the seven court attendances . A sum of 200,000/ in item 16 is deducted. Another sum of 270,000/ in item 17 is deducted and finally a sum of 1,500,000/ is deducted from item 1. The total deductions come to 2,320,000/ the bill of costs is allowed at 5,036,000/.

DATED AT SOROTI THIS 8TH DAY OF JULY 2016.

HON. LADY JUSTICE H. WOLAYO