

THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
LABOUR DISPUTE CLAIM No. 043 OF 2015
(Arising from Labour Dispute claim No. 012 of 2013)

BETWEEN

OKELLO OPIO MILTON..... CLAIMANT

AND

STANBIC BANK (U) LTD..... RESPONDENT

BEFORE

1. Hon. Chief Judge Ruhinda Asaph Ntengye
2. Hon. Lady Justice Linda TumusiimeMugisha

PANELISTS

1. Mr. Ebyau Fidel
2. Ms. Nyachwo Julian
3. Mr. Mavunwa Edson Hans

RULING

This ruling arises out of a preliminary objection raised by counsel for the respondent.

He argued strongly that the claim offended section 3 of the Limitation Act, having been filed after 6 years of the accrual of the cause of action. He relied on a variety of cases including this court's decision in **JULIUS RUGUMAYO** VS Uganda Revenue Authority, labour dispute No. 27/2014. He prayed this court to strike out and reject the claim. Counsel for the respondent in reply argued that the preliminary objection was res judicata since it had been raised before while the matter was in High court at Lira circuit.

He argued that when the same preliminary point was raised, both counsel submitted and the learned judge dismissed it with costs. He also laboured to, in the alternative, argue that the suit was not time barred.

We have perused carefully the ruling in High Court CS 0012/2013 at Lira which was on the same preliminary objection raised before us.

The learned judge in no uncertain terms dismissed the preliminary objection. After perusing both submissions we are in no doubt that the decision in cs 002/2013 was on the same legal point raised before us. The Learned Judge stated and held,

“In my view, the issue at what stage the cause of action accrued is not one which can be fairly and squarely decided one way or the other, unless some fact or facts in issue are

proved. In SAYIKWO MUROME Vs YOVANI (1985) HCB 68 Odoki J. as he then was, held that where a plaintiff pleads facts from which a reasonable inference can be made that the suit is not time barred, then the issue of limitation is a triable issue which can only be determined after hearing the evidence on the matter

In the result, and for the reasons given above, this preliminary objection is overruled and is dismissed with costs to the plaintiff. The suit shall proceed to be heard on its merits.”

We have nothing useful to add to the above holding.

Counsel for the respondent should have known that under section 7 of the judicature Act, the legal point raised had been adjudicated upon by a competent court and a decision had been made. It was a waste of the courts time to be engaged in the same submissions that had been raised before a competent court. It is more disturbing to this court on finding that the firm of Advocates raising the said point of law in this court was the same firm that raised it before in Lira.

For that matter, the preliminary objection is dismissed for offending the legal principle of RES JUDICATA. In the circumstances, the respondent deserves to pay costs for engaging both counsel for the claimant and this court into unnecessary litigation over a legal point they knew had been adjudicated upon by a competent court. They will pay 1,500,000/ on or before the next date the file is called in court. Order accordingly.

Signed by:

- 1. Hon. Chief Judge Ruhinda Asaph Ntengye
- 2. Hon. Lady Justice Linda Tumusiime Mugisha

PANELISTS

- 1. Mr. Ebyau Fidel
.....
- 2. Ms. Nyachwo Julian
- 3. Mr. Mavunwa Edson Han

Dated: 14th/10/2016