

THE REPUBLIC OF UGANDA
THE INDUSTRIAL COURT OF UGANDA HOLDEN AT KAMPALA
MISC. APPLN. NO. 35 of 2018
(Arising from Labour Dispute Appeal NO. 23/2016)

TUMUSIIME LORNA & 23 ORS..... CLAIMANT

VERSUS

MAKERERE UNIVERSITY.....RESPONDENT

RULING

BEFORE

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

PANELISTS

1. Mr. Rwomushana Reuben Jack
2. Ms. Rose Gidongo
3. Mr. Anthony Wanyama

This is a notice of motion seeking to set aside a consent judgment in Labour Dispute Appeal No. 23/2016. The application is based generally on the grounds that the consent judgment and settlement were executed without the consent of the applicants and that they were gravely prejudicial to the interests of the applicants. It was alleged in the grounds of the application that the respondent through her officers, one Charles Barugahare and one Barnabas Nawangwe colluded with three of the claimants, one Alele Lydia, one Athieno Esther and one Hilda Barugahare to execute both the consent judgment and the deed of settlement.

The application was supported by affidavits of the 24 applicants in which each of them denied having been party to the consent judgment or the deed of settlement.

An affidavit in opposition was filed by one Yusufu Kiranda of Kibeedi& Co. Advocates. The affidavit is to the effect that the respondent was approached by the applicant's former lawyers who assured the respondent's officials that three of the applicants had appointed 3 people to represent them in negotiations which eventually resulted into a deed of settlement and consent judgment.

According to the affidavit, the respondent officials signed both the deed of settlement and the consent judgment under an honest belief and impression that they were dealing with the rightful representatives.

There is nothing to suggest that any of the applicants was party to the negotiations or that he/she in fact gave authority to the three people or any of them to represent them.

According to the affidavits of the applicants, their former lawyers were M/s. Twinobusingye Saverino & Co. advocates and M/s. Namara Twenda & Co. Advocates. We take exception to the conduct of these lawyers for having made representation to the officials of the respondent that their clients, the applicants, had given authority to the three people to represent them in negotiations of a settlement without proof of such authority. It is noted that even the consent settlement was not signed by any of the applicants or even the alleged representatives of the applicants, although the latter signed the Deed of settlement.

Although Prof. Barnabas Nawangwe signed the Deed of settlement as vice chancellor of the respondent and on behalf of the respondent, it is clear from the affidavit evidence that he was duped by the said lawyers of the applicants that the applicants had instructed the three people to negotiate the settlement whereas not.

Since the affidavit in opposition concedes that the respondent officials signed both the Deed of settlement and the consent judgment in the belief that those who signed were representatives of the applicants, and since it has turned out that they in fact were not, the legal consequence is that both Deed and consent were obtained illegally and without authority of the applicants, and therefore both are hereby set aside. The application succeeds and it is hereby ordered that:

1. The consent judgment in Labour Dispute appeal No. 23/2018 is hereby set aside.
2. The respondent shall restore and return the decretal sum so far recovered from this court as a result of the said consent and Deed.
3. The former lawyers of the applicants having been negligent in pursuing the authority of the applicants for purposes of negotiations and having taken it upon themselves to purport to act on behalf of the applicants while signing the consent judgment, and having wrongfully and negligently advised the Vice Chancellor to sign the Deed settlement, it is hereby ordered that they will pay the costs of the applicant. Order accordingly.

Signed by:

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

PANELISTS

1. Mr. Rwomushana Reuben Jack
2. Ms. Rose Gidongo
3. Mr. Anthony Wanyama

Date: 01/03/2019