

**THE REPUBLIC OF UGANDA
IN THE INDUSTRIAL COURT OF UGANDA AT KAMPALA
MISC. APPLN. NO 204 OF 2018
(ARISING FROM MGLSD NO. 042/2018)**

APPLIANCE WORLD (U) LTD.....CLAIMANT

AND

ALIKER JOSEPH RINGA.....RESPONDENT

BEFORE

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

PANELISTS

1. Mr. Ebyau Fidel
2. Ms. Harriet MugambwaNganzi
3. Mr. F. X. Mubuuke

RULING

This application is for extension of time within which to file a memorandum in reply. It is supported by an affidavit deponed to by one Nsiima Collen. An affidavit in reply is also on the record deponed to by one Alier Joseph Ringa, the claimant. We have heard and considered the submissions of both counsel. We have also perused carefully both the Notice of Motion and the respective affidavits.

True, the service was effected on to a receptionist of the applicant company who forwarded it to the Administrative Assistant to the Managing Director.

According to the Notice of Motion, the Administrative Assistant inadvertently forgot to bring the documents to the Managing Director. Counsel for the applicant relied heavily on order 29rr2 of the CPR which provides for service upon a principle officer of the company. Counsel for the respondent contended that the receptionist having forwarded the documents to the M.D., it was upon the M.D. to instruct counsel to file a reply to the claim.

In the case of **CIPLA QUALTIY CHEMICALS INDUSTRIES VS NAMAKOYE LUCY M.A. 84/2017**, relied upon by counsel for the applicant, this court stated

“A company is a legal person though it is an artificial person. It therefore acts through human beings whose actions necessarily bind the company. The important question therefore is whether the person who was served was in such position as either to take immediate action or had the capacity to give the necessary information to the person with capacity to take action”.

The above case is authority for the legal proposition that in the absence of evidence to the contrary, an administrative assistant was a principal officer who ought to have acted on the court paper or communicated to whoever was expected to act and that failure to do so could not be visited on to the respondent.

In the instant case therefore the inadvertent forgetfulness of the administrative assistant to forward the documents which he/she had received from the receptionist to the managing director could not be visited onto the respondents. But as court stated in the above case, we recognize the right of the applicant to be heard as provided under **Article 28(2) of the Constitution**. Since this court is established to administer substantive justice and the applicant has shown interest in defending the claim, we will allow the application and allow the applicant to file a memorandum in reply with 7 days from today.

Since this application arose because of the negligence of the applicant and the respondent had to appear to defend it, the applicant shall pay costs occasioned. 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. Harriet MugambwaNganzi
3. Mr. F. X. Mubuuke

Dated: 10/01/2019