

THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

5 **CIVIL APPEAL NO. 07 OF 2000**

M. BUWULE ::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::: APPELLANT

VS

STIRLING INTERNATIONAL

10 **CIVIL ENGINEERING (U) LTD:::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::RESPONDENT**

RULING BY RUHINDA A. NTENGYE, ESQ; REGISTRAR

This ruling arises out of a preliminary objection raised by counsel for Sterling Civil Engineering
15 Ltd to the effect that this court has no jurisdiction to execute its orders or substitute a judgment
debtor after judgment.

The background is that the appellant filed this appeal in this court against the judgment of the
High Court on 21/02/2000.

20 This court upheld the judgment of the High Court and the respondent appealed to the Supreme
Court. In the meantime, according to the appellant (respondent in the Supreme Court) assets and
liabilities of the respondent (Stirling International Civil Engineering Ltd.) were transferred to
Stirling Civil Engineering Ltd. Subsequently the Supreme Court dismissed the appeal for non-
prosecution on 14/10/2004.

25 In **Civil Appeal No.05/2004, BEATRICE KOBUSINGYE VS FIONA NYAKANA &
GEORGE NYAKANA.**

The Supreme Court at Page 14 of the lead judgment by Justice Tsekooko JSC says;

30 **“I now return to the general applicability of the Civil Procedure Act. As I will
explain, this is to be found in the old S.12 (now S.11) of the Judicature Act. The
section reads as under:**

‘for the purpose of hearing and determining an appeal the Court of Appeal shall have all powers, authority and jurisdiction vested under any written law in the court from the exercise of original jurisdiction of which the appeal originally emanated’.

5 **The powers, authority and jurisdiction referred to are those of any trial court whose decisions are appealed up to the Court of Appeal. This provision vests in the Court of Appeal the same powers, authority and jurisdiction which, for instance in this case, the grade I Magistrate exercised when he tried and determined the case.”**

10 Section 45(2) of the same Judicature Act the heading of which is, “Process of execution” in reinforcing section II discussed in the above case provides;

“Any order or judgment of the Supreme Court or the Court of Appeal given in the exercise of their jurisdiction under this Act may be executed as if it were an order or judgment of the High Court.”

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It is my considered opinion that in matters of execution this court has concurrent jurisdiction with the High Court. It is not therefore true that this court has no jurisdiction to execute its orders/decrees/judgments.

20 As to whether this court (of a registrar of the Court of Appeal) has power to substitute a judgment debtor, it is my considered opinion that this court has no such jurisdiction. The facts reveal that Stirling International Civil Engineering Ltd was the respondent in the proceedings in this court but either just before or after pronouncement of the decision of the Supreme Court the name was changed to Stirling Civil Engineering Ltd. The question is whether all assets and
25 liabilities of the former company were transferred to the latter such that this court may be able to carry out execution of the order.

In my view the question is controversial and this court may not have jurisdiction to decide it.

It can only be determined by a full panel of the court in the same way it determined the appeal
30 itself on merits. Since the preliminary point has been successful only in part, no costs are awarded.

Dated at Kampala this ...15thday of ...December.....2009

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Ruhinda A. Ntengye

Registrar, Court of Appeal