

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
MISCELLANEOUS APPLICATION NO 96 OF 2006
(Arising out of H.C.C.S. NO. 823 OF 2003)

MAKERERE UNIVERSITY.....APPLICANT

VERSUS

RAJAB KAGORORESPONDENT

BEFORE: HON. MR. JUSTICE O.R. OKUMU WENGI:

RULING:

This application seeks to delay execution on the ground that the Applicant/Judgment Debtor intends to pursue an appeal. The back ground of the case is that the Judgment Creditor a former employee of the Makerere University retired from the service when he was 65 years old. He was denied pension and came to this court to seek redress. He is now 74 years of age. The University is arguing that whatever pension is payable to the Judgment Creditor is only payable after 15 years. Now when the matter came for hearing and disposal by admission Judgment was entered in favour of the plaintiff/respondent against the university for a liquidated sum. By logic the question of deferred payment or payment of normal pension after 15 years or over a period had been displaced when the same was not effected and the matter came for adjudication. Further still the admission on the record displaced such a method. Then when the judgment creditor paid into court it discharged the decree following an attachment by way of its execution. The payment into court was actually not a deposit as a condition for the appellate ambitions of the judgment creditor. I also agree with Mr. Lutakome Senior Counsel for the Respondent that there is no pending appeal as such. He cited *Elizabeth Nakanwagi vs. Stiling Civil Engeering HCCS 650/93 and Nanguga Livestock vs. Enego Project KARL (1995)* 6, to say that an appeal is one when at least a provisional memorandum of appeal and indeed when a memorandum is filed. The Applicant's counsel claims that he has no typed proceedings. This cannot be used as an excuse for family to pursue an appeal if any in this case. I am also unable to see that there is any likelihood in this appeal seeing the light of day given the admissions on the record. All in all

I do not see any merit in this application. The judgment creditors case is yet another example of heartless human resource blunder in a public institution.

If I may ask, the man is now 74 years old. When will he ever receive the fruits of his life long service to the University. For this court he is entitled to the fruits of his decree now. The application is dismissed with costs and accordingly the respondent should be paid his decretal sum forthwith.

O.R. Okumu -Wengi

JUDGE

21/8/2006