THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

(CORAM: ODOKI C.J., KATUREEBE, OKELLO, TUMWESIGYE, KISAAKYE, JJ.S.C.)

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CIVIL APPEAL NO. 09 OF 2009

BETWEEN

OIL SEEDS (U) LIMITED :::::::::::::::::::::::::::::: APPELLANT

10 **AND**

UGANDA DEVELOPMENT BANK ::::::::::::::::: RESPONDENTS

[Appeal arising from the Judgment of the Court of Appeal at Kampala (Kitumba, Nshimye and Kavuma, JJ.A)dated 7th April 2009 in Civil Appeal No. 43 of 2003]

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JUDGMENT OF KISAAKYE, JSC.

This is a second appeal filed by Oil Seeds (U) Ltd., the appellant, against the decision of the Court of Appeal in Civil Appeal No. 43 of 2003. The appellant's appeal was dismissed with costs on 7th April 2009. The brief background to this dispute between the parties which spans over 17 years is as follows.

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On November 21, 1988, the appellant entered into a Loan Agreement with the respondent, the Uganda Development Bank Limited (hereinafter referred to as the respondent) to finance the establishment of an oil extraction and milling plant. Disputes arose between the parties and eventually the respondent recalled the loan on 9th September 1992. In accordance with the Loan Agreement which provided for reference of disputes between the parties to arbitration, the appellant applied to the High Court for appointment of an arbitrator. With the consent of both parties, Mr. Joseph Mulenga, Senior Counsel (as he then was) was appointed as an arbitrator. Mr. Mulenga conducted the arbitration and awarded the appellants 300,000,000/= Uganda Shillings as general damages. He also awarded the respondents 208,564,424/= Uganda Shillings for the outstanding loan and interest which the appellant owed to it. He disallowed the appellant's claim of 2,882,400,000/= as the correct measure of loss of profit and also disallowed the appellant's claim for 1,023,644,800/= for lost opportunity. The respondent paid the appellant 91,435,576/= Uganda Shillings, being the difference between the two amounts awarded, after offsetting the appellant's outstanding loan and interest.

The appellant was dissatisfied with part of the award and filed High Court Miscellaneous Application No. 4 of 1993. In this application, the appellant sought for an order to remit the award to another arbitrator to

reconsider the award of Joseph Mulenga, S.C. (as he then was) disallowing the appellant's claims of 2,882,400,000/= Uganda Shillings and 1,023,644,800/= Uganda Shillings, respectively.

5 Mr. Remmy Kasule who was then an Advocate in private practice at the time, was appointed as the new arbitrator on March 3rd 1999 in High Court Miscellaneous Application No. 146 of 1999. On 2nd June 1999, Mr. Kasule awarded the appellant 2,882,400,000/= Uganda Shillings being loss of profits and declined to award the appellant's claim of 10 1,023,644,800/= Uganda Shillings. The second award was filed in the High Court on 29th October 1999.

The appellant later filed a second Miscellaneous Application No. 1355 of 1999 seeking the remission in part of the award made by Mr. Kasule 15 which disallowed the appellant's claim of 1,023,644, 800/= Uganda Shillings as loss of opportunity and increased cost of borrowing, for reconsideration by the Arbitrator. The respondent, being dissatisfied with the whole award, filed a reply/cross objection. Both parties later filed written submissions in support of their objection and reply/cross-20 objection, respectively.

Before the High Court could dispose of Misc. Application No. 1355 of 1999, the appellant and the respondent entered into a Settlement on 25th July 2000, which was duly sealed by the Registrar of the High Court on

the same day. Under this Settlement, the respondent/cross-objector agreed to pay the appellant/objector Seven hundred million Uganda Shillings (700,000,000/=) and to pay the appellant's lawyers One hundred and seventy million Uganda Shillings (170,000,000/=), to cover
5 the Advocates and the Arbitrator's fees. The respondent promptly paid the appellant and their lawyers the agreed upon amounts, respectively.

Almost one year later, the appellant filed yet another application by Notice of Motion (Misc. Appl. 249 of 2001) on 7th June 2001, in the
10 High Court. The appellant sought a declaration that the Arbitrator's award of Uganda Shillings 2,882,400,000/= which had been made in their favour by Mr. Kasule (as he then was) had never been set aside or remitted to the arbitrator and that it ought to be executed as a Decree of the Court.

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The application was heard by Justice C. K. Byamugisha, who dismissed it with costs on 18th October 2001 on the ground that the dispute between the two parties had been amicably settled by the Settlement dated 25th of July 2000. The appellant appealed to the Court of Appeal which upheld
20 the ruling of Justice Byamugisha and dismissed the appeal with costs to the respondents.

The appellant was dissatisfied with the judgment of the Court of Appeal, and filed this second appeal on the following grounds.

1. ***The majority of the learned Justices of Appeal erred in law and fact in dismissing the appeal and holding and finding that the Arbitrators Award of Shs. 2,882,400,000/= in favour of the Appellant was not enforceable by virtue of the settlement endorsed by the Registrar.***

2. ***The majority of learned Justices of Appeal erred in law and fact in holding that the settlement related to the entire claim including the Award of Arbitrator.***

3. ***The learned Justice of Appeal erred in law in refusing to order that the award of Shs. 2,882,400,000/= be executed as a decree of the High Court with interest thereon from the date of filing of the award.***

The appellant sought for the following orders:

1. ***That the appeal be allowed***

2. ***That the orders of the High Court and the Court of Appeal be set aside.***

3. ***That the Arbitrator's Award of Shs. 2,882,400,000/= in favour of the appellant and filed in the High Court on 29/10/1999 be executed as a decree of the High Court.***

4. ***That the appellant be granted interest on the award of Shs. 2,882,400,000/= at 25% p.a. from the date of filing the award in the High Court till payment in full.***

5. ***That the costs of this appeal and in the Courts below be granted to the appellant with a Certificate of two Counsels.***

The appellant's application to the High Court was brought under sections 35 and 101 of the Civil Procedure Act, Cap. 65 *(now sections 34 and 98 respectively of the Civil Procedure Act, Cap. 71*) and section 35 of the Judicature Statute 1996 (*now section 33 of the Judicature Act, Cap 13*). Sections 35 of the Civil Procedure Act provided that:

> ***"All questions arising between the parties to a suit in which the decree was passed, or their representative, and relating to the execution, discharge or satisfaction of the decree, shall be determined by court and not a separate suit."***

On the other hand, section 35 of the Judicature Statute provided that:

> ***"The High Court shall, in the exercise of the jurisdiction vested in it by the Constitution, this Act or any written law, grant absolutely or on such terms and conditions as it thinks just, all such remedies as any of the parties to a cause or matter is entitled to in respect of any legal or equitable claim properly brought before it, so that as far as possible all matters in***

controversy between the parties may be completely and finally determined and all multiplicities of legal proceedings concerning any of those matters avoided."

5 The appellant was represented by Mr. Peter Walubiri of Kwesigabo, Bamwine and Walubiri Advocates and Dr. James Akampumuza of Akampumuza & Co. Advocates. The respondent was represented by Mr. Alex Rezida of Nangwala, Rezida & Co. Advocates. Both counsel made oral submissions. Counsel for the appellant argued each ground 10 separately, while counsel for the respondent argued ground 1 and 2 together and ground 3 separately. I will briefly discuss the law governing this appeal, before considering each ground separately.

This dispute involves an arbitration award and its enforcement and was 15 governed by now repealed Arbitration Act, Cap. 55. Section 9(2) of this Act provided as follows:

> ***"The arbitrators … shall, at the request of any party to the submission or any person claiming under him, and upon payment of the fees and charges due in respect of the arbitration*** 20 ***and award, and of the costs and charges of filing the award, cause the award, or a signed copy of it, to be filed in court; and notice of the filing shall be given to the parties by the arbitrators or umpire."***

Section 11 of the Act gave powers to the court to remit the award for the reconsideration of the arbitrators and provided as follows:

"(1) The court may, from time to time, remit the award for reconsideration of the arbitrators or umpire.

5 ***(2) Where an award is remitted under subsection (1), the arbitrators or umpire shall, unless the court otherwise directs, make a fresh award within three months after the date of the order remitting the award."***

Section 13 on the other hand provided for the enforcement of an arbitral

10 award as follows:-

> ***"An award on a submission, on being filed in the court in accordance with the foregoing provisions, shall (unless the court remits it for the reconsideration of the arbitrators or umpire, or sets it aside) be enforceable as if it were a decree of the court."***

15 The repealed Arbitration Act did not have any specific provision relating to objections to awards and how they should be handled. However, objections were provided for under rule 7 and 8 of the Arbitration Rules (Rule 55-2), which were made under the Act. Rule 7 provided as follows:

20 ***"Any party objecting to an award filed under section 9(2) of the Act may, within eight weeks after notice of the filing thereof has***

been served upon the party so objecting, apply for the award to be remitted or set aside, as the case may be, and lodge his objections thereto, together with necessary copies and fees for serving the same upon the other parties interested. The parties on whom such objections are served may within fourteen days of the date of service thereof lodge cross - objections which shall be served on the original objector.”

Rule 8 on the other hand, provided as follows:

“The objections to the award and the cross objections (if any) shall thereafter be set down for hearing and the original objector shall occupy the position of the plaintiff and the other parties that of defendants.”

Lastly, rule 14 provided for enforcement of the award as follows:

“***An application to enforce an award as a decree of court under section 13 (1) of the Act shall not be made, if no objections to the award are lodged, till the expiration of eight weeks after notice of the filing thereof has been served upon the party against whom the award is to be enforced, and if objection are lodged till the objections have been dealt with by the court.”***

I will now turn to consider ground 1 of the appeal. Counsel for the appellant made several arguments in support of this ground. First he

contended that the Court of Appeal's holding that the award of 2,882,400,000/= Uganda Shillings was not enforceable by virtue of the Settlement which had been endorsed by the Registrar was wrong because the powers of the Registrar to enter judgments are only those provided for under Order 46 rule 2, 3 and 4 of the Civil Procedure Rules. He argued that the document called a "Settlement" did not in law stop enforcement of the arbitrator's award because it did not set it aside or vary it.

He also argued that the Settlement that the appellant and the respondent entered into, could not be taken as a Judgment because under the now repealed Arbitration Act, Cap 55, the parties did not have powers to vary or set aside an award of arbitration. On this basis, counsel for the appellant argued that the settlement was a nullity in law.

Counsel for the appellant relied on section 12 of the repealed Arbitration Cap 55, which I have already cited. He contended that this Act is the one applicable to this case and that it limited the powers of the High Court to either enforcing the award or to remitting the award to the Arbitrator. He submitted that if court were to hold to the contrary, such a holding would be tantamount to ousting the jurisdiction of the Arbitration Act and the Court which is meant to be the final arbiter.

Counsel for the appellant also relied on article 139 (1) of the Uganda Constitution and section 14 of the Judicature Act, (Cap. 13), in support of his arguments. These two provisions set out the jurisdiction of the High Court. With due respect to the submissions of the learned counsel for the Appellant, the content and effect of the two provisions are not relevant to this case.

In further support of his arguments that neither the parties nor Registrar had the power to enter and endorse the Deed of Settlement, respectively, counsel cited the cases of ***Gokaldas Laximidas Tanna v sr. Rosemary Muyinza and Anor, Civil Appeal No. 12 of 1992 (Supreme Court)*** and ***Christopher Sebuliba vs. Attorney General, Civil Appeal No. 38 of 1995 (Supreme Court)***.

With due respect to learned counsel's arguments, the two cases are distinguishable from the present case. The case of ***Christopher Sebuliba v. Attorney General, supra***, involved an application challenging the exercise of the powers of the then Registrar of the Supreme Court who, after the taxation of a bill of costs had been completed, endorsed a 'Consent Judgment' which reduced the original taxed costs. Allowing the application, the Court held that the Registrar had no power to revise his own taxation order nor had he any powers to do so by consent of the parties after he had signed the certificate of taxation and after the respondent had withdrawn his application seeking leave to refer the

decision of the registrar to the court. This case is clearly distinguishable from the present case where the Registrar only endorsed a Settlement between the parties before the matter had been heard and disposed off by the presiding Judge.

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In ***Gokaldas Tanna v. Sr. Muyinza***, ***supra***, on the other hand, the court declined to uphold an agreement between the parties which provided that upon finding the issue in positive, the judgment should be entered in favour of the Plaintiff and that upon finding the issue in the negative,
10 judgment should be entered in favour of the Defendants. The court held that parties could not agree to oust the jurisdiction of the court to return the proper verdict on the pleadings and facts of the case. The court rightly argued that in effect, the parties were seeking to tie in advance, the hands of the learned trial judge in his judgment and were attempting
15 to oust the function of the court to arbitrate fairly the dispute between the parties and to come out with decisions that appeared just in the opinion of the court. Again, this case is different from the present appeal where the Registrar only endorsed on the Deed of Settlement that had been concluded by the parties before the court heard and decided it.

20

Counsel for the appellant also relied on the authority of ***The Law and Practice of Commercial Arbitration in England*** by *Sir Michael J. Mustill and Stewart G. Boyd*, in support of his arguments. On the basis

of this authority, appellant's counsel argued that the Settlement was a nullity in law. I did not find the cited authority to be of any assistance to the appellant's case.

5 Counsel for the respondent supported the decision of the Court of Appeal and opposed the Appeal. He argued, in response to the appellant's submissions with respect to the powers of the Registrar, that the Settlement that the parties reached was not a Deed of Variation of the award but a Deed of Settlement. He further contended that the 10 Registrar had powers to endorse the Settlement by virtue of the inherent powers vested in the court under article 126 of the Constitution, and section 98 of the Civil Procedure Act.

Furthermore, he argued that the Registrar's endorsement did not in any 15 way vitiate the Settlement that the parties entered into and implemented. Contrary to this contention, respondent's counsel argued that all the court had done was to note what the parties had done. Lastly, he submitted that a holding by the Court that the Settlement was not valid was tantamount to a holding that High Court Miscellaneous Application 20 No. 1355 of 1999 still stands, which would be an absurd result.

It is clear from the record that it is the appellant that filed an objection to remit in part to another arbitrator the award made by Mr. Kasule that had

been filed in court. The respondent also filed a reply/cross-objection against the award of 2,882,400,000/= Uganda Shillings and the appellant's claim for 1,023,644, 800/= Uganda Shillings. Both parties also made written submissions to court on their respective claims. 5 Subsequently the parties voluntarily entered into a Settlement to resolve their disputes. The parties having resolved their disputes relating to the award by way of Settlement, there is no way the court could again entertain any other claim based on a dispute which had been resolved by mutual consent of the parties.

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I have noted that Mr. Walubiri, counsel for the appellant made similar arguments before the Court of Appeal. In her lead judgment, Justice Kitumba, J.A. (as she then was) considered these arguments as well as the respondent's counter arguments With particular reference to the 15 appellant's argument regarding the action of the registrar, Justice Kitumba noted thus:

> ***"The criticism of counsel for the appellant that the Registrar signed a settlement which he was not authorized by law is not*** 20 ***justified. The parties were settling Miscellaneous Application No. 1335 of 1999, which was before the High Court. The Registrar had powers to seal the settlement in that case."***

Lastly, it should be noted that the arguments made by counsel for the appellant that the repealed Arbitration Act limited the powers of the High Court to either enforcing the award or to remitting the award to the Arbitrator, and that an arbitration award, once filed in court was final and binding on the court have already been addressed by this court. In ***Oil Seeds (Uganda) Ltd v. Uganda Development Bank, S.C.C.A. No. 23 of 1995***, which involved the same parties as are in this appeal, this court had opportunity to consider and rejected these arguments. The appeal arose out of a dismissal of an application to set aside in part the arbitral award and to remit in part the arbitral award on the grounds that the court did not have jurisdiction to oust an award made by the Arbitrator under rule 8 of the Arbitration Rules. Justice Oder, citing section 11 of the repealed Arbitration Act had the following to say:

> ***"The effect of the provisions of this section, in my view, is that the court has a discretionary jurisdiction to look into an award and remit it to the arbitrator for reconsideration. Where an award is so remitted, the arbitrator shall make a fresh award unless the court directs otherwise directs. ... If arbitrators' awards were final and conclusive,... section 11 of the Act, in my view, could not have given the court such discretionary powers to remit awards for reconsideration."***

Furthermore, in reference to section 12 of the repealed Act, Justice Oder made the following observations:

"What I have said in respect of section 11 of the Act equally applied to section 12. The section would not have given the court discretionary powers to set aside an award on the conditions specified therein, if the jurisdiction of the arbitrator on the matter were conclusive, final and binding."

I concur with the observations of my brother and the holding of the Court of Appeal. I therefore find that the Court of Appeal rightly held that the award of Shs. 2, 882,400,000/= was unenforceable by virtue of the Settlement which was voluntarily entered into by the appellant and the respondent.

I therefore find no merit in ground 1 of the appeal and it should fail.

I now turn to consider Ground 2 of the appeal. Counsel for the appellant made several arguments in support of this ground. First, counsel contended that the Settlement only referred to the appellant's claim of 1,023,644, 800/= Uganda Shillings, as was stated in Miscellaneous Application No. 1355 of 1999 and not to the award of 2,882,400,000/= Uganda Shillings, which had already been awarded in its favour by Mr. Kasule and had been filed in court. Appellant's counsel further argued that any ambiguity in the document of the Settlement should be

construed against the party that drafted the document, who was the respondent.

Counsel for the respondent opposed this ground of appeal and supported the decision of the Court of Appeal. He argued that the nature of the
5 dispute between the parties as at July 2000 when they entered into the Settlement was as follows: The appellants who were the objectors were claiming for 1,023,644, 800/= Uganda Shillings for loss of opportunity and increased cost of borrowing, in addition to 2,882,400,000/= Uganda Shillings, which had already been awarded by Mr. Kasule. The
10 respondents on the other hand, in their cross-objection were claiming that the 2,882,400,000/= Uganda Shillings had been wrongly awarded by Mr. Kasule and that the appellants were also not entitled to be awarded their additional claim of 1,023,644, 800/= Uganda Shillings. He therefore contended that it is this dispute that the parties (i.e. the
15 Appellant and the Respondent) referred to in their Settlement.

I have reviewed the Deed of Settlement, and the most relevant part of this document reads thus:

> ***"WHEREAS the parties hereto were dissatisfied with the award***
> 20 ***made in the arbitration proceedings before MR. REMMY KASULE and accordingly filed the above application objecting and cross objecting to the said award and have agreed to settle their dispute;***

WHEREFORE by Consent of both parties, the said dispute is settled on the following terms namely:-'

1. ***THAT the respondent/Cross-Objector pays the Applicant/Objector a total sum of Ug. Shs. 870,000,000/= in full and final settlement of the Applicant/Objector's claim against the Respondent/Cross-Objector...."***

I do not agree with the appellant counsel's submissions that the Settlement that the parties signed only related to their claim of 1,023,644,800/= Uganda Shillings. The words used in the Settlement were very clear and should be given their natural meaning. The 'dispute' referred to in the Settlement was the appellant's claim for 1,023,644,800/= Uganda Shillings which was declined by the Arbitrator and the respondent's objection to it, as well as the respondent's objection to the award of 2,882,400,000/= Uganda Shillings, which had been made in favour of the appellant.

The appellant and the respondent were all represented by lawyers at the time of entering into the now contested Settlement. Therefore, the appellant's argument that the Settlement was drawn by the respondent's counsel and should thus be held against the respondent as to what claim was settled, does not hold any substance. This is because there was nothing that prevented the appellants and their counsel from amending

the draft Settlement document before they signed it, to clearly indicate that it only referred to the appellant's claim of 1,023,644,800/= Uganda Shillings and not to the claim of 2,882,400,000/= Uganda Shillings which had already been awarded to them.

5 It is also clearly evident from the parties' pleadings and written submissions on record that the respondent was still objecting to the award of 2,882,400,000/= Uganda Shillings, as well as the claim of 1,023,644,800/= Uganda Shillings. I therefore do not agree with counsel for the appellant and the dissenting judgment of Justice Kavuma, J.A.,
10 that the "dispute" that the parties settled and referred to, was the claim of 1,023,644, 800/= Uganda Shillings only. Both parties should be deemed to have known what they were doing.

This interpretation is supported by the receipts that were issued by both the appellant and their lawyers. As the Court of Appeal rightly noted,
15 the appellant duly acknowledged the payment of Shs. 700,000,000/= vide their receipt no. 051 dated 27th July, 2000 which indicated that it was payment of ***"settlement of dispute arising out of H.C.M.A. 4/94, 4/93 and 1355/1999.*** Similarly, the appellant's lawyers then, Ms. Bitangaro & Co. Advocates, also acknowledged receipt of Shs.
20 170,000,000/= vide receipt no. 351 as being payment for ***"Advocates & Arbitrators fees in High Court Misc. App 1355/1999***." Thus the appellant and their lawyers received a total sum of Uganda Shillings

870,000,000/= pursuant to the Settlement that had been reached between both parties.

I agree with Justice Kitumba's holding in her lead judgment that:

"... the appellant received what they settled for. They are estopped from claiming that the award by Arbitrator Remmy Kasule still stands."

The appellant cannot now be allowed to turn around and ask the court to adopt their interpretation or inferences or seek to be wiser after the event. Therefore ground 2 should also fail.

I will now turn to consider the arguments made in support of Ground 3 of this appeal. Under this Ground, counsel for the appellant contended that the learned Justices of Appeal erred in refusing to order that the award of 2,882,400,000/= Uganda Shillings should be executed as a decree of the High Court. Counsel for the appellant argued that an award made by an Arbitrator, once filed in court is like any other judgment

Counsel for the appellant, further argued their client deserved to be awarded interest and urged this Court to use its wide discretionary powers to award interest to the appellant as prayed. They further prayed that interest on the award of 2,882,400,000/= Uganda Shillings be

granted at the rate of 25% per year, from 29th October 1999, the date when the award was filed in court.

Counsel for the respondent on the other hand opposed the appellant's claim to be awarded interest. He contended that the respondent had made genuine efforts to settle the dispute it had with the appellant and that the appellant did not have clean hands. Counsel further argued that in any event, interest is awarded at the discretion of the court.

My findings on grounds 1 and 2 would be enough to dispose of this ground. I have however found it necessary to consider this ground because of the important issue of law arising from the appellant's submissions regarding the finality of an arbitral award which had been filed in court.

According to the Award on Remission, Mr. Kasule summed up his orders as follows:

> ***"In conclusion I make the following orders as my award on remission:-***
>
> ***(i) A sum of Shs. 2,882,400,000/= is awarded to Messrs Oil Seeds (U) Limited as damages for loss of cumulative profits against Messrs Uganda Development Bank.***
>
> ***(ii) The original award is to be amended to incorporate in this part of the award on remission.***

(iii) The parties shall take the necessary steps to deduct the damages already paid from the sum awarded herewith"

It is clear that the arbitral award did not only comprise of the award of 2,882,400,000/= Uganda Shillings, but the entire award as quoted above. 5 It is also very clear that in sub paragraph (iii) of the award that the 2,882,400,000/= Uganda Shillings which was awarded to the appellant was supposed to be adjusted downwards by 300,000,000/= Uganda Shillings, which amount they had already received under the first award made by the first arbitrator. I therefore do not agree with the 10 submissions of counsel for the appellant that once filed in court, the arbitration award of 2,882,400,000/= Uganda Shillings should have been executed as a decree of the High Court. This is because it would still not have been possible and correct for the appellant to seek execution for the full amount of 2,882,400,000/= Uganda Shillings, even if it had not 15 objected in part to the award made by Mr. Kasule.

Secondly, from the facts of this case, it is clear that the appellant, in whose favour an arbitral award of 2,882,400,000/= Uganda Shillings had been made, is the same party that filed Miscellaneous Application No. 1335 of 1999 objecting to the part of the award and who sought for 20 Orders to remit the award in part to the Arbitrator. Following the appellant's application, both parties made written submissions. By the time the parties entered into their settlement, this application had not yet been disposed of by the court.

Given this back ground, the appellant's contention that once filed the award of 2,882,400,000/= was executable as a decree of the court cannot be sustained, since under rule 14 of the Arbitration Rules that were in force at the time and that I quoted earlier on in this judgment, an application to enforce an award could only be made after the objections had been dealt with. In this particular case, both the appellant's objection to the award and the respondent's cross-objection to the award were disposed of by the Settlement that the parties entered into. Following this Settlement, the respondent effected the agreed upon payments, which were dully received by the appellant. It therefore follows that by the time the appellant made its application to court, there was no award that either the High Court or the Court of Appeal could order to be executed as a decree of the court.

I find that the Court of Appeal did not err in declining to order that the award be executed as a Decree of the Court. Ground 3 also lacks merit and should fail.

In conclusion, I hold that the award of 2,882,400,000/= Uganda Shillings, which had been made in favour of the appellant and was the subject of this appeal, became unenforceable due to the Settlement the parties voluntarily entered into. Therefore, the appellant's claim that the award was still enforceable and their prayer for interest to be awarded cannot be sustained. I have found no merit in this entire appeal. I would

therefore dismiss it with costs to the respondent in this Court and in the courts below.

5 **Dated at Kampala this 22nd day of December 2010.**

..
DR. E. M. KISAAKYE
JUSTICE OF THE SUPREME COURT

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA
AT KAMPALA

5 **(CORAM: ODOKI C.J; KATUREEBE, OKELLO, TUMWESIGYE AND KISAAKYE, JJ.SC.)**

CIVIL APPEAL NO. 09 OF 2009

BETWEEN

OIL SEEDS (U) LIMITED :::::::::::::::::::::::::::::: APPELLANT

10 **AND**

UGANDA DEVELOPMENT BANK LTD :::::::::::: RESPONDENTS

[Appeal from the decision of the Court of Appeal at Kampala (Kitumba, Nshimye, and Kavuma, JJ.A) dated 7th April 2009 in Civil Appeal No. 43 of 2003]

JUDGMENT OF ODOKI, CJ

15 I have had the advantage of reading in draft the judgment prepared by my learned sister, Kisaakye, JSC, and i agree that this appeal has no merit and should be dismissed with costs to the respondent in this Court and in the Court below.

As the other members of the Court also agree, this appeal is dismissed with 20 orders proposed by the learned Justice of the Supreme Court.

Dated at Kampala this **22nd** day of December **2010.**

B J Odoki
CHIEF JUSTICE

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT KAMPALA

5 ***(CORAM: ODOKI, C,J., KATUREEBE, OKELLO, TUMWESIGYE, KISAAKYE, JJ.S.C.)***

CIVIL APPEAL NO. 09 OF 2009

BETWEEN

OIL SEEDS (U) LIMITED :::::::::::::::::::::::::::::: APPELLANT

10 **AND**

UGANDA DEVELOPMENT BANK ::::::::::::::::: RESPONDENTS

[Appeal arising from the Judgment of the Court of Appeal at Kampala (Kitumba, Nshimye and Kavuma, JJ.A)dated 7th April 2009 in civil
15 ***Appeal No. 43 of 2003]***

JUDGMENT OF KATUREEBE, JSC.

I have had the benefit of reading in draft the judgment of my learned Sister, Kisaakye, JSC, and I agree with her that this appeal has no merit and ought to be dismissed with costs.

20

Dated at Kampala this **22nd** day of **December**, 2010.

Bart M. Katureebe
Justice of the Supreme Court

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA
AT KAMPALA

5 ***(CORAM: ODOKI, CJ., KATUREEBE, OKELLO, TUMWESIGYE, KISAAKYE, JJ.SC.)***

CIVIL APPEAL NO. 09 OF 2009

BETWEEN

OIL SEEDS (U) LIMITED::::::::::::::::::::::::::::::: APPELLANT

10 **AND**

UGANDA DEVELOPMENT BANK :::::::::::::::::: RESPONDENTS

[An appeal from the judgment of the Court of Appeal at Kampala (C. N. B. Kitumba, S.B.S Kavuma and A. S. Nshimye JJA) dated 7th April 2009, in Civil Appeal No. 43 of 2003]

15 **JUDGMENT OF OKELLO, JSC.**

I have had the opportunity to read in draft the judgment of my learned sister, Kisaakye, JSC, and I agree with her that the appeal must fail. I also concur in the orders she has proposed.

20 I have nothing useful to add.

Dated at Kampala, this 22nd day of December, 2010.

G. M. OKELLO
JUSTICE OF THE SUPREME COURT

THE REPUBLIC OF UGANDA
IN THE SUPREME COURT OF UGANDA
AT KAMPALA

5 ***(CORAM: ODOKI CJ; KATUREEBE; OKELLO; TUMWESIGYE; KISAAKYE, JJSC.)***

CIVIL APPEAL NO. 09 OF 2009

BETWEEN

OIL SEEDS (U) LIMITED :::::::::::::::::::::::::::::: APPELLANTS

10 **AND**

UGANDA DEVELOPMENT BANK ::::::::::::::::: RESPONDENTS

[An appeal from the judgment and orders of the Court of Appeal at Kampala (Kitumba, Nshimye and Kavuma, JJ.A) dated 7th April 2009)

15 **JUDGMENT OF TUMWESIGYE, JSC**

I have had the benefit of reading in draft the judgment of my learned sister Kisaakye, JSC, and I agree that this appeal must fail. I also concur in the orders she has proposed.

20 **Dated** at Kampala this **22nd** day of **December**, 2010

JOTHAM TUMWESIGYE
JUSTICE OF THE SUPREME COURT