TUMWESIGYE, KISAAKYE JJ.S.C)
Kampala (Twinomujuni, Byamugisha, Kavuma [Appealfrorn the deClsion of the Court ~f Appeal at

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

(CORAM: TSEKOOKO, KATUREEBE, KITUMBA, TUMWESIGYE, KISAAKYE J.J.S.C)

CIVIL APPEAL NO. 23 OF 2010

BETWEEN

MADHVANI INTERNATIONAL S.A ::::::::::::::::::::::::::::::::::::::APPELLANT

AND

ATTORNEY GENERAL ::RESPONDENT

[Appeal from the court of appeal at Kampala (Twinomujuni, Byamugisha, Kavuma JJA) dated 3rd November, 2009 in Civil Appeal No. 48 of 2004]

JUDGMENT OF C.N.B. KITUMBA JSC

30 This is a second appeal to this court from the decision of the Court of Appeal which confirmed the High Court decision whereby the appellant's plaint was struck out for being time barred by the law of limitation.

Madhvani International S.A, herein after referred to as the appellant, filed a suit

35 in the High Court against the Attorney General, herein after referred to as the respondent. This was in the respondent's representative capacity by virtue of Section 11 of the Government Proceedings Act. The suit was filed on 19th February 2002. The appellant was seeking to recover the sum of US$ 3,949,920.06 with interest at the rate of 39% per annum from 1986 till payment in full and costs of the suit.

On 10th January, 2003 the respondent filed a written statement of defence and in paragraph 10 thereof averred that the claim is statutorily time barred and therefore, unenforceable. The appellant filed a reply in which it averred that the claim was not statutorily time barred.

The fol1owing issues were framed for determination by the court:

1. Whether or not the plaintiffs claim is time barred.
2. If not, whether the government is liable as alleged in the plaint.

15 3. Whether the plain tiff is entitled to the remedies claimed in the plaint.

Before the trial commenced counsel for both parties agreed that though some of the issues appeared as if they could be disposed of as preliminary points of law it was better to adduce evidence before they are determined. The trial commenced

20 and the testimony of one witness was recorded. The hearing was adjourned to another date.

When the trial resumed learned State Attorney, Mr. Matsiko, appeared for the respondent. He informed the learned trial judge that he had preliminary points

25 of law that he wished to raise. The trial judge allowed him and the State Attorney raised the following points:

2. That the suit is time-barred.

3. That on the principles of privity of contract, the appellant had no sustainable claim against the respondent as the representative of the

30 Ugandan Government.

This was based on the appellant's claim that the Joint Venture Companies were to pay the appellant's various amounts of money under various

35 management contracts entered into between the appellant and these

companies. The Government of Uganda refused to pay the amounts owed by the Joint Venture Companies to the appellant.

The learned trial judge upheld the first preliminary objection and found that the suit was barred by the Civil Procedure and Limitation (Miscellaneous Provisions) Act and struck it out with costs to the respondent. He then dismissed the second preliminary objection.

The appellant appealed to the Court of Appeal on 12 grounds and the respondent cross-appealed on the three grounds. When the case came up for hearing all grounds of the appeal and the cross-appeal were framed into the following five issues for determination.

1. Whether the learned trial judge erred in law and fact by disposing of the whole suit on a preliminary objection without hearing all the evidence of the appellant on the issue of the suit being time barred.

2. Whether the learned trial judge erred in law and fact when he relied on a case from the courts of Singapore to determine the suit.

3. Whether the learned trial judge erred in law and fact when he determined that for a document to amount to acknowledgement of a debt it must only come from the Permanent Secretary, Ministry of Finance/Secretary to the Treasury.

4. Whether the learned trial judge erred in law and fact when he determined that the appellant's claim was time barred.

5. Whether the learned trial judge erred in law and fact in rejecting and failing to find that there was no privity of contract between the appellant and the Government of Uganda.

The learned Justices of the Court of Appeal upheld the ruling of the High Court and dismissed the appeal and the cross-appeal with costs in both courts. The appellant appealed and filed its appeal to this court on five grounds which I will later set down in this judgment.

During the hearing of the appeal learned counsel Messrs John Katende, Samuel Serwanga, Sim Katende and Arthur Ssempebwa appeared for the appellant. Learned Principal State Attorney, Ms Christine Kahwa appeared for the respondent.

Mr. John Katende argued grounds **1,** 2 and s together followed by ground 4< and 5 separately. Ms Christine Kahwa for the respondent argued all grounds separately beginning with ground 5 then grounds **1,2,** Sand 4< respectively.

In this judgment I will deal with grounds 1 and 2 together, Sand 5 jointly, and 4 separately in that order.

Grounds 1 and 2:

1. ***That the learned Appel1ate Justices erred in law and fact in failing to recognize that the trial court exercised its discretion unjudiciously and contrary to correct principles in barring a suit that had already commenced from proceeding to a ful1 hearing on the disputed issue of limitation of time without al10wing the appel1ant to produce evidence on the issue.***

2. That the learned Appel1ate Justices erred in law and fact and acted contrary to natural justice by upholding the ruling of the trial court and striking out the Appellant's plaint on an erroneous preliminary objection when there were several facts stil1 in dispute between the parties and given the value *of the* ***subject matter*** *of the* ***dispute.***

5 The complaint in these two grounds was considered as issues 1 and 4 in the Court of Appeal. When counsel for the appellant began his submissions he informed this court, like he had done in the two courts below, that the court was not being requested to decide on the issue of liability. His prayer was that he should be
10 given a chance to present evidence on the issue whether or not the case is time barred and from such evidence the court would make a decision.

Appellant's counsel submitted that according to Order 7 Rule 11 (d) of the Civil Procedure Rules the plaint should be struck out where it appears from
15 the plaint itself that it is barred by law. The trial court should look at the plaint only and not on any evidence. Where the court considers evidence the suit is dismissed. In deciding the issue of limitation the learned trial judge considered the plaint and the evidence whereas he should not have considered the evidence of PWI and other evidence which had not yet been
20 adduced.

He argued that according to paragraph 4(S) of the plaint the cause of action arose in 2001 and paragraph 4(m) gives the history. The suit was filed on 19th December, 2002 which was less than three years from the date the cause
25 of action arose.

Counsel submitted further that section 23(4) of the Limitation Act provides that when there is an acknowledgement of a debt the cause of action starts to run from the date of acknowledgement.

I t was counsel's argument that in dismissing the appellant's appeal the Court of Appeal relied on Order 6 l' 28 and Order 15 r 2; whereas the learned trial judge relied on Order 7 rule l1(d) when striking out the appellant's suit.

5 Appellant's counsel submitted that the court is entitled to look at the issues agreed upon between the parties. He argued that the issue of being time barred was not agreed upon. The parties had agreed that the evidence should be called to determine that issue. However, the trial judge allowed counsel for the respondent to make submission on the issue but did not allow

10 the counsel for the appellant to call evidence though he requested to do so.

He contended that the court should have considered the issues that had been agreed upon between the parties.

Counsel argued that it was necessary to call evidence to explain the

15 circumstances in which the letters in issue namely exhibits P2 and P4 were written. He submitted that that was the scenario of *Ismail Serugo Vs Kampala City Council and the Attorney Genera1₇ Constitutional Appeal No* E *of* 1998 in which this Court allowed the appeal where the Constitutional Court had dismissed the petition on a preliminary point of law

20 as disclosing no cause of action, whereas the petition contained all the necessary averments to constitute a cause of action.

In reply, the learned Principal State Attorney conceded that according to Order 17 r 11 (d) the court looks at the plaint only and strikes it out where it

25 discloses no cause of action. She argued that, however, in the instant appeal the cause of action was time barred and this was obvious on the face of the plaint.

The learned trial judge looked at the evidence of the Valas Reddi

30 Venkataneddy, PWI who was the Managing Director of the appellant, which clearly showed when the cause of action arose. The learned Principal State Attorney argued further that some of the documents had already been tendered in evidence as exhibit P7 and these were invoices. Besides, from the commencement of the trial counsel for the respondent had intimated to court

5 that he wished to raise a preliminary objection on the ground that the cause of action was time barred. It was her alternative argument that in view of the new constitutional order substantive justice must be administered without undue regard to technicalities. It did not, therefore, matter that in his ruling the learned trial judge considered the evidence of PWI to

10 determine the date when the cause of action arose. The Principal State Attorney supported the Justices of the Court of Appeal in their holding that the learned trial judge properly exercised his discretion in allowing the respondent's counsel to make the preliminary objection.

15 In reply to her submission Mr. Sim Katende argued that the case of ***Ismail Serugo Vs KCC and Attorney General*** (Supra) was on disclosure of cause of action and therefore applicable to the instant appeal. He contended that where there are clear provisions of the law one does not apply the constitutional provisions that enjoins the court to administer substantive

20 justice without undue regard to technicalities.

The main issue for determination is whether the learned Justices of Appeal were right in holding that the trial judge judiciously used his discretion in allowing counsel for the respondent to raise the preliminary objection that the suit was time barred whereas the agreement between both parties and the

25 court was that evidence should be adduced before that issue is determined.

Counsel for the appellant has relied heavily on the authority of ***Ismail Serugo Vs KCC and Another.*** *(Supra)* I am of the considered opinion that the above authority is distinguishable from the instant appeal. In the case of

30 ***Ismail Serugo Vs KCC and Another*** (Supra) this court found that the petition contained all the necessary averments to constitute a cause of action. The Constitutional Court had dismissed the petition on the ground that it did not disclose a cause of action because the government is not liable for the actions of its judicial officers, which was obviously a defence to the petition.

5 In the instant appeal the respondent raised a preliminary objection that the cause of action was time barred because of the provisions of the section 3(2) of the Civil Procedure and Limitation (Miscellaneous Provisions) Act Cap 72 Laws of Uganda which provides that:

10 *"No action founded on contract shall be brought against the Government or against a local authority after the expiration of three years from the date on which the cause of action arose'*

The above is a statute of limitation which is strict in its nature and inflexible

15 and is not concerned with the merits of the case.

Lord Greene M.R in *Hilton Vs Sulton Steam Laundry* [1946J 1 KB at p 81. stated:

But the statute of limitations is not concerned with merits. Once the axe falls and a defendant who is fortunate enough to have

20 *acquired the benefit of the statute of limitation is entitled, of course to insist on his strict rights."*

When the plaintiff has grounds for bringing the suit after the expiration of the period of limitation *he/*she must show sufficient cause in the pleadings hence:

25 Order 7 rule 6 provides as follows:

When a suit is instituted after the expiration of the period prescribed by the law of limitation the plaint shall show grounds upon which exemption from such law is claimed.

The plaint shall be rejected in the following cases;

(d) Where the suit appears from the statement in the plaint to be barred by any law;"

5 The learned Justices of Appeal like the learned trial judge held that the suit was time barred by law and that was apparent on the face of the plaint. Paragraphs 4(g) and 4(m) of the plaint read:-

4(g) the plaintiff company duly carried out al1 its obligations under the Memorandum and the various Joint Venture Contracts but the

10 Government did not pay the dues owed to the Plaintiff Company.

Copies of the various invoices for the Management Fees and disbursements are listed as Documents "4(a)" "4(b)" "4(c))" "4(d)" and "4(e)" respectively to the plaintiffs list of documents.

4(m) Since 1985 *the Plaintiff Company together with the*

15 Government have been negotiating to settle the matter.

According to the appellant's prayer (c) in the plaint the appellant prayed for interest at the rate of 39% p.a. on the amount claimed from 1986 until payment in full.

20 I am of the considered view that even if the learned judge looked at the evidence of PWI to determine when the cause of action arose the statements in the plaint were clear that the cause of action arose more than three years back.

In her lead judgment Byamugisha JA dealt with the issue of whether the judge

25 properly exercised his discretion thus:

*"The trial judge recorded the evidence of **PWI** and when the hearing resumed, Mr. Matsiko raised two points of law and the judge made his ruling which is the subject matter of the instant appeal*

"Any party shal1 be entitled to raise by his or her pleadings any point of law, and any point so raised shal1 be disposed of by court at or after

35 the hearing; except that by consent of the parties, or by order of the

5 *court on the application of either party, a point of law may be set down for hearing and disposed of at any time before hearing.*

Order 15 rule 2 reads:

"Where issues both of law and fact arise in the same suit, and the court

10 *is of the opinion that the case or any part of it may be disposed of on the issues of law only, it shal1 try those issues first, and for that purpose may, if it thinks fit, postpone the settlement of the issues of fact until after the issues of law have been determined."*

15 *The rules I have quoted above give the trial court discretion to dispose of issues of law first before dealing with issues of fact. The purpose of the two rules is to expedite the disposal of the case.*

For an appel1ate court to interfere with the exercise of discretion by a

20 *trial court it has to be shown that the exercise was unjudicially or the wrong principles were fol1owed. (sic)*

In the instant appeal it has not been shown that the trial judge in exercising his discretion took into account irrelevant factors or that

25 *they are some factors which he overlooked. His exercise of discretion in the circumstances would not be interfered.* "

It is my considered Opinion that the learned Justice of Appeal correctly quoted the legal provisions, explained their purpose and held that the learned

30 trial judge properly exercised his discretion. The other judges on the Coram concurred with her. I, too entirely agree with her decision.

5 With respect, I have failed to appreciate the argument by appellant's counsel that the trial court struck out the appellant's plaint on different provisions of the law from those that the Court of Appeal used to dismiss its appeal.

I have carefully examined the record and I observed that in his judgment the

10 learned trial judge stated:

*"under O.7r 11(d) the plaint must be rejected and struck out as prayed. **It** is accordingly struck out."*

15 The judgment of the Court of Appeal states that the appeal is dismissed. The Court of Appeal dismissed the appellant's appeal which was contesting the judge's striking out of the plaint.

The learned Justices of Appeal considered Order 6 rule 28 and Or 15 rule 2

20 which provide for use of discretion by the trial court and how and when preliminary objections of law may be raised. When the rules and orders above mentioned are applied they lead to the result provided for under Or 7 r. l1.d. Grounds 1 and 2 are devoid of merit and therefore fail.

3. THAT the learned Appellate Justices erred in law and fact in upholding the erroneous decision of the trial court that an acknowledgement of a debt can only be made and communicated by the

30 Minister of Finance but not by the Attorney General (or the Solicitor General on his behalf) al1 of whom are recognized and accepted agents of the Uganda Government which is the party responsible and liable for the debt~ and that the acknowledgement was not made to the appel1ant at all.

5 5. *THAT the learned Appellate Justices erred in law and fact in ruling that the letters written by the Attorney General in* 1985 *and 2001, in the clearest admission of debt to the Appellant, did not constitute acknowledgment of that debt.*

10 The appellant's complaint in these grounds is that the learned Justices of Appeal erred in law and fact in upholding the learned trial judge's ruling that the appellant's claim was time barred and rejecting and striking out the appellant's claim under Order 7 and 11 (d) of the Civil Procedure Rules without allowing the appellant to call evidence. Counsel for the appellant attempted to get out of

15 the law of limitation on these grounds by pleading acknowledgement of debt.

Counsel argued that Exhibit P2 which is a letter dated March 10th, 1986 and addressed to Mr. Nitin J. Madhvani was clear admission by the respondent that the government of Uganda was indebted to the appellant and would pay the

20 debt. Exhibit.3 which is the Solicitor General's letter dated 20th July, 1998 addressed to the Permanent Secretary/Secretary to the Treasury, Ministry of Finance, was admission of the respondent indebtedness to the appellant and was copied .to M/ s Madhvani International S.A), the appellant.

25 Additionally, Exhibit P4 dated 8th January, 2001 is Solicitor General's letter addressed to the Permanent Secretary Ministry of Finance/ Secretary to the Treasury in which he admitted government inability to pay the appellant.

Counsel argued that these letters were admissions of the debt that the

30 respondent owed to the appellant. He contended that Exhibit 4 dated 8th January, 2001 was the most recent acknowledgement which revived the appellant's cause of action. Counsel submitted that the learned trial judge erred when he struck out the appellant's plaint without allowing it to call evidence. The judge should have allowed evidence to be called to explain the

5 circumstances under which those letters were written in order to prove when the cause of action arose. This would have proved that the suit is not time barred.

In reply, the Principal State Attorney supported the Justices of Appeal's decision

10 that the Attorney General's letter of 1985, Exhibit P2 and the Solicitor General's letter of 2001, Exhibit P4 were not acknowledgement of the debt to the appellant. She submitted the learned trial judge properly dealt with what amounts to acknowledgment of a debt. She argued that letter, exhibit P4, which was written to the Permanent Secretary Ministry of Finance /Secretary to the

15 Treasury was an interpretation by the Solicitor General of Exhibit 2, the Attorney General's letter. The letter was neither addressed to nor copied to the appellant. It was a communication between the advocate and the client. She argued that the letter did not advise the client, Ministry of Finance, to pay. The Attorney General and the Solicitor General were not liable to pay the debt but

20 it was the Ministry of Finance which was liable to pay the alleged debt to the appellant. In support of her submission she relied on *Good Vs Parry [1969] A.C.418.*

According to section 22 of the Limitation Act Cap 80 by acknowledgement of debt a cause of action accrues afresh.

Section 23(4), of the same Act provides:

" Any such acknowledgement or payment as is mentioned in section 22 may be made by the agent of the person by whom it is required to be made

30 to the person or to an agent of the person whose title or claim is being acknowledged or in respect of whose claim the payment is being made."

In her lead judgment Byamugisha JA considered acknowledgement of the debt. She stated thus:

5 *“An acknowledgement is an admission which must be clear, distinct unequivocal and intentional. There must be no doubt that the debt is being admitted although the amount does not have to be stated.”*

She held that on the basis of an acknowledgement of the debt, a party may file a 10 suit outside the period of limitation. She considered whether the respondent acknowledged the debt by the letters, namely exhibits P2 and P4.

Then she considered exhibit P2 the Attorney General’s letter which was written and dated March 10th 1986. This was in reply to Nitin Madhvani's letter 15 NJM/2/1986 of 13th February 1986 in which he was inquiring about a number of issues including payment to the appellant. In that reply the Attorney General stated:

“Settlement of outstanding dues to Missa. I am directing the issue you raised on settlement of dues to my col1eague the Minister of

20 *Finance and hope that it wil1 be attended to promptly."*

Exhibit P4 which was written by the Solicitor General on 08/01/2001, in reply to the Permanent Secretary/Secretary to the Treasury Ministry of Finance concerning claims by the appellant against the respondent.

“ADM/51/188/02

RE: CLAIMS BY M/S MADHVANI INTERNATIONAL SA AGAINST GOVERNMENT OF UGANDA.

30 *Your MEP 275/283/01 of 27h December, 2000 concerning the above subject refers.*

My understanding was that since the matter of liability was raised with the Attorney General himself and he advised that the matter be dealt with by his col1eague the Minister of Finance, the Attorney General could not

5 *have seen anything in the relevant agreement and the claim which legally barred the settlement of the said liability. Had he been of the view that the claim was legally unattainable*$_7$ *my view is that he would have said so. I did not therefore*$_7$ *wish to differently deal with a matter which the Attorney General himself had on the face of it conclusively dealt with*.

She held that Exhibit P2 and P4 were not acknowledgment of debt by the appellant and I do agree. The argument by appellant's counsel that in exhibit 15 P2 the Attorney General admitted liability and in exhibit P4 the Solicitor General too admitted liability which revived the appellant's cause of action is, with due respect, not correct.

It is my considered view that the Attorney General according to the law is a

20 legal advisor of government. He wrote to Nitin Madhvani he had forwarded his matter to the relevant Ministry, and hoped that it would be promptly dealt with by his colleague the Minister of Finance. Exhibit P2 clearly shows that the Attorney General had no proper and full information about the debt and that is why he stated that he was directing the matter to the Minister of Finance, who

25 handles finances on behalf of government. This is a clear indication that the Attorney General could not have acknowledged the debt.

He has no authority with regard to finances of and owed by the government to other people as that is a duty of the Minister of Finance. Further more, this was not a direction to the Minister of Finance to pay.

The Attorney General would only advise on the legal position, after obtaining the full facts from the Ministry concerned. It would have been well within the powers of the Minister of Finance to promptly answer the Attorney General's

5 letter saying that no money was owing. That would still be attending to the matter promptly. It is farfetched to construe the Attorney General's letter as an admission of a debt. Payments to government creditors must be verified. Exhibit P.4 the Solicitor General's letter was his personal interpretation of the contents of exhibit P2 and respect for the views of or advise of his senior. It was

10 indeed his opinion. It is shown in the record of appeal as number 3 among the points of agreement between the parties at the commencement of the trial as follows:

“the solicitor General also expressed an opinion as stated”

Counsel for the appellant was satisfied to call it an opinion then.

Now counsel wants it to be termed *"an acknowledgment'*. He is not allowed to approbate and reprobate. In the circumstances it cannot be taken as an acknow ledgment of the debt and the basis of the cause of action.

Grounds 3 *and* 5 *fail.*

I now consider ground 4:

THAT the learned Appel1ate Justices erred in law by upholding the

25 *erroneous decision of the trial court that the acknowledgment of the debt by the respondent must be communicated to the appel1ant relying on a Singaporean case~ interpreting the Singapore Limitation Act yet the Singaporean Limitation Act is not at al1 in pari materia with Uganda's Limitation Act.*

Appellant's complaint in this ground is simply that the court should not have relied on the Singaporean case to determine that acknowledgement of a debt should be made to the appellant because the Singapore Act of Limitation is not in pari materia with the Limitation Act of Uganda. Submitting on his ground

5 counsel for the appellant argued that since the Limitation Act of Singapore is not in pari materia with the Limitation Act of Uganda the court should not have looked at the case of Singapore which determined the issue to whom an acknowledgement of a debt may be made. He argued that in the instant appeal there were special reasons for not relying on the foreign case. There were words missing in the Uganda statute.

In reply, Ms Kahwa supported the judgment of the two courts below. She submitted that the courts may look at cases from other jurisdictions as persuasive authorities. She relied on the authority of ***Charles Onyango Obbo***

15 ***and another Vs Attorney*** *General*~ Constitutional Appeal No.2 of 2002 in which Order JSc. (RIP) stated:

"*it **is a universal1y acceptable practice that decided cases decided by the highest courts in jurisdictions with similar legal** systems **which bear on a particular case under consideration may not be binding but are of***

20 ***persuasive** value **and usual1y fol1owed unless there are special reasons for not doing so.*** "

She argued that notwithstanding, the judge looked at S.22 (4) and 23(1) of the Limitation Act of Uganda which specifically lays down to whom acknowledgment must be made.

I am persuaded by the arguments of counsel for the respondent. The learned trial judge and the Justices of Appeal were alive to the provisions of section 24 of the Limitation Act of Uganda. These provisions were quoted verbatim in

30 their judgments and explained. The Singaporean case was considered by the trial judge as a persuasive authority and that is permissible. I am unable to fault the Justices of Appeal for upholding the finding of the trial court.

In the result I would dismiss the appeal with costs to the respondent in this court and in the courts below.

Dated at Kampala this ....11th...........day of .....December............2012

C.N.B. KITUMBA

JUSTICE OF THE SUPREME COURT

4.

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

[Coram: Tsekooko, Katureebe, Kitumba, Tumwesigye & Kisaakye, JJSc.]

Civil Appeal No. 23 Of 2010

Between

MADHVANI INTERNATIONAL S.A. :: APPELIANT

AND

ATTORNEY GENERAL:::RESPONDENT

{Appeal from the decision of the Court of Appeal at Kampala (Twinomujuni, Byamugisha &

20 *Kavurna, JJA) dated O:rt November, 2009 in Civil Appeal No. 48 of 2004.}*

JUDGMENT OF J.W.N. TSEKOOKO, JSC.

I have had the benefit of reading in draft the judgment prepared by my learned sister, the Hon. Lady Justice Kitumba, JSC., and I agree with

25 her conclusions that the appeal has no merit and the same should be dismissed with costs to the respondent in this court and in the two courts below.

As the other members of the court also agree, the appeal is dismissed in 30 terms proposed by Lady Justice Kitumba.

Dated at Kampala this .. .11th day of .December 2012.

J.W.N. Tsekooko

Justice of the Supreme Court

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

[Coram: Tsekooko, Katureebe, Kitumba, Tumwesigye & Kisaakye, JJSc.]

Civil Appeal No. 23 Of 2010

Between

MADHVANI INTERNATIONAL S.A. ::: APPELIANT

AND

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{Appeal from the decision of the Court of Appeal at Kampala (Twinomujuni, Byamugisha &

20 *Kavurna, JJA) dated O:rt November, 2009 in Civil Appeal No. 48 of 2004.}*

JUDGMENT OF KATUREEBE JSC.

I concur in the judgment of my learned sister, Kitumba, JSC, that this appeal has no merit and should fail. I also agree with the orders she has proposed.

Dated at Kampala this .. .11th day of .December 2012.

Bart N. Katureebe

Justice of the Supreme Court **THE REPUBLIC OF UGANDA**

IN THE SUPREME COURT OF UGANDA AT KAMPALA

[Coram: Tsekooko, Katureebe, Kitumba, Tumwesigye & Kisaakye, JJSc.]

Civil Appeal No. 23 Of 2010

Between

MADHVANI INTERNATIONAL S.A. :: APPELIANT

AND

ATTORNEY GENERAL::RESPONDENT

{Appeal from the decision of the Court of Appeal at Kampala (Twinomujuni, Byamugisha &

20 *Kavurna, JJA) dated 3rd November, 2009 in Civil Appeal No. 48 of 2004.}*

JUDGMENT OF TUMWESIGYE JSC.

I have had the benefit of reading in draft the judgment prepared by my learned sister, the Hon. Lady Justice Kitumba, JSC.

I agree with her that this appeal should be dismissed. I also agree that the appellant should bear the costs in this court and in the courts below.

Dated at Kampala this .. .11th day of .December 2012.

JOTHAM TUMWESIGYE

Justice of the Supreme Court

THE REPUBLIC OF UGANDA

IN THE SUPREME COURT OF UGANDA AT KAMPALA

(CORAM: TSEKOOKO, IG4TUREEBE, KITUMBA, TUMWESIGYE, AND KISAAI(YE, JJ.S. C.)

CIVIL APPEAL NO. 23 OF 2010

BETWEEN

MADHVANI INTERNATIONAL S.A ::APPEALLANT

AND

ATTORNEY GENERAL::REPONDENT

[Appeal from the decision of the Court of Appeal in Civil Appeal No. 48 of 2004 (Twinomujuni, Byamugisha, Kavuma, JJ.A)at Kampala, dated 3rd November, 2009J

I have had the benefit of reading in draft the Judgment of my learned sister, Justice Kitumba, JSC.

I concur with her that this appeal be dismissed. I also agree with the orders that she has proposed.

Dated at Kampala this 11th day of ....December....................2012 .

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DR. ESTHER KISAAKYE
JUSTICE OF THE SUPREME COURT