

UGANDA / JUDGMENT

Argus Construction & Joinery Ltd v Attorney General (HCT-00-CC-MA 654 of 2006) [2006]

UGCommC 40 (1 November 2006)

[2006] UGCommC 40

COURT

Commercial Court of Uganda

CASE / FILE NUMBER

HCT-00-CC-MA 654 of 2006

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THE REPUBLIC OF UGANDA

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\par IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

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\par COMMERCIAL COURT DIVISION

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\par {\insrsid11632621 HCT-00-CC-MA-0654-2006

\par

\par (Arising from HCT-00-CC-CS-{\insrsid15876546 0245-1999}){\insrsid11632621

\par {\insrsid15876546

\par Argus Construction & Joinery Ltd Applicant

\par

\par Versus

\par

\par Attorney General Respondent

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\par {\b\ul\insrsid15876546\charrsid9310868 BEFORE: {\b\ul\insrsid3685660\charrsid9310868
THE HONOURABLE MR. JUSTICE FMS EGONDA-NTENDE}
{b\ul\insrsid15876546\charrsid9310868

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\par RULING

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aspalpha\aspnum\faauto\ls1\adjustright\rin0\lin720\itap0\pararsid2830909 {

\insrsid13070294 The applicant was the successful party in the suit, and is now the judgment creditor in respect of a decre

tal sum of shs.20,579,751.00, interest at the rate of 12 per cent annum from March 1999 till payment in full and the costs of the suit, taxed and allowed at Shs.}\insrsid2558769 12,661,000.00. The applicant no}\insrsid6839146

w seeks an order of Mandamus directing the Commissioner/Treasury Officer of Accounts to comply with the decree}\insrsid4656744 of this court by paying all the monies due to the applicant }\insrsid8194235 there under}\insrsid4656744 .

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid4656744
\hich\af0\dbch\af0\loch\f0 2.\tab}The respondent did not oppose this application.}
\insrsid6507541 At the hearing of this application Ms }\insrsid15295331 Fatuma }\insrsid6507541

Nanziri, the learned state attorney, representing the Attorney General stated, }
\insrsid8194235

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\lin1440\itap0\pararsid10049339 {\insrsid6507541 \quote

I do not object to the application. Apparently this case has been listed as 118 in the priority list. It is just that funds }\insrsid6503222 have not been availed but the same has been listed for payment in this quota. What we need is

more time to enable government get the funds.\rquote

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aspalpha\aspnum\faauto\ls1\adjustright\rin0\lin720\itap0\pararsid2830909 {

\insrsid6503222 Asked as to how much }\insrsid14624661 time }\insrsid6503222 Government needed to pay, Ms Nanziri was unable to give any idea about the time Government needed to be able to pay.}\insrsid14624661

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid14624661
\hich\af0\dbch\af0\loch\f0 4.\tab}As this application is not opposed, I am satisfied that this is an appropriate case in which this court should issue an Order of Mandamus, directing the Commissioner/Treasury Officer of Accounts}\insrsid4942786 }\insrsid8194235 of Government}
\insrsid4942786 of Uganda to pay without further delay,}\insrsid2830909

{\insrsid4942786 the decretal sums of money due to the applicant, which have remained outstanding since the decree was entered in this suit. {\insrsid15295331 Accordingly the application is allowed.}{\insrsid3685660

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The Commissioner/Treasury Officer of Accounts is ordered to pay the decretal sums, interest and costs as allowed by the court, forthwith, and without further or any delay. {\insrsid9310868

I further direct that the Attorney General shall meet the costs of these present proceedings.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid13655009
\hich\af0\dbch\af0\loch\f0 6.\tab}}{\insrsid13655009 Before I take leave of this matter I must turn to another matter that was raised by Ms {\insrsid15295331 Fatuma }{\insrsid13655009 Nanziri, the learned State Attorney, at the hearing of this application. Ms }{\insrsid15295331 Fatuma }{\insrsid13655009

Nanziri raised a preliminary objection that this application was time barred. I dismissed the objection, and promised to give my reasons in this ruling, and I now do.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid6834025
\hich\af0\dbch\af0\loch\f0 7.\tab}}{\insrsid6834025 Ms Fatuma Nanziri, learned state attorney, for the Attorney General

, submitted that this application was time barred, contrary to Rule 5(1) of The Civil Procedure (Amendment) (Judicial Review) Rules, S. I. 75 of 2003. She submitted that the decree in this case was extracted in October 2002, and that time started to run th

en, which was more than the 3 months allowed under Rule 5(1) of the Rules aforesaid. Ms Nanziri prayed that this application should therefore be struck out.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid15295331
\hich\af0\dbch\af0\loch\f0 8.\tab}}{\insrsid15295331 Ms Nanziri referred this court to what she called a decision of this court, in Rwomushana v Attorney

General. She provided no other particulars of the case. Obviously it is unreported, or must be presumed unreported as no citation was provided. No case number was provided. In short, counsel was hardly helpful.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid6834025
\hich\af0\dbch\af0\loch\f0 9.\tab}}{\insrsid6834025 Mr. Bakwega, learned counsel for the judgment creditor/applicant, opposed the preliminary objection.}{\insrsid15295331

He submitted that in terms of the Government Proceedings Act, Section 19, a judgment creditor must obtain a certificate of order against government, in order to be able to initiate proceedings to co

mpel government to comply with a decree. The certificate was obtained only on 19}
{\super\insrsid15295331\charrsid15295331 th}{\insrsid15295331 May 2006, and time does not start
to run until then. These proceedings were commenced only on 12}{

\super\insrsid15295331\charrsid15295331 th}{\insrsid15295331 July 2006, less than 3 months from
the issue of a certificate of order against government. The proceedings were therefore within
time.

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\insrsid15295331 I take the view that the reference to \lquote when the grounds of the application
first arose\rquote to refer, not to the date of the decree or for that matter the date of issue of the
certificate of order ag

ainst government, but refers to when the applicant is satisfied that the officer in question, will not
obey the certificate of order against government. This may well be long after the issue of a
certificate of order against government. It is only after t

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e applicant determines that the officer in question is not going to comply with the order that time
will start to run. In this case this could only have happened after the issue of the certificate of
order against government. As proceedings were brought i

n less than 3 months from the date of issue of the certificate of order against government, I was
satisfied that this application was not time barred. }{\insrsid6834025

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\pararsid2830909 {\insrsid9310868 Signed, }{\insrsid2830909 dated and delivered this 2}
{\super\insrsid2830909\charrsid2830909 nd}{\insrsid2830909

day of November 2006 }{\insrsid9310868

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\par FMS Egonda-Ntende

\par Judge

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Prepared on 14 October 2026 · Esheria