

UGANDA / JUDGMENT

Aya Investments (U) Ltd v Mugoya Construction & Engineering (U) Ltd (High Court Miscellaneous Application No. 514 of 2008) [2008] UGCommC 50 (26 October 2008)

[2008] UGCommC 50

COURT

Commercial Court of Uganda

CASE / FILE NUMBER

High Court Miscellaneous Application No. 514 of
2008

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\par AYA INVESTMENTS (U) LTD\tab ::::::::::::::::::::::::::::::::::: APPLICANT

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ENGINEERING (U) LTD:::}{\f0\fs24\insrsid1856941\charrsid5247627 :}{

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This is an Application brought under Notice of Motion under Order 9 Rule 23 and Order 52 Rule 1 & 3 of the CPR and Section 98 of CPA and Section 33 of Judicature Act.

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\par The Applicants have made an application for the Court that the order made on 22}
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September be set aside and that a day be appointed for proceedings with respect to
Miscellaneous Application No. 210 of 2008.

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\par The grounds stated in support of the Application are:

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\jclisttab\tx540\aspalpha\aspnum\faauto\ls1\adjustright\rin0\lin540\itap0\pararsid5247627
{\b0\fs24\insrsid12202391\charrsid5247627 That the Counsel for the Applicant was p

revented from attending court by sufficient course, that Counsel for the Applicant made a
reasonable effort to ensure that the Application was represented by Counsel at the hearing,

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{\b0\fs24\insrsid12202391\charrsid5247627 That Application No. 210 seeks to set aside an
Arbitration award requirin

g the Applicant herein to pay substantial amount of monies.

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\par When this Application came to the court on the 22}
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September, the court made an order set it aside and the application was to set aside, in whole and the court to substitute it own award from the grounds of impartiality. The Applicants were challenging the award of Stephen Musisi on 26}{

\b0\f0\fs24\super\insrsid12202391\charrsid5247627 th}
{\b0\f0\fs24\insrsid12202391\charrsid5247627 March 2008 on the grounds that the Tribunal was not impartial.

\par

\par On 22}{\b0\f0\fs24\super\insrsid12202391\charrsid5247627 nd}
{\b0\f0\fs24\insrsid12202391\charrsid5247627 September the court looked at the application in the absence of the Applicants or their r

epresentatives and took the view that the court could not re-evaluate matters which had already been considered by the Arbitrator as matters of fact. The Applicants at the hearing of 22}
{\b0\f0\fs24\super\insrsid12202391\charrsid5247627 nd}{

\b0\f0\fs24\insrsid12202391\charrsid5247627 September did not help the court by not turning up and secondly, they did not demonstrate the basis on which the court could re-open the Arbitration matter.

\par

\par Counsel for the Respondent Ronald Oine made and application for Applicant\quote s summons to distract or want of prosecution under Order 9 Rule 22 of CPR as disclosing no

grounds or merits and further that the Applicants did not show any seriousness in this matter as the Applicant \85....be struck off in their absence. It was reinstated and it has come to the court, he came to the court when they were not present.

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\par In view of

the history of the matter and in view of the Arbitration award, the court is not satisfied that the Applicants have shown good reasons for not turning up or for not prosecuting the days and therefore this court will not act as an Insurance cover to help

the Applicants.

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\par It is true that the Applicant may have suffered loss he is entitled to look to that loss to legal representatives and not seek the assistance of the court to remedy a breach which has already taken place namely: duty of care by their Lawye

rs to their client.

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\b0\f0\fs24\insrsid12202391\charrsid5247627 September, no seriousness was shown in dealing with the Applicant\rsquote s case and in those circumstances, the Applicant\rsquote s case; application today is dismissed with costs.}}

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\par Judge

\par 27/10/2008

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Prepared on 12 October 2026 · Esheria