

UGANDA / JUDGMENT

Mavid Pharmaceuticals Ltd v Royal Group of Pakistan (Civil Application No. 549 of 2024) [2025] UGCA 200 (27 June 2025)

[2025] UGCA 200

COURT

Court of Appeal of Uganda

BEFORE

Gashirabake, JA

CASE / FILE NUMBER

Civil Application No. 549 of 2024

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THE REPUBLIC OF UGANDA

IN THE COURT OF APPEAL OF UGANDA AT KAMPALA

CIVIL APPLICATION NO. 0549 OF 2024

(Arising from Civil Appeal No. 150 of 2016)

MAVID PHARMACEUTICALS LTD.....

VERSUS

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ROYAL GROUP OF PAKISTAN.....

RULING OF CHRISTOPHER GASHIRABAKE, JA (SINGLE JUSTICE)

Introduction

- [1] This application was brought under Rule 105(3) of the Judicature (Court of Appeal) (Rules) Directions SI 13-10, and section 282 of the Companies Act for Orders that:
 - a. The Respondents do provide further security for the Costs and decretal sums of the Applicant in this appeal.
 - b. The costs of this application be provided for

[2] The application is premised on the following grounds:

- a. The Respondent will be unable to pay for the costs and the decretal sums of the Applicant in case they are not successful in the appeal.
- b. The Respondent is a foreign company with no known address within this court's jurisdiction because it is domiciled at R2W2+GQQ+ONB-E/2 Meharsons Estates, Talpur Road, Lalzar, Karachi City, Sindh 74000, Pakistan.
- c. That Judgment in High Court Civil Suit No. 319 of 2009, MAVID Pharmaceuticals Ltd vs Royal Group of Pakistan, was delivered in favour of the Applicant.

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that the company will be unable to pay the costs of the defendant if successful in his or her defence, require sufficient security to be given for those costs and any stay all proceedings until the security is given. "

- [6] Counsel argued that it is only fair and just that, since the Applicant has not even executed its decree in Civil Suit No. 0319 of 2010 and it has to incur costs in defending the Civil Appeal No. I 50 of 2016, the Respondent should furnish further security for costs.
- [7] Counsel contended that the Respondent is a foreign company with no known address within this court's jurisdiction. Counsel argued that there was no reciprocal enforcement of judgment with Uganda, thereby making it impossible to execute against it in case the Applicant succeeds on appeal.
- [8] Counsel highlighted the fact that the Respondent deposited some money as security for due performance of the decree however its now four years since and yet the interest rate in civil suit No. 319 of 2009 indicates a 20% interest rate per annum as security because of the accumulation over the years that have gone by since judgment came out on the 24th of July, 2015.
- [9] Counsel cited Rules 105(3) of the Rules of this Court, which stipulates that; "The court may at any time, if it thinks fit, direct that further security for costs be given and may direct that security for the payment of past costs relating to the matter in question in the appeal. "
- [10] It was further contended for the Applicant that the deposit made for security for due performance of the decree was no longer substantial because the 20% interest per annum had made the outstanding decretal sum grow. Counsel submitted that the total amount due for the judgment creditor is USD 214,228.4 (Two Hundred Fourteen Thousand Two Hundred Twenty-Eight and four cents) and Ugx 3,850,938/- (Three million eight hundred fifty thousand nine hundred thirty-eight only). It was further submitted that the

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- [5] Counsel prayed that this court Orders the Respondent to deposit security for the costs of Ugx. 753,803,654/= (Uganda Shillings Seven hundred fifty-three million eight hundred three thousand six hundred fiftyfour shillings only) based on the value of the subject matter of the suit in regard to the scale under the sixth schedule of The Advocates (Remuneration and Taxation of Costs Rules) SI 267-4 and The Advocates (Remuneration and Taxation of Costs) (Amendment) Regulations 2018 as the Applicant had to hire a lawyers in Uganda to defend this suit.

Submissions by Counsel for the Respondent

- [6] Counsel for the Respondent submitted that the principles that guide consideration of the applications for orders for further security for costs are well settled. That firstly, the appellant will be unable to pay the costs of the Respondent if ordered so, and secondly, that there are circumstances to show that the appellant will evade the payment of costs due to lack of an address or intentional change of address. Counsel cited Noble Builders (U) Limited and Anor vs Jabal Singh Sandhu (supra), Mawogola Farmers & Growers Ltd vs Kayanja and others (No) [97] | I EA 108 and Kakoza Jonathan and anor vs. Kasaala Cooperative Society Ltd, SCCA No. 13 of 2011.
- [7] Counsel contended that all the authorities cited by the Applicant, including section 282 of the Companies Act Cap 106, are to the effect that the Applicant must, in such an application, prove that the Respondent will not be able to pay the costs of the defendant.
- [8] Counsel submitted that the accumulated interest on the decretal sum is a situation beyond the Respondent. Counsel argued that the Respondent has undertaken all the necessary processes to prosecute the appeal.

Counsel

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security for taxed costs in preference to allowing the Respondent to furnish security for costs since it had been judiciously made.

- [25] Counsel argues that the Applicant acknowledged that the Respondent was ordered by the High Court and proceeded to furnish USD 62,819 as security for due performance of the decree. The sum is almost twice the value of the subject matter of the contract subject of the dispute, that is, USD 32,093. Counsel contended that all the other sums indicated by the Applicant constitute damages, costs and expenses as well as interest which are all indicated by the Applicant constitute damages, costs and expenses as well as interest which are all contested by the Respondent. Moreover, the Applicant has not taxed any bill of costs as to inform the sum of Ugx 753,803,654/= which it wishes the Court to order as further security for costs. In the circumstances, Counsel prayed the court to find that the security for due performance of the decree already furnished by the Respondent, as well as its economic standing, which has been shown to be credible, are sufficient to address the Applicant's

prayers.

- 126) It was contended that Noble Builders (U) Limited and another vs Jabal Singh Sandhu (supra) was distinguishable because the Respondent in that case was the plaintiff and had stated that he would rather put his money to more profitable use than secure an unsuccessful defendant in the trial.

[27) Counsel prayed that this application should be dismissed.

Rejoinder

[28] Counsel for the Applicant reiterated their earlier submissions. He further argued that since the full decretal sums and accumulated interest have not been fully paid, this court should order further security for costs.

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matter may, if it appears by credible testimony there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his or her defence, require sufficient security to be given for those costs and may stay all *proceedings until the security is given.*

- What I deduce from the above provisions is that whenever the court [34]\$ deems it fit, it can exercise its discretion to grant further security for costs. This means that the court has to evaluate the evidence on record to establish that there is reasonable cause to believe that the Respondent will not be able to pay the costs if the Applicant succeeds. The burden is upon the Applicant to demonstrate sufficient cause why the Appellant/Respondent should furnish further security for costs.
- In Noble Builders (U) Ltd and Another vs Jabal Singh Sandhu, [35]\$ UGSC 12 [2004], Mulenga, JSC cited De Bry vs Fitzgerald and Another \$(1990)1\$ ALLER 560, to the effect that;

"*A defendant should be entitled to security if there is reason to* believe that, in the event of his succeeding and being awarded costs of the action, he will have real difficulty in enforcing that order. If the difficulty would arise from the impecuniosity of the plaintiff, the Court will, of course, have to take an account the likelihood of his succeeding in his claim, for it would be a total denial of justice that poverty should bar him from putting *forward what is prima facie a good claim. If, on the other hand,* the problem is not that the plaintiff is impecunious but that, by reason of the way in which he orders his affairs, including where he chooses to live and where he chooses to keep his assets, an order for costs against him is likely to be unenforceable only by a significant expenditure of time and money, the defendant should be entitled to security."

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within this honourable Court's jurisdiction because it is domiciled at R2W2+GQQ, ONB-E/z Meharsons Estates, Talpur Road, Lalzar, Karachi City, Sindh 74000, Pakistan, in their affidavit in reply, the Respondent averred that it was a major dealer in pharmaceutical products in Uganda and has a local Technical Representative, Abacus Pharmaceuticals, which is well recognized by the National Drug Authority, the sector regulator. In rejoinder under paragraph 7, the Applicant attached a letter dated 12th March 2020, from Abacus Pharma (A) Ltd, addressed to the Applicant's advocates, denying any dealings with the Respondent company, the letter stated;

> "Please note that we are neither the holder of trademarks and licenses of Royal Group of Pakistan nor are we in possession of any stock belonging to Royal Group of Pakistan.

> Should you continue to unlawfully interfere with the business of the company or threaten any of their employees, officers in any way whatsoever, we shall take legal action against you for any damages and losses thereof, direct or indirect, at your own cost and peril. '

- [41] Gathering from the above, it is clear that the Respondent neither has any address in Uganda, nor do they have any known assets in Uganda. The only company that they sought to associate with, denied any dealings with the Respondent. This is very important because it lends weight to the Applicant's fear that if they succeed in the pending appeal, they might not readily recover the costs awarded to them, considering that they have not even been taxed at the trial Court.
- [42] In further response, the Respondent stated that Pakistan is ^a Commonwealth country, having good relations with Uganda in all spheres of national cooperation, an embassy, and with a substantial business community recognized by the government of Uganda. It was argued by Counsel for the

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- [45] It is my conclusion after considering the above position of the law, and the fact that the Respondent is a foreign company with no known address within and is domiciled at R2W2+GQQ, ONB-E/2 Meharsons Estates Talpur Road, Lalzar, Karachi City, Sindh 74000, Pakistan and additionally, the fact that the local Technical Representative Pharmaceuticals denied having any dealings with the Respondent, that this is a fit case where the Applicant should be accorded further security.
- [46] I therefore allow the application. I direct that the Respondent give further security for costs of the appeal by depositing in court, within thirty days from the date of this ruling, the sum of Shs. 50,000,000/=. I also order that the Applicants shall have the costs of this application.

Decision

- (a) The application is granted.

- (b) The Applicant is granted the costs of this application.

I so order.

Dated,, signed and delivered at Kampala this 2025. o-*- Day... of

C. GASHIRAI}AKI]

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