

UGANDA / JUDGMENT

Messrs, Nottidge and Allen v Ashuala

(Revision Case No. 113 of 1927)

[1927] EACA 26 (1 January 1927)

[1927] EACA 26

COURT

East African Court of Appeal

BEFORE

Sheridan, J

CASE / FILE NUMBER

Revision Case No. 113 of 1927

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CRIMJ. NAL REVISION ..

·105,

Before· SHERIDAN, J. .

MESSRS. NOTTIDG' E .& . ALLEN

v.* ASHUALA' s/o SANDALO.*Revision Case 113/1927 .**

. Employment of Natives Ordinance (Cap. 139), section 53-penalty '· · on servant leaving service before working ofl. an advance. of wages .

,]teld: ...:..... That the sum advanced, cannot .be split up for the purpose of bringing the case within Section 63. · ·

ORDER.-Th_e accused was ill for twenty~one days and thereafter was granted leave; he had been engaged on a thirty-days' contract.· As· the employer admitted the_ Sb. 79 was made up of amounts advanced to. the accused from time to time. · The ingenious view of the Magistrate that this sum can be split up for the purpose of bringing the case within section 53, Cap. 139, is in my opinion untenable. It has to be looked at as a whole and it is clearly not an advance on occounL of a curreut contract. Furthermore, the rescission of the contract on the grant of leave had the effect of relegating the employer to a civil action for the recovery of any sum owing by his former servant. The Honourable the Attorney-General does not wish to support· the convictions. .

The convictions and consequential orders are quashed and the accused ordered· to· be released ..

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