

**Ssemanda John v Platinum Credit (U)
Ltd (Miscellaneous Cause No. 84 of 2024)
[2025] UGCommC 143 (29 May 2025)**
[2025] UGCommC 143

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**5 THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL DIVISION) MISCELLANEOUS CAUSE NO. 84 OF 2024**

10 VERSUS

SSEMANDA JOHN :::::::::::::::::::::::::::::::::::::: APPLICANT

PLATINUM CREDIT (U) LTD ::::::::::::::::::::::::::::::::::::::: RESPONDENT

BEFORE: HON. LADY JUSTICE PATIENCE T. E. RUBAGUMYA

RULING

Introduction

- 15 This application was brought by way of Notice of Motion under **Section 89 (now Section 88) of the Tier 4 Microfinance Institutions and Money Lenders Act, Cap. 61, Section 98 of the Civil Procedure Act, Cap. 282, Regulation 26 of the Tier 4 Microfinance Institutions and Money Lenders (Money Lenders) Regulations, 2018 and Order 52 rules 1, 2**
- 20 **and 3 of the Civil Procedure Rules, SI 71-1, seeking orders that:**
- 1. The money lending transaction between the Applicant and the Respondent be reopened.
- 2. The loan and the chattel mortgage agreements and actions of the Respondent under the said transaction between the Applicant and 25 the Respondent be deemed illegal, harsh and unconscionable.

- 3. The Respondent illegally sold motor vehicle Reg. No. UAV 799V.
 - 4. The Respondent indemnifies the Applicant at the market value of the motor vehicle, less the unpaid loan balance and 25% interest per annum.
 - 30 5. The Respondent pays damages and costs of the application.
- 5 6. Any other relief as this Honourable Court may deem necessary.

Background

The background of the application is detailed in the affidavit in support deposed by **Mr. Ssemanda John**, the Applicant herein, and is summarized below:

- 10 1. That on or around 18th August, 2023, he applied for a loan from the Respondent, pledging as security for the loan his motor vehicle, a Mercedes Benz Trailer Reg. No. UAV 799V, whose market value was UGX 100,000,000/= and forced market value of UGX 55,000,000/=.
- 2. That he was given documents that had many words in very small 15 letters, which he perused quickly because he was not given enough time, yet he urgently needed money, so he signed them without consultation.
- 3. That he was given UGX 15,575,743/=, as the loan amount out of which UGX 4,275,743/=, was retained by the Respondent for payment of the insurance policy and when the 1st 20 instalment was due, he paid UGX 2,020,000/= but was unable to pay the second instalment as he seriously fell ill and was admitted.
- 4. That while still sick and unable to walk, the vehicle was impounded at Migyera by the Respondent's agents. That upon getting well, he 25 went to Ms. Namuganyi Sandra with the said medical documents as proof that he was sick and requested for a loan restructuring, but was told to wait.
- 5. That when he went to the Respondent's office to get a response to his request, he was informed that the vehicle had been sold and that the 30 money was not enough to repay the whole loan and that he should pay UGX 4,935,940/=, as the balance on the loan.
- 5 6. That he later discovered that the vehicle was sold to John Ssali at UGX 20,000,000/= and the insurance cover had also been changed at the instructions of the Respondent.
- 7. That contrary to the law, the Respondent illegally sold motor vehicle Reg. No. UAV 799V, pledged as security for the loan at UGX 10 20,000,000/= yet its forced sale value was UGX 55,000,000/= without even according him a chance to redeem the same.
- 8. That the chattel mortgage agreement was illegal and should be set aside as it provided that the chattel would be sold without giving notice, and indeed, no notice was given to him before selling the said 15 motor vehicle.

In reply, **Ms. Doreen Kansime**, the Respondent's Legal Portfolio Manager-Logbook Financing, opposed the application contending that:

- 1. The Respondent is a non-deposit taking microfinance institution and not a money lender and therefore, the provisions being relied upon 20 by the Applicant do not apply to it.
- 2. On 18th August, 2023, the Applicant obtained a capitalized loan facility of UGX 12,056,250/= and an insurance premium loan worth UGX 4,446,773/= from the Respondent and that the amount was to be repaid within twelve months.
- 25 3. According to the loan agreement, it was agreed that upon default on repayment of the loan's monthly instalments, the Respondent would repossess the collateral and realize it to clear the loan obligation with no recourse to Court.
- 4. The Applicant defaulted on repayment of the monthly instalments 30 and refused or declined to clear the arrears despite several reminders.
- 5 5. Consequently, the collateral motor vehicle Reg. No. UAV 799V was repossessed, but even then, the Respondent continued to engage the Applicant to clear its arrears and redeem his motor vehicle, but he refused to pay. Further that the Applicant was even accorded an opportunity to bring buyers, which he did not do, and the motor 10 vehicle was sold.
- 6. The amount received from the auction of the vehicle could not close off the loan, hence leaving an outstanding balance of UGX 4,935,940/=.
- 7. The Applicant willingly applied for the loan and consented to the 15 terms and conditions of the loan before the said loan was disbursed.

Representation

The Applicant was represented by **M/s Mbabaali Jude & Co. Advocates**, while **M/s KSMO Advocates** represented the Respondent.

Both parties filed their written submissions as directed, and the same have 20 been considered by Court.

Issues for Determination

- 1. Whether the application is proper before this Court?
- 2. Whether what transpired between the Applicant and the Respondent was illegal, oppressive, harsh, unconscionable and inequitable 25 treatment?
- 3. Whether the money lending agreement, insurance lending agreement and chattel mortgage agreement were lawful?
- 4. What remedies are available to the parties?

Issue No.1: Whether the application is proper before this Court?

30 Applicant's submissions

5 Learned Counsel for the Applicant submitted that the application was brought under **Section 98 of the Civil Procedure Act**, and **Order 52 rules 1, 2 and 3 of the Civil Procedure Rules**. He further submitted that **Order 52 rules I and 2** thereof provide for a mode of procedure by Notice of Motion, where the rules do not provide for a particular mode. That there 10 being no specific provision under which this kind of application can be

brought, it was proper to proceed under the said provision.

Nonetheless, Learned Counsel, while referring to **Article 126(2)(e) of the Constitution of the Republic of Uganda, 1995** and the cases of **Saggu Vs Roadmaster Cycles (U) Ltd [2002] 1 EA 258, Gids Consults Limited**

- 15 **& Another Vs Naren Mehta HCMA No. 864 of 2022 and Joselyne Kalembe Vs Buildnet Construction Materials and Hardware HCIP No. 7 of 2022,** submitted that it is now trite that reliance on the wrong law, or presentation of an application under the wrong law, is not fatal, as long as the Court has the jurisdiction to entertain the application and the 20 procedure utilized can accommodate the application. In conclusion,
- Learned Counsel for the Applicant prayed that the objection be overruled.

Respondent's submissions

Learned Counsel for the Respondent argued that the law under which the application was brought is general and that the Applicant is avoiding the

25 long course of a trial by a plaintiff. He added that a Notice of Motion which bears no applicable rule under which it is premised, no suit of origin and which seeks a final determination of very contentious matters such as fraud, illegality and misrepresentation as pleaded in this application, cannot be brought under the law in issue. To that, Learned Counsel relied

30 on the cases of **Fredrick J. K Zaabwe Vs Orient Bank & Others SCCA**

5 **No. 4 of 2006** and **Adam Yacob Muhammed & Another Vs Madaya Rogers HCMC No. 14 of 2013** among others.

Learned Counsel further contended that the Respondent is a Non-Deposit Taking Financial Institution and not a money lender and therefore, **Section 89 (now Section 88) of the Tier 4 Microfinance Institutions**

10 and Money Lenders Act and the Regulations cited thereunder do not apply to it.

Analysis and Determination

As laid out in the case of **Saggu Vs Roadmaster Cycles (U) Ltd (supra)**, it is now trite that where an application omits to cite any law or cites the

- 15 wrong law, but the jurisdiction to grant the order sought exists, then the irregularity is not fundamental and can be ignored and the correct law inserted. (See also **M/s Bashasha & Co. Advocates Vs Tumwijukye Mpirirwe & 13 Others Court of Appeal Civil Application No. 70 of 2020)**.
- 20 Learned Counsel for the Applicant submitted that **Section 88 of the Tier 4 Microfinance Institutions and Money Lenders Act** and its Regulations were cited in error and same should be ignored. Further that the application at hand was based on **Section 98 of the Civil Procedure Act** and **Order 52 rules 1, 2, and 3 of the Civil Procedure Rules**, as there is 25 no provision for such an application.

The application at hand seeks the reopening of a money lending transaction between the Applicant and the Respondent, and findings as to whether there were illegalities in their transaction. I agree with Learned Counsel's submission that under **Part IV of the Tier 4 Microfinance**

30 Institutions and Money Lenders Act, such an application is not catered

- 5 for. In the case of **Ayub Suleiman Vs Salim Kabambalo SCCA No. 32 of 1995**, the Supreme Court relied on **Section 98 of the Civil Procedure Act** and held that the Court has inherent power to make such orders as may be necessary for the ends of justice.
- Though the Respondent contends that the provisions are vague and do not 10 apply to an application seeking final determination of very contentious issues involving fraud, misrepresentation and illegalities; **Order 52 rule 1 of the Civil Procedure Rules** provides that all applications to the Court, unless expressly provided for, shall be by motion. Further, as expressed in the orders sought and the affidavit in support of the application, the
- 15 Applicant's contentions concern how the loan agreement was executed and how his motor vehicle was sold, which he claims amount to illegalities, contrary to allegations of fraud perceived by Learned Counsel for the Respondent.

In light of the above authorities and Article 126(2)(e) of the Constitution

20 of the Republic of Uganda, 1995, my view is that this application is proper before this Court. Therefore, issue No. 1 is answered in the affirmative.

Issue No.2: Whether what transpired between the Applicant and the Respondent was illegal, oppressive, harsh, unconscionable and

25 inequitable treatment?

Applicant's submissions

Learned Counsel for the Applicant submitted that what transpired between the Applicant and Respondent was illegal, oppressive, harsh, unconscionable and inequitable because; prior to the sale, the Applicant 30 was never served with a written notice; the vehicle was sold at UGX

5 20,000,000/= yet its forced sale value at the time of securing the loan was UGX 55,000,000/=; the Respondent failed to write off the loan and that the sale was not transparent.

Regarding the assertion that the Respondent illegally sold the aforementioned motor vehicle Reg. No. UAV 799V; Learned Counsel 10 contended that the motor vehicle which was pledged as security for the loan was sold contrary to **Regulation 18(3) of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) Regulations, 2018.**

- As to whether motor vehicle Reg. No. UAV 799V was sold at UGX 15 20,000,000/= yet its forced sale value was UGX 55,000,000/=; Learned Counsel for the Applicant submitted that **Regulation 18(5) of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) Regulations** is to the effect that before carrying out a sale of the collateral by public auction or private treaty, a 20 Non-Deposit Taking Microfinance Institution, has to undertake a valuation
- and obtain a forced sale value of the collateral to determine the market value of the property. That in the instant case and as per paragraph 2 of the affidavit in support, the forced sale value of the collateral for the loan purpose was UGX 55,000,000/=. However, in its affidavit in reply, the
- 25 Respondent shows that the collateral was sold at UGX 20,000,000/= in the 1st attempt to sell which was contrary to **Regulation 18(6) of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) Regulations.**

As to whether there was transparency in the sale of the collateral; Learned 30 Counsel contended that as per paragraph 10 of the affidavit in support, before the insurance of the motor vehicle expired in August, 2024, the

- 5 vehicle had been insured in the name of one Ssali John on the instructions of the Respondent yet under paragraph 8 of the affidavit in reply, the Respondent avers that the motor vehicle was sold to a one Kabugo Umar as evidenced by annexure "C" thereto contrary to **Section 68 of the Tier 4 Microfinance Institutions and Money Lenders Act.**
- 10 Respondent's submissions

Learned Counsel for the Respondent submitted that as per paragraph 4 of the affidavit in reply, the Applicant on 18th August, 2023, obtained a capitalized loan from the Respondent of UGX 12,056,250/= payable in twelve monthly instalments of UGX 1,561,250/= each. That this was 15 supported by a loan offer letter dated 18th August, 2023, duly signed by the Applicant.

That, as per paragraph 5 of the affidavit in reply, on the same day, the Applicant obtained a motor vehicle insurance premium loan worth UGX 4,446,773/= payable in 12 equal monthly instalments of UGX 459,500/=.

20 That the loan was secured with motor vehicle Reg. No. UAV 799V.

Learned Counsel submitted that the transaction was not harsh and unconscionable. That annexure "A", the loan agreement attached to the affidavit in reply, was signed by the Applicant after the terms and conditions were explained to him.

25 Learned Counsel relied on **Section 47(1) and (2) of the Security Interest in Movable Property Act, 2019 (now Section 48(1) and (2) of Cap. 293)**, which provides that a secured creditor may take possession of collateral without a Court order where the grantor, in writing, consents to the secured creditor taking possession of the collateral without a Court order. 30 Regarding whether the Applicant was notified of the sale, Learned Counsel

5 submitted that, as shown under paragraph 8 of the affidavit in reply, the Applicant was served with notices of proceedings leading to the sale as reflected in the WhatsApp and email messages with the Applicant and the next of kin.

In conclusion, Learned Counsel referred to Sections 58 and 92 of the

10 **Evidence Act, Cap. 8** and the case of **Ms Fang Min & Crane Bank Ltd Vs Belex Tours and Travel Limited SCCA No. 06 of 2013** and prayed to Court to find that the contracts signed between the parties are legal.

Analysis and Determination

It is now trite, under **Section 101(1) of the Evidence Act**, that whoever 15 desires any Court to give judgment as to any legal right or liability dependent on the existence of facts, which he or she asserts, must prove the existence of those facts. (See also **Sections 102, 103 and 104 of the Evidence Act**, and the case of **John Bwiza Vs Patrick Yowasi Kadama Court of Appeal Civil Appeal No. 35 of 2011**). The standard of proof is 20 on the balance of probabilities.

As I delve into the analysis of this issue, I am mindful that it is not the function of the Court to make contracts between parties but rather to construe the surrounding circumstances to effectuate the intention of the parties. (See: **Omega Bank Plc Vs O. B. C. Limited [2005] 8 NWLR* 25 (pt.928)** and **Fina Bank Ltd Vs Spares and Industries Ltd [2000] 1 EA 52)**.

While relying on **Section 91 of the Evidence Act**, **Hon. Lady Justice C. K. Byamugisha** (as she then was) in the case of **William Kasozi Vs DFCU Bank Ltd HCCS No.1326 of 2000,** stated that:

- 5 *"*Once a contract is valid, it creates reciprocal rights and obligations between the parties to it. I think it is the law that when a document containing contractual terms is signed, then in absence of fraud or misrepresentation the party signing it, is bound by its terms*."*

- From the onset, the Applicant contended that he was given several 10 documents in very small letters which he perused quickly and signed without consulting, since he urgently needed the money. I have perused the said documents, annexures "B" and "C" the loan offer letter and statutory declaration dated 18th August, 2023 as well as the chattel agreement, annexure "I" witnessed on 21st August, 2023 respectively. All 15 the documents are in a readable font size, were duly signed by the Applicant, and no evidence has been adduced to show that there was fraud or misrepresentation at the time of signing the same. Also, the Respondent averred that the documents were read to the Applicant before he signed the same, a fact that was not rebutted by the Applicant.
- 20 As was laid down in the case of *L'Estrange Vs F. Graucob Ltd [1934] 2 KB 394*, when a document containing contractual terms is signed, then, in the absence of fraud or misrepresentation, the party signing it is bound, and it is wholly immaterial whether he has read the document or not. In light of the above, I find the Applicant bound by the loan offer letter, 25 statutory declaration and chattel agreement that he executed with the Respondent.

Turning to the merits of the case; on 18th August, 2023, the Applicant obtained a capitalized loan facility of UGX 12,056,250/= from the Respondent, payable in 12 monthly instalments of UGX 1,561,250/= from 30 25th September, 2023, at a monthly interest of 4% and the collateral was motor vehicle Reg. No. UAV 799V as per annexures "B" and "A" attached

- 5 to the affidavit in support and reply respectively. The Respondent avers that the Applicant also took out an insurance premium loan of UGX 4,275,743/= as per the insurance premium quote, annexure "B" attached to the affidavit in reply. I have perused all the annexures attached to the affidavit in reply but the same was not adduced. However, the Applicant
- 10 adduced annexure "E", an email dated 21st August, 2023. Therein, Alex Masaba via amasaba@platinumcredit.co.ug was informed about how motor vehicle Reg. No. UAV 799V was going to be insured with Excel Insurance Company under the motor private comprehensive cover for a period of 12 months from 21st August, 2023 to 20th August, 2024 with a 15 debit note of UGX 4,275,743/= in the names of Ssemanda John/Platinum
- Credit Limited.

The Applicant now contends that he only paid UGX 2,020,000/= and was unable to pay the rest of the loan amount and on 20th March, 2024, the motor vehicle was sold to a one Kabugo Umar. It is pertinent to note that 20 the Applicant disputes the legality of the procedure adopted by the Respondent and now seeks this Court's determination on whether what transpired between him and the Respondent was illegal, oppressive, harsh, unconscionable and inequitable treatment on grounds that; prior to the sale, he was never served with a written notice; the vehicle was sold 25 at UGX 20,000,000/= yet its forced sale value at securing the loan was UGX 55,000,000/=; the Respondent failed to write off the loan and that the sale was not transparent.

Regarding whether the Applicant was served with a written notice prior to the sale of motor vehicle Reg. No. UAV 799V; **Regulation 18(3) of the Tier**

30 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) Regulations stipulates that:

5 "A Non-Deposit Taking Microfinance Institution shall not dispose of any collateral given by a debtor as a pawn, sale, pledge or collateral for the loan advanced to him, unless 60 days have passed since a written demand notice was issued to the debtor requiring him or her to pay any outstanding monies on the money* 10 *advanced."

Also, according to **clause 1** of the terms and conditions of the loan offer letter, annexure "B" attached to the affidavit in support; in the event of default by the Applicant, the Respondent had a right to impound and realize the collateral without recourse to Court and recover any unpaid 15 portion of the loan plus all costs.

In the matter at hand, the Applicant deponed that he was never served with a written notice requiring him to pay the outstanding loan and on the other hand, the Respondent refuted the averment, asserting that, the Applicant was served with a demand notice of the loan amount before the

20 impugned sale. In evidence, the Respondent adduced annexure "D", WhatsApp messages and email correspondences between it and the Applicant.

I have looked at the said attachments and the WhatsApp screenshots do not reflect the parties in the chat as contended by the Applicant. However,

- 25 the email dated 2nd October, 2023 whose subject reads, "Demand Notice" from the Respondent to the Applicant shows that the Applicant was reminded to honor his obligations. This was not contested by the Applicant. It is also undisputed that the vehicle was sold on 20th March, 2024, more than 60 days after the date of the notice.
- 30 Therefore, I find that motor vehicle Reg. No. UAV 799V was sold more than 60 days after the date of notification in compliance with **Regulation 18(3)**

5 of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) Regulations.

As to whether it was unlawful for the Respondent to sell the vehicle at a forced sale value of UGX 20,000,000/= yet its forced sale value was UGX 55,000,000/= at the time of executing the loan agreement; **Regulations 10 18(5) and (6) of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) Regulations**

stipulate that:

"(*5) A Non-Deposit Taking Microfinance Institution may, before carrying out a sale of collateral by public auction or private treaty,* 15 *undertake a valuation and obtain a forced sale value of the collateral to determine the market value of the collateral.*

(6) A Non-Deposit Taking Microfinance Institution may not sell the collateral for less than the forced sale value in the initial two auctions except that if the collateral does not sell in the first two 20 *attempts, it may sell the collateral at a value less than the forced value*."

The Applicant averred that the motor vehicle's forced sale value was UGX 55,000,000/=. I have observed that in its affidavit in reply, the Respondent does not dispute the fact, as deponed by the Applicant, that at the time of 25 execution of the loan agreements on 18th August, 2023, the motor vehicle's market value was UGX 100,000,000/= and its forced market value was UGX 55,000,000/=. and that it was sold at the first attempt. It is undisputed that the motor vehicle was sold at UGX 20,000,000/= as per annexure "G" attached to the affidavit in reply, a motor vehicle sale 30 agreement. Also, the Respondent did not state or adduce any evidence to show that a valuation was done prior to the sale of the motor vehicle.

5 Therefore, in the absence of any valuation report, I am inclined to find that the sale of the motor vehicle at UGX 20,000,000/= was irregular.

The third contention is that, despite selling the collateral, the Respondent failed to write off the loan contrary to **Regulation 19(1) and (2)(b) of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit 10 Taking Microfinance Institutions) Regulations**.

It is the Applicant's averment that as per annexure "P" attached to the affidavit in support, a payoff quotation, the Respondent even after the sale of the collateral, has continuously demanded for an outstanding loan balance of UGX 4,935,940/= which has increased to UGX 5,772,307/=.

- 15 On the other hand, Learned Counsel for the Respondent contended that writing off a loan means recording a loan as a bad debt due to failure to recover the same and that it does not extinguish the borrower's responsibility to pay the outstanding sum.
- According to annexure "E", a loan statement attached to the affidavit in 20 reply, on 17th April, 2024, the Applicant's loan was written off and thereafter the total outstanding balance indicated as 0.00, however Learned Counsel for the Respondent contended that this did not relinquish the Applicant's obligation to repay the same.

Considering the circumstances of this case that the Respondent, prior to 25 the sale of the vehicle, did not conduct a valuation to determine the actual forced sale value and subsequently the market value, I find it unfair for it to demand for the outstanding balance after conducting an irregular sale.

Lastly, the Applicant contended that the motor vehicle sale was not transparent. He based his allegation on assertions that he went to Excel 30 Insurance Company and found out that the motor vehicle's premium

- 5 insurance was sold to a one Ssali John on instructions of the Respondent at a forced sale value of UGX 45,000,000/= and that all this was before August, 2024. No evidence was adduced to substantiate the above allegations therefore, Court is unable to make any finding regarding the same.
- 10 In summation, the Applicant was given written notice via email, prior to the sale of the vehicle, the loan was written off however, the failure to ascertain the forced sale value before the sale rendered the same irregular and therefore, it would be unfair/unlawful for the Respondent to demand for the outstanding balance after conducting an irregular sale.
- 15 In the circumstances, this issue is partly answered in the affirmative.

Issue No. 3: Whether the money lending agreement, insurance lending agreement and chattel mortgage agreement were lawful?

Applicant's submissions

The Applicant disputed the legality of the agreements in issue, contending

- 20 that **Section 69(3)(c) (now Section 68(3)(c) of the Tier 4 Microfinance Institutions and Money Lenders Act**, prohibits a Non-Deposit Taking Microfinance Institution from lending loan insurance funds yet in its affidavit in reply, the Respondent admits that part of the money that was borrowed was for an insurance premium loan.
- 25 Further that clause 4.2 of the chattel mortgage agreement attached to the affidavit in support as annexure "I" allowed the Respondent to take possession of the collateral or sell it without giving notice to the debtor contrary to **Regulation 18(3) of the Tier 4 Microfinance Institutions and Money Lenders (Non-Deposit Taking Microfinance Institutions) 30 Regulations**.

5 Respondent's submissions

In reply, Learned Counsel for the Respondent submitted that the above submissions are a misinterpretation of the meaning of lending insurance funds. He explained that loan insurance often referred to as credit life, is insurance that protects lenders from potential losses if a borrower defaults

10 on the loan as a result of inability to pay due to death or permanent disability.

That the Applicant confused a loan insurance with motor vehicle insurance cover. That under **clause 5** of the loan agreement, it was required that the borrower undertakes to insure the collateral for the entire

- 15 loan period. That since the motor vehicle was not comprehensively insured at the time of disbursement, the Applicant requested for a loan to procure the same and an agreement was executed to that effect. That money was paid to Excel Insurance Company to insure the collateral and hence the agreement was legal.
- 20 Analysis and Determination

According to **clause 5.1** of annexure "**B**" of the affidavit in support, the loan offer letter, it was the Applicant's obligation to insure the collateral for the entire loan period. As per annexure "**E**" attached to the affidavit in support, an email dated 21st August, 2023, Alex Masaba via 25 amasaba@platinumcredit.co.ug was informed about how motor vehicle Reg. No. UAV 799V was going to be insured with Excel Insurance Company under the motor private comprehensive cover for a period of 12 months from 21st August, 2023 to 20th August, 2024 with a debit note of UGX 4,275,743/= in the names of Ssemanda John/Platinum Credit Limited.

- 5 This confirms the Respondent's explanation that at the time of insurance, the vehicle which had been pledged as collateral was not comprehensively insured yet it was a condition in the loan agreement that the collateral had to be insured throughout the loan period. For that reason, the Applicant who had no funds at the time, borrowed UGX 4,446,773/= for purposes of
- 10 insuring the motor vehicle.

The issue regarding whether the motor vehicle was sold without according the Applicant notice was resolved under issue No. 2 above.

In the circumstances, I find that the money lent was for the Applicant to insure the motor vehicle which is not prohibited by law. Accordingly, this 15 issue is answered in the affirmative.

Issue No. 4: What remedies are available to the parties?

Having found that the Respondent unlawfully sold the vehicle without ascertaining the market value, this application is partially granted with the following orders:

- 20 1. The Applicant is relieved from paying any sum claimed by the Respondent as the outstanding balance on the loan.
- 2. Each party shall bear its costs of the application.

I so order.

Dated, signed and delivered electronically via ECCMIS this **29th** day of
25 May, 2025.

Patience T. E. Rubagumya **JUDGE** 29/05/2025 6:45am

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