

**Turinawe v Uganda Revenue Authority
& Another (Civil Suit 121 of 2021)
[2025] UGHCCD 39 (26 February 2025)
[2025] UGHCCD 39**

Source: ulii.org · Research copy typeset by Esheria. Not court-issued or certified.

CIVIL SUIT NO. 121 OF 2021

TURINAWE FESTO :::::::::::::::::::: PLAINTIFF

VERSUS

1. UGANDA REVENUE AUTHORITY

2. MULTIPLE ICD LIMITED :::::::::::::::::::: DEFENDANTS

BEFORE: HON. JUSTICE SSEKAANA MUSA

JUDGEMENT

The plaintiff brought this suit against the defendants for negligence and conversion of his goods comprising 672 bags of sodium pyrophosphates from customs custody, compensation for goods lost worth Ugx. 336,000,000/=, general damages of Ugx. 200,000,000/= interest on the amounts lost at 24% p.a from the date of the cause of action arose and costs of the suit.

The plaintiff alleges that he bought two containers of goods pursuant to a court order where the 2nd defendant was a party to the suit, a licensee of and custodian to the said containers which were still under customs control of the 1st defendant. The plaintiff alleges that before he bought the said goods, he was given import declaration forms for the two containers which had 1680 bags of sodium pyrophosphates stored on 20 pallets each with 42 bags. However, upon verification and release, the total goods in the two containers were established to be 1008 bags.

The plaintiff alleged that at all material, the goods remained under customs seals of the 1st defendant and in custody of the 2nd defendant verified by their respective officers.

The 1st defendant filed its written statement of defence wherein it denied all allegations in the plaint as being erroneous and misplaced and further raised a preliminary objection as to the competence of the suit as being bad in law and misconceived. It contended that the plaintiff requested to be allowed to pay taxes for suit goods contained in container numbers MEDU2784162 and TEMU 172968B and he was informed by the Assistant commissioner filed services that the goods in one of the containers were in the names of Reliable Communications Ltd and were 1008 bags @ 25 kgs. It contended that the 2nd defendant never accounted for the said 672 bags and that a transfer to a different container as alleged by the plaintiff was not done in the presence of the 1st defendant. The 1st defendant therefore stated that the plaintiff was not entitled to any of the remedies prayed for as against it.

The 2nd defendant also filed its written statement of defence wherein it denied all allegations of the plaintiff as stated in the plaint. It contended that the said containers as per the court order were held on the said to contain basis (STC) and were received by the 2nd defendant in custody for Tropical Clearing and Forwarding Co. Ltd which had deposited them. It further contended that it was not part of the declaration which were all done prior to delivery of the said containers to its premises with their destination at DR Congo.

The 2nd defendant contended that the consignee through its agent and without its knowledge applied and was granted change of destination of the said raw materials from DR Congo to Uganda. It stated that the 1st defendant's authorisation to proceed with payment of taxes was done without confirmation of the quantities of goods in the containers. It contended that the goods remained under customs seals which were never removed from the containers.

The 2nd defendant therefore contended that the 1008 bags were the actual cargo in the two containers and that the 672 bags of the goods claimed for are unfounded and without basis. It therefore stated that the plaintiff is not entitled to any reliefs sought against it.

The parties filed a joint scheduling memorandum wherein they agreed to the following facts and issues.

Agreed Facts

1. There is a court order form the release of goods in containers No. MEDU 27814162 and TEMU 1729688.
2. The goods remained under the customs under the 1st defendant and in the custody of the 2nd defendant.
3. The actual goods that the plaintiff received were 1008 in container No. MSKU 0276144

Agreed Issues

1. ***Whether the plaintiff is entitled to claim for compensation from the defendants?***

2. ***what remedies are available to the parties.***

The plaintiff was represented by *Mr. Tindyebwa Festo* whereas the 1st defendant was represented by *Mr. Bamwerinde Barnabas* and *Mr. Kabafunzaki Brian* for the 2nd defendant.

The parties were ordered to file written submissions and they accordingly filed the same. these submissions were considered by this court.

DETERMINATION

Whether the plaintiff is entitled to claim for compensation from the defendants?

The plaintiff submitted that he is entitled to claim the recovery of 672 bags and in the alternative, compensation from the defendants. Counsel relied on section 14 (1) of the East African Community Customs Management Act (EACCMA) which provides that the commissioner may on application license any internal container depot for the deposit of goods subject to customs control. He stated that the 2nd defendant is under the authority of the 1st defendant to take deposits of goods subject to the control of the 1st defendant through the commissioner customs. Counsel cited section 14 (2), 15, 12, 16, 17 and 34 of the EACCMA to state that where goods have entered a customs area, they cannot leave without an exit. He submitted that in accordance with section 17, having lost the goods under customs control, he had a claim against the 1st defendant and its officers. It was submitted that at the time the plaintiff purchased the goods and took lawful ownership of the same, they were in control of the 1st defendant to whom he was required to pay taxes for their release.

PW1 testified that when he learnt some goods for sale in two containers from the lawyers at Shonubi Musoke & Co. Advocates, he went ahead to inquire with the 2nd defendant's DW1 Mr Kawalya who confirmed the goods to be there under the court seal. Upon obtaining court order, the 1st defendant authorised the plaintiff to and take possession of the goods as they were detailed in the customs forms attached to them.

The plaintiff submitted that since the goods were in customs control, the 1st defendant's officer should have kept proper records of the said goods. He stated that if they were tempered with, offloaded or merged into another container as claimed by the 2nd defendant, no documentation was provided to support claims or authorisation for the goods in customs control to be tampered with in any way.

Counsel further submitted that 2nd defendant's witness DW1 Mr Kawalya confirmed that the two containers were received by the 2nd defendant which was corroborated by the customs entry form at P. EX.2 (a) and (b). He further stated that the undisputed fact that the two containers detailed in the court order were received by the 2nd defendant is corroborated by invoices from the 2nd defendant upon which the plaintiff paid administrative expenses and handling charges for the two containers.

Counsel further submitted that the 1st defendant did not provide any evidence authorising the 2nd defendant to tamper with the two containers specified in the counter order. He therefore stated that the officers of the 1st defendant were negligent to track records of any changes in the handling of the goods which were under customs control in the custom area and lack of documentation trail to support tampering with uncustomed goods cost the government taxes amounting to over Ugx. 20,070,536/= and the plaintiff lost goods and stock for his business.

The plaintiff further submitted that the 2nd defendant was liable for any handling of the goods without authorisation or approval documented by the 1st defendant. He stated that the 2nd defendant provided evidence or handling of the other containers except MEDU 27814162 which is subject of his suit, and for which 672 bags are missing. That the 2nd defendant unlawfully and wrongfully disposed of goods in their storage thereby causing loss on the plaintiff. He relied on Section 14 and 26 (2) of the EACMA to state that the owner of the transit yard should be responsible and accountable for the goods handed over while in transit.

He stated that in this case, the 2nd defendant tampered with the two containers and in so doing, the plaintiff lost 272 bags for which had been kept with them. Counsel defined the tort of the conversion to mean where a party wrongfully deals with a person's goods in a way that constitutes a denial of the owners. He submitted that the 2nd defendant was requested to keep the goods as received and to avail them at the material time when the 1st defendant had collected the requisite tax and or a lawful owner had lawfully taken ownership of the goods. He therefore submitted that for the 2nd defendant failure to return 672 bags which were meant to be in the containers, it is liable for the loss occasioned to the plaintiff.

Counsel for the defendant submitted that the goods at the time of ownership by the plaintiff were in the control of the 2nd defendant and were not managed in accordance with the several provisions of the EACCMA cited by counsel. He stated that there was no evidence led by the plaintiff to show that the said containers left with official approval of the 1st defendant as confirmed by DW1 who stated that he found that the containers had been changed and there was no URA seal which was all done in the presence of the employee of the 2nd defendant.

Counsel defined negligence as per **Kakooza vs Abamwe Transporters Limited & Anor C. S No. 519 of 2017** as the omission to do something which a reasonable man guided upon those considerations would do. He submitted that no evidence was led to show which officers of the 1st defendant acted negligently. He stated that the plaintiff did not show how release of the suit goods was due to their fault. DW1 in his evidence stated that the 1st time the goods were physically verified was when the court order was presented and this was done on the presence of the plaintiff, DW1 and Baguma Ismail of the 2nd defendant. He therefore submitted that by acting in accordance of the court order and verifying in the presence of the plaintiff so that taxes could be paid, the 1st defendant acted lawfully. He further submitted that the plaintiff did not contest as to what was verified and found until months later on the Feb, 2021 having been shown the goods in July 2020. Counsel therefore prayed that this court find that there was no negligence on the part of the 1st defendant and no evidence to substantiate the same.

As to conversion, counsel submitted that the ingredients of the tort are laid down in **Moorgate Mercantile Company Ltd vs Finch & Read (1962) 1 QB 701** as applied in **Victoria Candles Ltd vs AG & 3 Ors Civil Suit 376 of 2019** to include wilful interference without lawful justification with any chattel in a manner inconsistent with the right if another.

It was stated that the plaintiff received a court order which was served on the 1st defendant upon which a verification was subsequently done in his presence. That the goods were at all times in the custody and possession of the 2nd defendant and that the only contact the 1st defendant made with the goods was when they were being verified in accordance with the provisions of the EACCMA. He therefore submitted that there was no interference at all with the goods and the 1st defendant cannot be held liable.

Counsel further submitted that it is the plaintiff's testimony that the goods were found at the premises of the 2nd defendant. He further stated that when presented with the court order, the 1st defendant acted accordingly and at no time took possession of the suit goods and as such, a claim of conversion should fail.

counsel submitted that at all material times, the goods were in the custody of the 2nd defendant and when the goods were moved to another container, none of the 1st defendant's officers was listed as being present.

The 2nd defendant's counsel submitted that the plaintiff is not entitled to claim the 672 bags and/or compensation for the same. He stated that it is not true that the officers disposed of any goods that caused financial loss to the plaintiffs. Counsel submitted that the goods in question were in transit and later the consignee of the said goods applied that they be reimported in Uganda which the 1st defendant authorised.

Counsel submitted that the 2nd defendant was simply a custodian of the cargo and any change in the destination entirely rests on the consignee and the 1st defendant's authority. He submitted that after having stripped the cargo in the presence of the 1st defendant and the consignee's agent and permission to change the destination, the 1st defendant permitted the release of part of the cargo to Reliable Communications Limited and cited Section 14 (3) (3) of the EACCMA as to the 2nd defendant's obligation to comply with the directives of the 1st defendant.

He therefore submitted that the plaintiff claimed goods which were released to the respective agent at the time. Counsel further submitted that PEX1 does not indicate the quantity of the goods in the said containers but rather mentions the goods therein. He therefore submitted that all goods received by the 2nd defendant were stored and exited through all proper procedure and law and thus, the plaintiff cannot claim compensation from the 2nd defendant.

Analysis

The plaintiff's claim as against the defendants is for negligence and conversion of his goods while in customs custody. As such, it is important to note that in an action for negligence, the plaintiff has to prove the following essentials; that the defendant owed a duty of care to the plaintiff; the defendant made a breach of that duty and the plaintiff suffered damage as a consequence thereof.

The duty means a legal duty rather than a mere moral, religious or social duty. The plaintiff has to establish that the defendant owed to him a specific legal duty to take care, of which he has made a breach. There is no general rule of law defining such duty and it depends in each case whether the duty exists.

It is important to note that the burden of proof for the plaintiff is on the balance of probability. ***Section 101 of the Evidence Act*** provides that he who alleges must prove. Therefore, the allegations made must be proved on the balance of probability and to the satisfaction of court before grant. In the event the standard is not met, the court retains the discretion to decline granting the same

It is the plaintiff's case that he bought two containers of goods pursuant to a court order which were still under customs control. From the court record, it is clear that whereas the plaintiff was given import declaration forms for the two containers which indicated 1680 bags of sodium pyrophosphates stored on 20 pallets each with 42 bags, he had never verified the quantity of the goods in the container and neither had the parties. It is further undisputed that upon verification of the containers which was done in the presence of the plaintiff, the total goods in the two containers were established to be 1008 bags.

It is further undisputed that the subject containers were in the custody of the 2nd defendant until the verification was done. However, save from the declaration forms given to the plaintiff upon buying the containers, the plaintiff did not adduce any evidence whatsoever of negligence on the part of the defendants as to the ascertainment of the quantity of the goods stored therein. The plaintiff did not prove at all, whether the goods were of 1680 bags at the time they were placed in the custody of the defendants or that there were only 1008 bags. It is therefore quite inconceivable for the court to find that the containers held 1680 bags considering the movement of the goods from the consignee at the time of storage by the 2nd defendant.

Furthermore, it is clear that plaintiff did not contest as to quantity that was verified and found in the containers in July, 2020 in the presence of the defendants upon attaining a court order not until months later on the Feb, 2021.

In the circumstances, I find that the plaintiff has not on the balance of probabilities proved before this court that the defendant acted negligently when dealing with the goods in the containers since there was no proof that the quantity of the goods was 1680 bags and not 1008 bags at the point of storage which were delivered to the plaintiff.

An act of conversion is wrongful interference with the claimant's chattel in a manner that is inconsistent with the claimant's superior possessory title in the chattel. Conversion deals with unlawful disposal of the goods. Liability of conversion is strict and the defendant's state of mind is critical in determining whether his act would amount to an act of conversion in law. More specifically, an act of conversion must comprise a course of dealing which affects the claimant's possessory interests, and such conduct is accompanied by the intention to assert an interest that is inconsistent with those of the claimant's. Further, the defendant's conduct must be accompanied intention to assert an entitlement that is superior to that of the claimant. See: ***Tat**

Seng Machine Movers Pte Ltd v Orix Leasing Singapore Ltd [2009] 4 SLR (R) 1101 AT [57]*

From the evidence, it is clear that the plaintiff upon being granted a court order verified the goods in the subject containers in the presence of the 1st and 2nd defendants. There is no evidence whatsoever that the defendants wrongfully interfered with the plaintiff's goods nor did the latter adduce any evidence to show that the defendants unlawfully disposed of the goods for which he was entitled to.

It is a basic principle of the law of evidence that a party who bears the burden of proof is to produce the required evidence of facts in issue that has the quality of credibility short of which his claim may fail. It is trite law that matters that are capable of proof must be proved by producing sufficient evidence so that on all the evidence a reasonable mind could conclude that the existence of the fact is more probable than its non-existence. The nature of the plaintiff's evidence in proof of his claim of conversion is highly questionable and in totality would not be believable against the undisputed evidence the goods in the containers were verified in his presence and there was no complaint until the February, 2021.

In that in the circumstances, I therefore find that the plaintiff failed to prove on a balance of probabilities his claim of negligence and conversion of his goods as against the defendants. This suit is dismissed with costs to the defendants.

I so Order.

SSEKAANA MUSA

JUDGE

Delivered on this.....day of February 2025 by the Registrar

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://ulii.org/akn/ug/judgment/ughccd/2025/39/eng@2025-02-26>

CASE PAGE <https://chat.esheria.ai/case-law/uganda/turinawe-v-uganda-revenue-authority-civil-suit-121-of-2021-2025-ughccd-39-26-february-2025-and-others-unknown-topic-unknown-court-2025>

Prepared on 14 October 2026 · Esheria