**Bank of Uganda v Banco Arabe Espanol**

**Division:** Supreme Court of Uganda at Mengo

**Date of judgment:** 4 May 2000

**Case Number:** 20/99

**Before:** Karokora, Mulenga, Kanyeihamba and Mukasa-Kikonyogo JJSC

**Sourced by:** B Tusasirwe

**Summarised by:** M Kibanga

*[1] Practice and procedure – Stay of execution – Application – Application for stay of execution pending*

*reference under Rule 105(1) of the Rules of the Supreme Court – Registrar’s ruling – Whether necessary*

*to annexe registrar’s ruling to the application.*

*[2] Practice and procedure – Stay of execution – Stay of execution pending determination of reference*

*under Rule 105(1) of the Rules of the Supreme Court – Rule 1(3) and Rule 5 – Whether stay properly*

*brought under Rule.*

**Editor’s Summary**

The Applicant and the Respondent were parties to a suit in the High Court. The suit gave rise to an interlocutory appeal which was determined by the Supreme Court in favour of the Respondent. The

Respondent filed a bill of costs before the Registrar for taxation. The Applicant complained that the taxed amount was excessive and filed reference for review of some items in the bill under Rule 105(1) of the Rules of the Supreme Court (“the rules”).

Pending the disposal of the reference, the Applicant made an application for stay of execution under

Rule 1(3) of the Rules on the grounds, *inter alia*, that the Respondent had no assets in Uganda, the reference would be rendered nugatory if execution proceeded and the Applicant was willing to provide security for costs.

The advocate for the Respondent raised three preliminary points of objection: first, the Applicant did not annexe to the application a copy of the ruling of the registrar, second, the application had been brought under Rule 1(3) of the Rules instead of Rule 5 and third, the affidavit supporting the application was defective because it did not distinguish matters sworn on information and matters sworn on own knowledge.

**Held** – It was not necessary to annexe a copy of the ruling of the registrar because there was no appeal pending before the Court. The merits of the reference would not influence the decision of the Court in dealing with the application for stay; *Barclays Bank (U) Ltd v Mubiru* (SC) civil application 1997and

*JWR Kazzora v M L S Rukuba (SC)* civil application number 4 of 1991 explained. *Kampala Bottlers Ltd v*

*Uganda Bottlers Ltd* civil application number 25 of 1995 cited with approval. Rule 5 applied where stay was sought pending appeal. There was no appeal pending and Rule 1(3) was rightly invoked. The affidavit supporting the application was sworn on the Applicant’s own knowledge.

The circumstances of the application justified a stay of execution and the same was granted. *Kampala Bottlers v Uganda Bottlers Ltd* (*supra*) followed.

**Cases referred to in ruling**

(“**A**” means adopted; “**AL**” means allowed; “**AP**” means applied; “**APP**” means approved; “**C**” means

considered; “**D**” means distinguished; “**DA**” means disapproved; “**DT**” means doubted; “**E**” means explained; “**F**” means followed; “**O**” means overruled)

***East Africa***

*Alexander J Okello v M/s Kayondo and Co Advocates* civil appeal number 1 of 1992 (CA) (UR)

*Ambalal N. Patel Ltd v Marietti* [1957] EA 194

*Attorney-General v Uganda Blanket Manufacturers (1973) Ltd* civil application number 17 of 1993

*Barclays Bank (U) Ltd v Mubiru* (SC) civil application 1997 – **E**

*Departed Asians Property Custodian Board v Jaffer Brothers Ltd* civil appeal number 13 of 1999

(unreported)

*Gaspair Ltd v Harry Goudy* [1962] EA 414

*JWR Kazzora v M L S Rukuba (SC)* civil application number 4 of 1991 – **E**

*Kampala Bottlers Ltd v Uganda Bottlers Ltd* civil application number 25 of 1995 – **APP** & **F**

*Kampala City Pharmacy v National Pharmacy* civil application number 13 of 1979

*Lawrence Kyazze v Eunice Busingye (SCU)* civil application number 18 of 1990

*Libyan Arab (U) Bank Ltd v Vassiliadais (SCU)* civil application number 42 of 1992

*Patrick Makumbi and another v Sole Electrics (U) Ltd* civil application number 11 of 1995 (UR)

*Premchand Raicharnd v Quarry Services* (*number 3*) [1972] EA 162

*Registered Trustees of Kampala Institute v Departed Asian Property Custodian Board* civil application number 3 of 1995

*Total Oil Products (EA) Ltd v Nuauto Ltd* [1968] EA 611

***United Kingdom***

*Bozson v Altringram Urban District Council* [1903] 1 KB 547

*Salaman v Warner and others* [1891] 1QB 734

*Simpsons Motor Sales [London] Ltd v Herdon Corporation*