**Lule v Uganda**

**Division:** Court of Appeal at Kampala

**Date of judgment:** 26 July 1974

**Case Number:** 7/1974 (85/74)

**Before:** Sir William Duffus P, Wambuzi CJ and Mustafa JA

**Sourced by:** LawAfrica

**Appeal from:** High Court of Uganda – Musoke, J

*[1] Evidence – Certificate – Forged bank-note – Certificate by person authorised by governor of Bank*

*of Uganda – Whether certificate proper – Bank of Uganda Act, s.* 18 (*U*).

**JUDGMENT**

The considered majority judgment of the court was read by **Sir William Duffus P:** This is a second appeal. The appellant was convicted in a magistrate’s court of being knowingly in possession of a forged Uganda currency note without lawful authority or excuse contrary to s. 336 of the Penal Code. He was sentenced to six months imprisonment. He unsuccessfully appealed to the High Court. The brief facts are as follows. The appellant presented a 100/- currency note to a cashier in a shop in payment of some articles he was purchasing. The cashier thought that the note did not look genuine, and returned it to the appellant telling him why she did so. Another shop assistant also examined the said note. A genuine 100/- currency note was shown to the appellant. The appellant then said he would return the note in his possession to the Commercial Bank from where he had obtained it. The appellant was found in possession of the same note the following day and was arrested. The appellant was in possession of the note. In terms of s. 336 of the Penal Code it was incumbent on the prosecution to establish that the note was forged, that the appellant knew that it was forged, and then the burden would shift to the appellant to establish that he was in possession with lawful authority or excuse. The trial magistrate in his judgment misdirected himself on the burden of proof in regard to knowledge. He said, *inter alia*: “I find that the note was in possession of the accused . . . The next problem . . . is whether at the time or before, the accused knew that the note in question was forged. According to the provision of section 336 the burden of proof shifts to the accused . . .” However as the trial magistrate found that the note was in fact forged, on the basis of a certificate issued by the general manager of the Bank of Uganda, and that the appellant had been informed, previous to his arrest, that the note was forged, we do not think that the misdirection caused any prejudice, and would be a curable error. In our opinion, the crucial issue in this case is whether the prosecution had established that the note was forged. For this purpose the prosecution relied on a certificate issued by the general manager of the Bank of Uganda. The certificate reads: “BANK OF UGANDA 25 April 1972. CERTIFICATE UNDER SECTION 18 OF THE BANK OF UGANDA ACT ‘I Dimien Kato Tamale, general manager of the Bank of Uganda, do hereby certify that I have examined the document enclosed with the letter cited above and which I have now marked with my initial in red which purports to be currency note of the denomination of Shs. 100/- bearing the name of the Bank of Uganda and number A 6 354112 and that such document is an imitation of a currency note and is not a currency note issued by the Bank of Uganda. Dimien Kato Tamale.’ The certificate refers to s. 18 of the Bank of Uganda Act. S. 18 reads: *Evidence of imitation of bank note.* ‘18. Where in any proceedings in any court of competent jurisdiction it is to be determined whether a document purporting to be a bank note is an imitation of a bank note, a certificate under the hand of the Governor or any officer of the Bank authorised by him certifying that he has examined the document which purports to be a bank note, stating the denomination, and the number of the bank note, and that the document is an imitation of a bank note and is not a note issued or deemed to be issued by the Bank, shall be received in evidence without further proof as conclusive evidence of the fact that such document is an imitation of a bank note.’ ” It will be noted that the legislature has evolved a very easy and convenient method for a busy government official to adduce proof as to the genuineness or otherwise of a currency note, without having to attend court or be subject to any cross-examination. A certificate issued by a properly authorised person would be conclusive evidence of the fact it certifies. S. 18 gives the authority only to the governor or any officer of the bank authorised by him. On behalf of the appellant, it was urged before the first appellate judge that there was no valid evidence that the currency note was forged. The first appellate judge dealt with that submission as follows: “There was clear evidence of Edward Wasswa that the appellant knew at the very time when the genuineness of the currency note was being questioned that it was a forged note. In my view the introduction of a report from the general manager of the Bank of Uganda, under section 18 of the Bank of Uganda Act was a mere formality as the matter was no longer in issue. I am also of the view that even if that was not the case, the report of the said general manager would meet the requirements of section 18, although it does not carry an endorsement showing that he had been authorised by the Governor to issue one. It will be noted that the section does not state what form the Governor’s authority must take.” We are not clear what the judge intended when he said that the question whether the note was forged was no longer an issue. The prosecution must affirmatively prove that the bank note was forged. We agree that a certificate under s. 18 of the Bank of Uganda Act is not the only method of proof but the prosecution must establish the forgery as a fact. In this case there was other evidence of the bank note being a forgery apart from the certificate. We would refer to the evidence of the first and second prosecution witnesses, the cashier and a shop assistant at the shop of the Uganda School Supply Limited. These witnesses gave evidence that they both examined the forged note and compared this with other genuine 100/- notes and they said that it was a forged note and that they pointed this out to the appellant. The trial court also admitted the forged note as an exhibit and thus would have been able to examine it. We also examined this note and clearly it was a forged note. The judge on the first appeal probably meant that in any event there was sufficient evidence to establish that the note was a forged note without having regard to the certificate issued under s. 18. We agree that there was sufficient evidence but the trial magistrate apparently relied on this certificate to prove that the note was forged. This certificate should have stated that the person issuing it, the general manager, had been duly authorised by the Governor of the bank to act under s. 18 and issue the certificate. This was an omission but the certificate was headed “Certificate under s. 18 of the Bank of Uganda Act.” This heading must mean that the certificate was issued under or in pursuance to s. 18 and this, in our view, would be a sufficient statement to show that the person giving the certificate had done so by virtue of that section and had carried out the necessary formalities and had the necessary authority to act under the section. In addition to this there is evidence to establish that the person giving the certificate was the general manager of the Bank of Uganda and accordingly an officer of the bank. Having these facts in mind we are of the opinion that the certificate was properly admitted under s. 18 as proof that the bank note was a forgery. We are therefore of the opinion that the appellant was properly convicted and accordingly we dismiss the appeal. For the appellant:

*JF Kityo*

For the respondent:

*JWN Tsekooko* (Principal State Attorney