**MTN (U) Ltd v Uganda Telecom Ltd**

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

**Date of judgment:** 23 June 2005

**Case Number:** 13/04

**Before:** Odoki CJ, Oder, Karokora, Mulenga and Kanyeihamba JJSC

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*[1] Contract – Construction of terms of agreement – Meaning of agreement to be determined from*

*words used – Whether interest payable on principal due from date of invoice.*

**Editor’s Summary** The appellant and the respondent were parties to an interconnection agreement. Each party was entitled to charge the other for interconnection services, rendered through their systems. The appellant filed a suit against the respondent seeking to recover the sum of UShs 5 772 690 167 as principal and UShs 518 455 167 as interest accrued from the date the principal was due. There was no dispute as to the principal sum and a consent judgment was entered to that effect. With regard to the interest, the trial judge found in favour of the appellant and awarded a sum of UShs 518 455 167. On appeal to the Court of Appeal, the High Court decision was reversed and a sum of UShs 200 552 609 entered in instead. The appellant now appealed to the Supreme Court. Counsel for the appellant argued that the due date for payment of the principal and interest was the date immediately after the expiry of 45 days following the receipt of the traffic reports by either party. In reply, counsel for the respondent submitted that under Article 7 of the agreement, liability to pay interest only arose after all the conditions to pay had been fulfilled and that the agreement was silent as to what was to happen if there was no agreement on the net amount within the stipulated 45 days.

**Held** – The pivotal issue before the court was the determination of the date when interest began to accrue. Determination of this date would resolve the question of quantum of interest, due from the respondent to the appellant. In order to determine the issue, the court was obliged to construe the contract as it was written. Counsel for the respondent erred in submitting that the agreement was silent on what was to happen in the event of a disagreement between the parties. The agreement provided, *inter alia*, that where there was a disagreement on the accuracy of the reports the parties could go to an independent auditor to determine the dispute. The only date in the agreement, which signified total and final agreement on the sum due, was when the party in credit finally sent the other party an invoice. When the invoice was received, that date became the due date and it was only on that date that the interest on the principal began to accrue. Appeal dismissed with costs to the respondent.

**Case referred to in judgment**

(“**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)

*Stirnlaw v Southern Foundaries [1926] Ltd and another* [1939] All ER 113