**Sandhu v Noble Builders (U) Ltd and another**

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

**Date of judgment:** 22 February 2005

**Case Number:** 13/02

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

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*[1] Company law – Change of directors and shareholders – Status of directors and shareholders –*

*Completion and registration of form A8 showing change of directors and members – Effect of form on status of directors and members – Whether the appellant had ceased to be a director and member of first respondent on registration of form – Whether appellant had locus standi to seek winding up of company*

*– Form A8 – Companies Act.*

*[2] Practice – Judgments – Content of judgments – Addition to jurisprudence of Uganda – Whether it was obligatory for judgments to add to the jurisprudence of the country.*

**Editor’s Summary**

The appellant, JSS, and the second respondent, RSS, were the initial subscribers to the first respondent company. They formed the company on 5 January 1984. Sometime later, the appellant notified the Registrar of Companies that as of 12 January 1984, he had ceased to be a director and member in the company and had appointed his wife to replace him as director and member. This notification was done by filling out company form A8, which was signed and dated 30 April 1984. Shortly afterwards, the appellant left for Canada and became a resident there. He was later followed by his wife. The second respondent stayed behind and ran the business which registered some success. When the appellant eventually returned to Uganda, he asked the company to account for the profits it had made in his absence. The second respondent refused to do so, on the ground that the appellant had ceased to be a shareholder in the company before departing for Canada and thus had no *locus standi* to make the demand. The appellant then decided to petition the High Court for orders to wind up the company and to declare the second respondent a delinquent director. The trial court found in the appellant’s favour and made the orders prayed for in the petition. On appeal to the Court of Appeal, the decision was reversed. The appellant now appealed to the Supreme Court on the grounds, *inter alia*, that the Court of Appeal erred in finding that the appellant had validly transferred his shares to his wife, in finding that he had relinquished his membership by signing form A8, and in ignoring the other grounds of appeal, which had raised important questions for the jurisprudence of the country. Counsel for the appellant argued that because the formalities for the transfer of shares under the Companies Act had not been followed, the alleged transfer had never been effective. In reply, counsel for the respondent argued that the words used in the transfer form were clear and unambiguous and ought to be given their natural and technical meaning.

**Held** – The basis of the court’s consideration in any case was the application of law and principles of justice, founded on the actual facts and circumstances of the case. The function of the court was to resolve disputes judicially and not to seek and declare jurisprudential wisdom. Such wisdom evolved incidentally and not by design, in any one given case. The notion that a court’s decision was open to challenge an appeal because it had not enhanced the jurisprudence of Uganda in the course of its deliberations was very farfetched. The pivotal issue to be determined was whether or not the appellant had completed form A8 and, if so, what effect registration of the form had on the status, rights and obligations of directors and shareholders of the company. In this instance, the Court of Appeal could not be faulted for finding that the words used in the transfer form meant that the appellant had not only ceased to be a director but also a member of the company. The appellant admitted signing the document and the evidence showed that the appellant’s wife acquired the appellant’s shares and remained the second director and owner of 49 percent of the shares in the company. The appellant, therefore, had no *locus standi* in the affairs of the company and could neither petition for its winding up nor could he call upon the second respondent to account to him. *Per Tsekooko JSC* – It was clear that the appellant ceased to be a director and member of the company on 12 January 1984 or, at the latest, when the transfer form was lodged in the Registry of Companies. For him to come to court nearly twenty years later, seeking to have the company wound up was nothing short of a deliberate attempt to abuse court process. Appeal dismissed with costs to the respondents.

**Cases 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)

***East Africa***

*Henry Kawalya v Dan Semakadde* Complimentary cause number 8 of 1990

*Mugenyi and Company Advocates v Attorney-General* suit Civil case number 43 of 1955

*Noble Builders v Sietco Limited* High Court suit number 174 of 1994

*Nurdin Bankali v Lombarak Tanganyika Limited* [1963] EA 304

***United Kingdom***

*Colonial Bank v Hapworth* [1887] Volume 36 Chapter 37

*Re Tal v Drws State Company* (*Mackley*’s case) 1875 1 Ch 247