**Uganda v Karasa**

**Division:** High Court of Uganda at Kampala

**Date of judgment:** 5 April 1974

**Case Number:** 84/1974 (125/74)

**Before:** Wambuzi CJ

**Sourced by:** LawAfrica

*[1] Criminal Practice and Procedure – Compensation – Substantial compensation – What sum is substantial – Magistrates*’ *Court Act* 1970, *s.* 209 (*U.*)

**JUDGMENT**

**Wambuzi CJ:** The accused was convicted of theft contrary to s. 252 of the Penal Code upon his own plea of guilty by a magistrate. He was cautioned and ordered to pay Shs. 42/- for the trees he had stolen.

It was alleged by the prosecution that the accused stole trees from a government forest.

The Chief Magistrate Mbarara sent the record to this court with the remark: “The order made by the magistrate that the convicted person pay Shs. 42/- for the trees he stole is wrong. A criminal court is not a forum for collecting debts”.

A Senior State Attorney for the Director of Public Prosecutions in his memorandum appears to suggest that the order to pay Shs. 42/- was justifiable under s. 209, Magistrates’ Courts Act 1970, but would not support the order because the caution given by the trial magistrate reflected that the magistrate must have treated the offence as of a trivial nature.

S. 209 (1) of the Act provides:

“209. ‘When any accused person is convicted by a Magistrate’s Court of any offence and it appears from the evidence that some other person, whether or not he is the prosecutor or a witness in the case, has suffered material loss or personal injury in consequence of the offence committed and that substantial compensation is, in the opinion of the court, recoverable by that person by civil suit, such court may, in its discretion and in addition to any other lawful punishment, order the convicted person to pay to that other person such compensation as the court deems fair and reasonable.

Provided that in no case shall the amount awarded exceed one thousand shillings.”

Before any such order is made, it appears two conditions must be satisfied:

(1) A person must have suffered material loss or personal injury; and

(2) Substantial compensation in the opinion of the court must be recoverable by that person by civil suit.

The expressions “material loss” and “substantial compensation” are not defined in the Act but I would think that substantial compensation must mean a relatively large sum of money and therefore material loss cannot be merely minimal loss. In the instant case I cannot say that Shs. 42/- was a material loss to the Ministry of Works nor that the Ministry could, by civil action, recover substantial compensation for the loss of trees worth Shs. 42/-. The trial magistrate did not express any opinion on the matter as required by the section. I think that the order to pay compensation of Shs. 42/- in this case was misconceived and is accordingly set aside. It is directed that if the money was paid it shall be refunded.

*Order accordingly*.

No appearances for the parties