

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA

CIVIL DIVISION

MISCELLANEOUS CAUSE NO. 215 OF 2018

SMART PROTUS MAGARA & 138 OTHERS ::::::::::: APPLICANTS
VERSUS

FINANCIAL INTELLIGENCE AUTHORITY::::::::::::: RESPONDENT

BEFORE HON. JUSTICE SSEKAANA MUSA

RULING

The Applicant filed an application under Section 33 & 36 of the Judicature Act as amended, Rules 3(1)(a), 5 & 6 of the Judicature (Judicial Review) Rules, 2009; for the following declarations and orders that;

- a) A declaration that the halting, freezing, seizure, confiscation, compulsory acquisition, take over or expropriation by the respondent of the funds in the Applicant bank accounts Nos 013591800015 (USD) and 01359180002 (UGX) held in Bank of Africa, Account No. 1002100721913 (USD) held in Equity Bank Limited and Account No. 00871774001 (USD) held with Diamond Trust Bank and Account No. 9030004134914 (USD) held with Stanbic Bank and the decision to continue holding on the said funds are illegal, null and void.

- b) An Order of Certiorari quashing the Respondent's decision not to release the applicant's funds which were illegally confiscated, taken

over, compulsorily acquired or expropriated by the respondent from the applicant's described bank accounts.

- c) An Order of Mandamus compelling and directing the respondent to return the money it illegally confiscated from the applicant's aforesaid bank accounts.
- d) An Order of Prohibition prohibiting the Respondent from further illegally holding on to the applicant's funds.
- e) An Injunction restraining the respondents from unlawfully interfering with the Applicants aforementioned accounts and or funds.
- f) An Order directing the respondent to pay the applicant General and punitive damages.
- g) An Order directing the Respondent to pay interest at Court rate on the amount illegally confiscated from the date of confiscation till payment in full.
- h) An Order that the respondent pay the costs of this suit.
- i) Any Other relief that the Court deems fit.

The grounds in support of this application were stated briefly in the Notice of Motion and in the affidavit in support of the applicant of **Smart Protus Magara** but generally and briefly state that;

- 1) Sometime in June 2017, the respondent confiscated, compulsorily acquired and or expropriated the funds on the Applicant's bank accounts Nos 013591800015 (USD) and 01359180002 (UGX) held in

Bank of Africa, Account No. 1002100721913 (USD) held in Equity Bank Limited and Account No. 00871774001 (USD) held with Diamond Trust Bank and Account No. 9030004134914 (USD) held with Stanbic Bank ostensibly to pave way into an investigation into a suspected case of money laundering.

- 2) The Uganda Police Force investigated the matter and after over a year of back and forth investigations, sometime in July 2018, the Director of Public Prosecutions advised that the evidence gathered cannot sustain a criminal charge and such, the file should be closed and put away.
- 3) Following the said opinion, the Applicant demanded for the immediate release of his funds but the Respondent Authority has obdurately refused, neglected to do so to-date.
- 4) Sometime in later in a letter dated 17th August 2018, the respondent communicated its decision not to release the applicant's funds because they were still to establish where the funds originated from, the beneficial owners and that there were several civil suits against the Applicant.
- 5) The applicant avers that the Respondent Authority acted ultra vires, irrationally, illegally and with procedural impropriety when it compulsorily acquired, took over and or expropriated the funds on the applicant's accounts.

Particulars of Illegality, Ultra vires and Procedural impropriety

- (a) Confiscating, taking over and expropriating the Applicants funds without a Court Order.

- (b) Confiscating, taking over and or expropriating the applicant's funds before he was convicted of any offence under the Anti-Money Laundering Act.
- (c) Failing and or refusing to afford the applicant a chance to be heard.
- (d) Holding the applicant's funds indefinitely without sanction of court.

The respondents opposed this application and the respondent filed an affidavit in reply through the Executive Director of the Respondent-Sydney Asubo rebutting all the allegations set out in the application;

- 1) The respondent received reports/information in 2017 pursuant to section 9 of the Anti-Money Laundering Act that suspicious transactions were occurring on accounts held by the applicant specifically-Account No. 1002100721913 (USD) held at Equity Bank Limited; and Account No. 00871774001 (USD) held at Diamond Trust Bank.
- 2) The suspicious activity indicated the possibility of a pyramid scheme being run and or coordinated by the applicant, through an entity known as D9 Clube of Entrepreneurs, and that the funds generated by the activity were possible proceeds of crime and money laundering.
- 3) That the Respondent obtained additional information that the scheme being operated by D9 was a pyramid scheme whose activities have been banned in Rwanda, and the public warnings issued in Kenya.
- 4) The respondent obtained additional information that the Applicant was a person of interest in a case filed with the Uganda

Police Force file number GEF 354/2014 in which several persons filed complaints that they had lost money in an online business with company called TELEXFREE.

- 5) The respondent obtained additional information that TELEXFREE operations were a global pyramid scheme disguised as an internet telecom company and that the former president of the scheme was sentenced by a United States district Court judge to six years in prison for “profiting in the fraudulent company”.
- 6) That the respondent upon obtaining such information exercised its mandate under the Anti-Money Laundering Act and halted transactions on the applicant’s bank accounts.
- 7) The respondent contends that the funds on the applicant’s accounts as admitted by the applicant are deposits from persons desirous of joining the D9 Clube which has characteristics of a pyramid scheme as advised by the Bank of Uganda.
- 8) That the respondent has also received information that the applicant is implicated in a case of obtaining money by false pretences from various persons including citizens of the Republic of Tanzania which matter is being investigated by the Criminal Investigations Directorate of the Uganda Police Force following a request from The International Interpol National Central Bureau, Criminal Investigation Department of Dar es Salaam.
- 9) The respondent’s concerns are that the persons who have been victims of the pyramid scheme and are seeking to recover their

funds will have no recourse if the funds are released to the applicant.

10) The respondent acted in good faith to preserve the safe custody of the funds as the applicant investigation by the Uganda Police Force and Interpol for offences including Money Laundering.

11) The respondent acted in good faith and in exercise of its legal mandate. The actions of the respondent are not an abuse of authority nor an illegality.

At the hearing of this application the parties were advised to file written submissions which I have read and considered them the determination of this application.

Two issues were framed by this court for determination;

1. *Whether the application raises any grounds for judicial review.*

2. *Whether the applicant is entitled to the remedies sought?*

The 1st applicant was represented by *Mr Emoru Emmanuel and Ms Jamina Apio* whereas the respondent was represented by *Ms Atuhura Doreen*. The rest of the 138 applicants were represented by *Lubega Abdul Hakeem*.

Preliminary Considerations

The applicant personally wrote a Notice of Withdrawal of the suit on the 3rd day of December 2018 and the same was filed in court on 4th December 2018.

By the time the applicant wrote said notice of withdrawal, an application had been filed by a group of affected persons who sought to be joined to the

proceedings vide Miscellaneous Application No. 731 of 2018 *Bukenya Usaama & 137 others vs Smart Protus Magara and Financial Intelligence Authority*. They were indeed joined by an Order of court to this application as necessary parties since they were likely to be affected by the orders court would give and have also become applicants.

In Uganda, the principles governing Judicial Review are well settled. Judicial review is not concerned with the decision in issue but with the decision making process through which the decision was made. It is rather concerned with the courts' supervisory jurisdiction to check and control the exercise of power by those in Public offices or person/bodies exercising quasi-judicial functions by the granting of Prerogative orders as the case may fall.

It is pertinent to note that the orders sought under Judicial Review do not determine private rights. The said orders are discretionary in nature and court is at liberty to grant them depending on the circumstances of the case where there has been violation of the principles of natural Justice. The purpose is to ensure that the individual is given fair treatment by the authority to which he/she has been subjected to. *See; John Jet Tumwebaze vs Makerere University Council & 2 Others Misc Cause No. 353 of 2005, DOTT Services Ltd vs Attorney General Misc Cause No.125 of 2009, Balondemu David vs The Law Development Centre Misc Cause No.61 of 2016.*

For one to succeed under Judicial Review it is trite law that he must prove that the decision made was tainted either by; illegality, irrationality or procedural impropriety.

The court is not concerned with the actual decision and its consequences, but whether the public authority, in arriving at the decision offended any of the principles upon which the court would grant a review of the decision made.

The respondent as a public body is subject to judicial review to test the legality of its decisions if they affect the public.

ISSUE ONE

Whether the application raises grounds for Judicial review?

The applicant's counsel submitted that; the Applicant's case is that whereas the Respondent is authorized to halt any financial activity upon a suspicion under in **Section 20(1)** this must be done in accordance with the Anti-money Laundering Act which was not the case here.

Section **20(o)** of the Anti-Money Laundering Act (2013) as amended clearly states that;

"In accordance with the provisions of this Act, halt any financial activity in the event that a suspicion warning has been reported to the Authority." [Emphasis ours]

It is quite clear and should be noted from the above section that;

- 1. Before exercising the power under this Section, there must be a suspicion warning reported to the Respondent.*
- 2. When the Respondent forms the opinion after receiving the suspicion warning that this is a proper case to halt financial activity, the halting must be done in conformity with the provisions of the Anti-Money Laundering Act.*

The Respondent in their affidavit in reply in *paragraph 4(i)* depone that pursuant to **Section 9** of the Anti-Money Laundering Act they received reports that suspicious transactions were occurring on the 1st Applicant's accounts held with Equity Bank Limited and Diamond Trust Bank respectively

Notably, **Section 9 of the Anti-Money Laundering Act** was amended by **Section 5 of the Anti-Money Laundering (Amendment) Act, 2017** and **which** requires that a suspicion warning must be made by an accountable person in a prescribed form.

The Respondent did not disclose the source of the information that suspicious transactions were occurring on the Applicants accounts held with Equity Bank Limited and Diamond Trust Bank respectively.

Procedure for halting, freezing and seizure of property.

In the Anti-Money Laundering Act, there are three (3) ways in which financial activity can be halted. These are expressly contained in **Part (V)** of the Act which reads *"Seizure, Freezing and Forfeiture of Assets in Relation to Money Laundering."*

These three (3) ways are:-

1. *Search and seizure of documents that are necessary to transfer suspected tainted property*
2. *Search and Seizure of tainted property*
3. *Obtaining a restraining order*

The Respondent stated in their affidavit in reply in **paragraph 7(iv)** that their intention of seizing the Applicant's money from his aforesaid accounts was to ensure safe custody of the funds and prevent flight of funds. This is the same purpose or end that a restraining order under the Anti-Money Laundering Act intends to serve or achieve.

The Respondent should have made an ex parte application and sworn an affidavit stating the grounds under which they believed that the funds on the

Applicant's bank accounts were proceeds of crimes that were under investigation. This however was not done.

It was counsel's contention that when you read **Part V** of the Anti-Money Laundering Act "*Seizure, Freezing and Forfeiture of Assets in Relation to Money Laundering.*" is that, the makers of the Act intended to balance the broad powers of the Financial Intelligence Authority and the rights of individuals to property, privacy, to livelihood, to trade and practice their professions, fair hearing among others.

The Parliament intended to prevent abuse of power and arbitrariness on the part of the Respondent as is evident in this case. This is why for every action the Respondent is empowered to do, there is a neutral third party in the form of a court of law before whom the Respondent must make a case *ex parte* whether a particular case warrants the exercise of the one of the powers in the Act.

In the present case, both the first decision to seize the funds on the Applicants account and the subsequent decision to hold on or refuse to release the same are in issue and the Applicants seeks a declaration to the effect that both of them are illegal, null and void.

It is clear from the above Exhibits that the Respondent in its letters dated 23rd May 2017 and 29th May 2017 instructed Equity Bank (U) Limited and Diamond Trust Bank (U) Limited respectively, to halt any withdrawals or freeze the Applicants accounts without a court Order.

The Respondent instructed the immediate transfer of the funds into its account **Financial Intelligence Authority -Fines and Frozen Accounts Assets Account No. 000080088000232** held at Bank of Uganda. This was a seizure of the Applicant's funds.

This transfer of funds or seizure of the funds on the Applicants two accounts was never sanctioned by any Court of law. This again, is a clear illegality and a procedural impropriety.

The Respondent did not follow any of the methods, procedures expressly provided for in the law in their bid to exercise the powers provided for under **Section 21(o)** of the Anti-Money Laundering Act.

In light of this failure to follow the set procedures, the acts of the Respondent can only rightly be described as a confiscation (which ideally should have been done under Sections 83-104 of the Anti-Money Laundering Act after the Applicant has been convicted, A compulsory acquisition (Which under Article 26 of the 1995 Constitution is illegal when done without fair and adequate compensation prior to the acquisition, take over or expropriation by the Respondent of the funds in the Applicant bank , which are all illegal.

Your Lordship, as extensively submitted under illegality, the Respondent failed, neglected and or omitted to follow clear provisions of the law when it decided to halt, freeze and seize the funds on the Applicants accounts.

If the Respondent had applied its mind on the provisions of the law, they would have followed the procedure of obtaining a restraining order since their objective was to ensure safe custody of the funds and prevent flight of funds which can be achieved using a restraining order.

If the Respondent had applied its minds to the law, the Respondent would have known that in the absence of a court order, their decision and action of continuing to hold on to the Applicants funds has no legal basis and therefore illegal, null and void.

The Respondent illegally froze the Applicants accounts in May 2017 and seized or appropriated the funds on the said accounts to itself. The Respondent referred the matters to the Uganda Police for investigation.

When the Applicant demanded for a release of his money in 2017 the response of the Respondent was that they were unable to release the funds until after the police investigation was concluded.

The absence of a court order deprives the action of the Respondent of the right to hold onto the applicant's funds since it lacks any legal basis and therefore qualifies it to be an irrational act.

By holding on to the Applicant's funds, the Respondent is allowing the People who have filed the Civil Suits to lay claim to the Applicants funds without convincing or satisfying the Courts where they have filed their respective civil suits that this is a proper case to attach the funds before judgment. The Respondent is now the Judge, court, the regulator, the investigator and the arbiter (who is bent on protecting one party against the other).

According the applicant's counsel it is irrational and improper for the Respondent to hold, retain and to refuse to release the Applicant's funds because there are civil cases or civil claims by some people against the Applicant.

The Respondent accordingly cannot make any claim over the funds held in the Applicant's accounts since it has not powers or mandate to determine a case against him, and to do so would be assuming the duties of a competent court or tribunal which the Respondent is not.

The respondent on the other hand submitted that they acted within the confines of the Anti-Money Laundering Act having received a warning of suspicious activity. Therefore, their actions cannot be said to have been illegal, null and void.

The respondent cited section 21(q) of the Anti-Money Laundering Act which states;

“The Authority may do all that is necessary or expedient to perform functions effectively, and in particular-do anything that is incidental to the exercise of any of its functions.”

The respondent attacked the applicant’s submission that required them to produce evidence of such a report in proof of suspicious Transactions Report by citing section 9A of the Anti-Money Laundering (Amendment) Act 2017 which accords protection of the identity of persons and information in suspicious transactions reports.

The respondent’s counsel also submitted that provisions cited by the applicant in support of their contention for failure to follow the prescribed procedure of halting, freezing and seizure of property re inapplicable. The said provisions are restricted to documents only and have no bearing on how the Financial Intelligence Authority should handle the freezing of account. Therefore according to them, their action of halting financial activity on the applicant’s accounts was not illegal and it was procedurally proper.

The respondent contended that if they attempted to give the applicant any hearing before freezing the accounts, the applicant would have withdrawn all the funds and defeated the intended actions of the respondent and what the law envisaged to protect.

In response to the applicant’s submission on irrationality for holding onto the funds after the opinion of the Directorate of Public Prosecutions, the

respondent submitted that in the same letter the DPP acknowledges that there are several complainants frequenting their office and expressed only one intention; of recovery of their lost investments.

According to that letter from the DPP's office;

“ A number of those who lost their investments have already filed cases for recovery in civil courts of law. It is our opinion that this presents the best chance for them to resolve their issues given the less exacting standard of proof in a civil cause.”

Therefore, the respondent justified their actions of continuing to withhold on the funds and also transfer the funds to their account at Central Bank by citing section 21(q) of the Anti- Money Laundering Act;

“The Authority may do all that is necessary or expedient to perform functions effectively, and in particular-do anything that is incidental to the exercise of any of its functions.”

The respondent further submitted that it was in exercise of such power that it had to rely on additional information and complaints received about the applicant, which they have contended that were irrelevant consideration.

The respondent is vested with the mandate to enhance the identification of the proceeds of crime and combat money laundering operations.

Determination

According to counsel for the respondent, the Act imposed an obligation on the respondent that before it exercises the discretionary power given under the Act it must have received a report or has reasonable grounds to suspect that a transaction or attempted transaction involves proceeds of crime of funds related to or linked to or to be used for money laundering.

It was the applicant's submission that the only way that the respondent could have been satisfied that the applicants' funds were intended for money laundering or terrorism activities- by getting a written report which according to them was never availed in evidence and therefore such a report never existed.

It can be seen, the whole of the applicant's submission that reliance is made to interpretation of the different provisions of the Anti-Money Laundering Act and the failure to follow the provisions of the law according to the applicant's counsel which amounts to an illegality.

The prevailing social conditions and activities of life are to be taken in account to adjudge whether the impugned legislation would sub-serve the purpose of the society. A power given under a statute can be exercised for a specified cause given in the statute and cannot be exercised if the cause does not exist. The provisions of section 21(q) of the Anti-Money Laundering Act are clearly intended to cater for such scenarios not envisaged under the law;

The Authority may do all that is necessary or expedient to perform functions effectively, and in particular-do anything that is incidental to the exercise of any of its functions.

Powers given for effectuating a purpose may be exercised as often as necessary for effectuating the same. It is a rule of interpretation of statutes that the statutory provisions are to be construed as to avoid absurdity and to further rather than defeat or frustrate the object of the enactment. The courts therefore, while construing a statute avoid strict construction by construing the entire Act.

The submission of the applicant's interpretation of the Anti-Money Laundering Act is too strict and this fails to take into account the general purpose of the entire legislation when construed together. Interpretation of

specific isolated provision against the other, would lead to an absurdity in the application of the entire legislation and thus define any alleged non-compliance as an illegality or irrationality.

Court cannot legislate under the guise of interpretation against the will expressed in the enactment itself. It is not open to the court to usurp the functions of the legislature. Nor is it open to the court to place unnatural interpretation on the language used by the legislature and impute to it an intention which cannot be inferred from the language used by it by basing itself on ideas derived from other laws.

The applicant's counsel has submitted on the importance of obtaining a restraining order as if it is the only basis for freezing the accounts of the applicant in total disregard of the rest of the provisions of the Anti- Money Laundering Act. This court believes, this was very erroneous and misleading since the entire Act must read together.

In order to ascertain the meaning of a section it is not permissible for the court to omit any part of it. The whole section should be read together and an attempt should be made to reconcile both the parts. The statute has to be read as a whole and in its entirety. The design, the purpose and remedy, it seeks to achieve should be looked into.

The applicant has opted to construe certain things done by the respondent in furtherance of their obligations under the Act as illegal without placing them into the context in which they occurred. The respondent received information that two banks where the applicant held bank accounts wanted to cease any dealings with the applicant and intended to terminate their relationship. They sought guidance on what to do with the funds.

The respondent advised Equity Bank and Diamond Trust Bank to terminate their relationship with the applicant, and transfer all the funds on the

applicant's account to the Respondent's Frozen Assets Account held with Bank of Uganda.

The actions of the respondent in ordering the transfer of funds to her account at Bank of Uganda was one of such situations the law never envisaged but granted power to "*do all that is necessary or expedient to perform functions effectively*". This involved an exercise of discretion by the Executive director.

It is true that discretionary power conferred upon legal authorities is not absolute, even within its apparent boundaries, but is subject to general legal limitations. Therefore discretion must be exercised in the manner intended by the empowering Act or legislation. The limitations to the exercise discretion are usually expressed in different ways, i.e discretion must be exercised reasonably and in good faith, or that relevant considerations only must be taken into account, that there must not be any malversation of any kind or that the decision must not be arbitrary or capricious.

In the case of *R v Commission for Racial Equality ex p Hillingdon LBC [1982] QB 276* Griffiths LJ has said;

"Now it goes without saying that Parliament can never be taken to have intended to give any statutory body a power to act in bad faith or a power to abuse its powers. When the court says it will intervene if the particular body acted in bad faith it is but another way of saying that the power was not being exercised within the scope of the statutory authority given by Parliament. Of course it is often a difficult matter to determine the precise extent of the power given by the statute particularly where it is a discretionary power and it is with this consideration that the courts have been much occupied in the many decisions that have developed our administrative law since the last war."

It can therefore be deduced from the above decision that where Parliament confers power upon some Minister or other authority to be used in

discretion, it is obvious that the discretion ought to be that of the designated authority and not the court. Whether the discretion is exercised prudently or imprudently, the authority's word is to be law and the remedy is to be political only.

On the other hand, Parliament cannot be supposed to have intended that the power should be open to serious abuse. It must have assumed that the designated authority would act properly and responsibly, with a view to doing what was best in the public interest and most consistent with the policy of the statute. It is from this presumption that the courts take their warrant to impose legal bounds on even the most extensive discretion.

In the case of *Sharp v Wakefield* [1891] AC 173 court observed that;

“ ‘discretion’ means when it is said that something is to be done within the discretion of the authorities that something is to be done according the rules of reason and justice, not according to private opinion: Rookes case; according to the law and humour. It is to be, not arbitrary, vague, and fanciful, but legal and regular. And it must be exercised within the limit, to which an honest man competent to the discharge of his office ought to confine himself.”

The respondent has shown court that before the exercise of its discretion to order the transfer of funds from Equity Bank and Diamond trust Bank was necessary in the circumstances since the two banks wanted to terminate their relationship with the applicant.

Secondly the order to halt any transactions on the different bank accounts held by the applicant was also very justified since there were different reports to the respondent that it suspected and had reasonable grounds to suspect that a transaction or attempted transaction involved proceeds of crime.

The second consideration is whether the applicant was entitled to be heard before freezing their bank accounts.

The requirements of natural justice must depend on the circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject-matter to be dealt with and so forth. See *Administrative Law 10th Edition by Wade & Forsyth page 420*

In the case of *Lloyd vs Mc Mahon [1987] AC 627 at 702* Lord Bridge in the House of Lords noted;

“My Lords, the so called rules of natural justice are not engraved on tablets of stone. To use the phrase which better expresses the underlying concept, what the requirements of fairness demand when anybody, domestic, administrative or judicial, has to make a decision which will affect the rights of individuals depends on the character of the decision-making body, the kind of decision it has to make and the statutory or other framework in which it operates. In particular, it is well established that when a statute has conferred on any body the power to make decisions affecting individuals, the courts will not only require the procedure prescribed by the statute to be followed, but will readily imply so much and no more to be introduced by way of additional procedural safeguards as will ensure attainment of fairness.” See also *R(West) vs Parole Board [2005] 1 WLR 350*.

The purpose of the freezing of the applicant’s bank accounts was to enable the further investigations in the activities of the applicant and that stage they would be accorded a right to be heard.

The freezing of the accounts had to be done with promptitude in order to stop any possibility of transferring the money on the account to defeat the intended purpose.

In the case of **Opio Belmos Ogwang vs Attorney General and Inspectorate of Government High Court Miscellaneous Cause 158 of 2015** Justice Nyanzi

Yasin citing the case of *Mafabi Richard vs Attorney General Constitutional Petition No. 14 of 2014* their Lordships observed that:-

“...investigation is purely preliminary...where an act or proposal is only a first step in a sequence of measures which may culminate in a decision detrimental to a person’s interests, the courts will generally decline to accede to that persons submission that he is entitled to be heard in opposition to this initial act; particularly if he is entitled to be heard at a later stage”

The nature of the work and mandate of the respondent is to detect financial crimes including money laundering and financing of terrorism, requires swift and expeditious detection of crimes which may affect the public at large. In such circumstances it may not be possible to offer a hearing at such an early stage in the investigation of such crimes. See *Sundus Exchange & Money Transfer & 5 Others vs Financial Intelligence Authority HMC No. 154 of 2018*

Accordingly this issue fails and it is resolved in the negative

ISSUE TWO

What remedies are available to the applicants?

The 1st applicant has failed to prove to court that the respondent acted unfairly or illegally when they froze the bank accounts without according him a hearing.

The 1st applicant-(Smart Protus Magara) is not entitled to the orders sought.

In accordance with the powers vested in this court, this court shall proceed to grant remedies to the victims of the Ponzi Scheme-D9 Club under Section 33 of the Judicature Act which provides;

“The High Court shall, in the exercise of the jurisdiction vested in it by the Constitution, this Act or any other written law, grant absolutely or on such terms and conditions as it thinks just, all such remedies as any legal or equitable claim properly brought before it, so that as far as possible all matters in controversy between the parties may be completely and finally determined and all multiplicities of legal proceedings concerning any of those matters avoided.”

The Court grants the following orders;

1. The rest of the 138 applicants who joined this suit and others who reported to police and made statements at police should be considered for compensation out of the money that was frozen on all the accounts held by the applicant and his associates like Tadeo Seruwagi.
2. The persons/victims who had deposited their money under D9 Club should be paid their *initial investment* without considering the profits they were supposed to earn under the scheme based on the available funds.
3. The said victims should supply sufficient evidence showing the amount claimed as their *initial investment* in the said D9 Club. Any acts of forgery of documents should be dealt with as a criminal matter.
4. The victims of the D9 Club shall be paid by the **Official Receiver at Uganda Registration Services Bureau.**
5. All the money that were transferred to the respondent's account at Bank of Uganda and money frozen on the different accounts held by the applicant or his associates-Tadeo Seruwagi should be transferred to the Official Receiver bank accounts.

6. The list availed to court from the office of the Directorate of Public Prosecutions on 15th November 2018 shall be used in the verification exercise together with the police statements and other relevant documents in proof of payment or deposit of such money.
7. This Order of court shall be advertised in both New Vision daily and Monitor daily inviting the victims to follow up the payment at Uganda Registration Services Bureau-Official Receiver.
8. The Official Receiver shall report back to Court as and when need arises and after the whole exercise.

I so Order



SSEKAANA MUSA

JUDGE

7th/03/2019