

THE REPUBLIC OF UGANDA

IN THE INSURANCE APPEALS TRIBUNAL OF UGANDA AT KAMPALA

APPLICATION NO. 11 OF 2024

(ARISING OUT OF IRAB/COMP/06/01/2024)

UAP OLD MUTUAL INSURANCE CO. (U) LTD:.....APPLICANT

VERSUS

AFRICA REINSURANCE CORPORATION:.....RESPONDENT

RULING

The Application of Appeal No. 11 of 2024 was filed in this Tribunal on 20th November 2024. Summons were issued to the Parties on 9th December 2024 directing them to appear before the Tribunal on 9th January 2025 at 9:00 am. By 3rd January 2025, the parties had to file the documents as listed in the hearing notice.

On 9th January 2025 when the matter was called for hearing, Counsel Ntamugabumwe Victor and Denis Tenywa from Signum Advocates representing the Applicant, appeared with the request to have the matter adjourned on grounds that Respondent's counsel did not serve them with the response.

Representation And Appearance

At the hearing, the Applicant was represented by Counsel Ntamugabumwe Victor and Denis Tenywa from Signum Advocates while the Respondent was represented by Counsel Edwin Mugumya from Katende Sempebwa & Co. Advocates.

Applicant's Submission

Counsel submitted that the matter was coming up for hearing but they never received the Respondent's reply to their application in time to enable them prepare as the same

was served a day before the hearing.



Counsel expressed willingness to comply and file the documents in a few days if granted by the Honourable Tribunal. He submitted that he was ready to file and serve the joint scheduling memorandum and witness statements later in the day as the same were in draft.

The Applicant prayed for an adjournment.

Respondent's Submissions

The Respondent apologised for not filing their documents in time and submitted that having not been served, they were also unable to draft and file theirs since they had to rely on the Applicant's evidence to prepare a response as is the practice.

He further submitted that the joint scheduling memorandum was a document initiated by the Applicant so was unfair to blame the Respondent solely.

Counsel did not object to the Applicant's prayer of granting additional time for the parties to file the necessary documents since he has another matter to handle.

Decision

Order 17 r 4 of the CPR states that;

Where any party to whom time has been granted fails to produce his or her evidence, or to cause the attendance of his or her witnesses, or to perform any other act necessary to further progress of the suit, for which time has been allowed, the court may, notwithstanding that default, proceed to decide the suit immediately.

Justice Musa Ssekana in the case of **Pentecostal Assemblies of God Lira Versus Pentecostal Assemblies of God Limited and URSB. (Misc.App No.014 of 2018)** while explaining the above cited order noted that the time for when the case would be heard was clearly stipulated before the end of the trial therefore there is no sufficient reason by the Applicant not to appear in court or adduce evidence. This only intends to delay conclusion in the main suit.

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In this instant case, The Tribunal issued a hearing notice which specifically provided that ***“You are required to submit your Witness Statements, Joint Scheduling Memorandum and Trial Bundles by 3rd January 2025 before the hearing date”***

Both the Applicant and Respondent were severally called and reminded by the Tribunal to file the required documents i.e. on 27th December 2024, again on 3rd January and 6th January 2025. Further still, both parties were sent email reminders on 3rd January and 7th January 2025. All the reminders were ignored by both parties as they failed to comply with the directions.

The Tribunal went over and above its call of duty to send these reminders in the interest that the matter is heard on its merits. These reminders to file the documents which ordinarily shouldn't happen were ignored by both Parties.

The Tribunal has only 90 days within which to issue its decision. These 90 days include the whole pre-trial process, hearing, filing of written submissions and writing of its decision. This means that compliance with issued timelines is strictly applied with little room for adjournments for unjustifiable reasons. It is for this very reason that the Tribunal has taken up issuing reminders to its users reminding them to comply.

The lawyers appeared without their witnesses and just showed up ready to adjourn the matter. There was no justifiable reason why they did this.

Lastly, the Tribunal was willing to stand over the matter for at least 3 hours to allow the parties organize themselves for the hearing, but this was declined.

In the circumstances, it is apparent that the Applicant failed to adduce evidence by failing to file the required documents and producing its witnesses in the matter.

The Application is hereby dismissed with no order as to costs.

CONCLUSION AND FINAL ORDERS

The Tribunal makes the following orders:

1. This Application No. 11 of 2024 is hereby dismissed under Order 17 Rule 4 of

the Civil Procedure Rules S.I 71-1 (As amended).

2. No orders as to costs of the Application.



Delivered at Kampala this

day of January 2025.



Rita Namakiika Nangono

CHAIRPERSON



Solome Mayinja Luwaga

MEMBER



George Steven Okotha

MEMBER



John Bbale Mayanja(PhD)

MEMBER



Harriette Nabasiye Paminda Kasirye

MEMBER

