BANK OF UGANDA SUED SUDHIR AND MEERA INVESTMENTS LIMITED ON BEHALF OF CRANE BANK

BOU lawyers to appeal Sudhir court ruling

By Vision Reporters

A.F. Mpanga Advocates and MMAKS Advocates, the law firms representing Bank of Uganda have vowed to appeal a High Court decision to disqualify them from a landmark sh397b case, arguing that several facts were overlooked.

Speaking after Justice David Wangutusi, the head of the High Court's Commercial division, had delivered a judgment citing conflict of interest, David Mpanga of A.F. Mpanga Advocates argued that the suit by Sudhir Ruparelia is a distraction from the main case over fraud.

"Who Bank of Uganda's lawyers are, is not the point. Is the person the Bank of Uganda is suing entitled to veto those lawyers on the grounds brought forward? We do not think so. That is why we are appealing," Mpanga said at his chambers in Kampala.

"Crane Bank does not exist anymore because certain people caused it loss and it collapsed. Bank of Uganda spent taxpayers' money to guarantee depositors, those people who caused the bank loss should pay back that money. This is a distraction," he added.

Mpanga noted that the ruling by the Commercial Court will also weaken the principal enshrined in the veil of incorporation. Under company law, the acts of a corporation are not the actions of its shareholders, directors and managers.

Mpanga revealed that his firm had offered its services to Crane Bank after it was challenged by the now defunct National Bank of Commerce at the request of then managing director A.R Kalan.

After Justice Wangutusi delivered the ruling disqualifying David Mpanga of A.F. Mpanga Advocates and Timothy Masembe Kanyerezi of MMAKS Advocates, from representing the central bank in the case, their lawyer, Moses Adriko of MMAKS Advocates, said they had instructions to appeal.

"Your worship, we have instructions to appeal the ruling and I, therefore, request that the court expedites the extraction and certification of the records," Adriko told the court.

Bank of Uganda sued Sudhir and his company, Meera Investments Limited, on behalf of Crane Bank, which is currently under receivership, over the sh397b, alleging fraud was orchestrated in the bank.

Disqualifying the lawyers from the case, Justice Wangutusi stated that Sudhir and the Bank of Uganda lawyers had had a relationship of legal and litigation interaction during which they shared vital information, which the lawyers should not use against their clients.

"In my view, there exists a substantial relationship between them, enough to have obtained confidential information from Sudhir to the lawyers. The advocates and their clients, while chatting, pass on information, which cannot be distinguished between parties in the firm," the judge stated.

The judge said a fiduciary relationship having existed, it would be unwise to allow the lawyers to represent any party against Sudhir.

Wangutusi noted that Mpanga negotiated and drafted the implementation agreement that detailed a settlement of issues between Sudhir and the BOU, which was intended to operationalise and ensure the smooth flow of the confidential settlement and release agreement that contains clauses intended to sort out their differences.

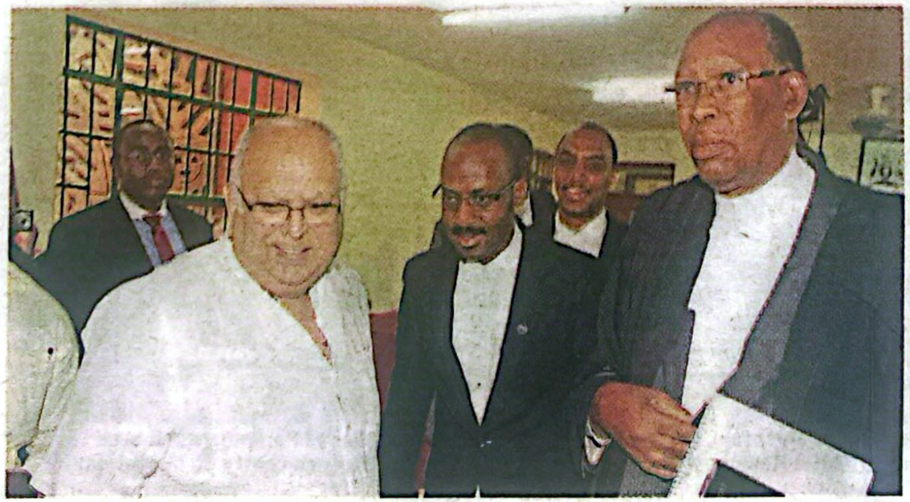
"The sum total is the lawyers have found themselves in an adverse position to a former client. They are rightly presumed to possess confidential information learnt in earlier representation of Sudhir, which would be advantageous to their present client," the judge ruled.

After court, Sudhir told journalists that they were ready for mediation.

Sudhir was represented by a team of lawyers from Kampala Associated Advocates, led by Peter Kabatsi.

Not contented with the judge's ruling, Mpanga said: "We presented authorities from supreme courts of Uganda, Australia and England, very impressive authorities that were not adequately considered in this ruling. Appellate courts exist because single judges may get it wrong."

In January dfcu Bankacquired Crane Bank assets and liabilities following the conclusion of the purchase and assumption agreements with Bank of Uganda. The central bank has now sued Sudhir Ruparelia, for suspected fraud after the bank went insolvent.



Sudhir and his lawyers – Jet Tumwebaze and Peter Kabatsi – leave Commercial Court in Kampala yesterday after a ruling in his case. Photo by Meddie Musisi