

# Retrenchment package is taxable, court rules

By Andante Okanya and Hilary Nsambu

The Supreme Court has ruled that retrenchment package is subject to taxation and that it is only pension that is free from taxation.

Yesterday, the court in Kampala made the pronouncement in a ruling that overturned decisions of both the High Court and the Court of Appeal.

The topmost court noted that retirement packages are not included on the list of exempt income.

"The duty to pay taxes is sanctioned by the Constitution. Unless exempted, the obligation to pay income tax is mandatory," the court ruled.

The pronouncement stemmed from a complaint filed by 161 former employees of the defunct Dairy Corporation Limited, who were retrenched effective August 31, 2006.

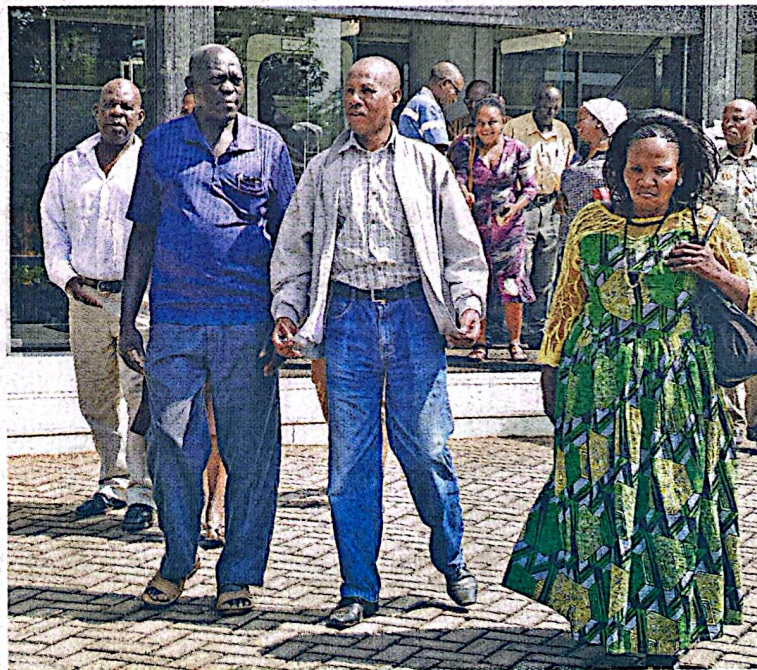
In 2009, the employees, led by Siraje Kajura, sued Uganda Revenue Authority (URA), seeking to recover sh1.1b being the tax that had been deducted from their retrenchment pay. Subsequently, High Court Judge Vincent Kibuuka-Musoke ruled in their favour on December 16, 2012.

URA appealed to Court of Appeal, saying the High Court Judge erred in law. The appeals court upheld the High Court decision.

Consequently, URA petitioned the Supreme Court, querrying the Court of Appeal's pronouncement that terminal benefits of the former employees were not taxable under Section 19 of the Income Tax Act.

Yesterday, the Supreme Court in a majority decision of 4 to 1, said URA rightfully taxed the retrenchment package of the former employees of defunct Dairy Corporation.

The lead judgment was written by Justice Ruby Opio-Aweri. The other Justices who



Former employees of the Dairy Corporation leaving the Supreme Court premises at Kololo in Kampala yesterday. Photo by Ronnie Kijjambu

## BETWEEN THE LINES:

Justice Ruby Opio-Aweri stated that the respondents' (former employees) claim of their packages being exempt from taxation and that it was a 'thank you' payment was not based on the law, but on mere sentiments.

concurring with him were Stella Arach-Amoko, Augustine Nshimye and Lillian Tibatemwa. Justice Faith Mwendha made

a dissenting judgment.

Arach-Amoko delivered the majority decision on behalf of the others. She also read the dissenting judgment.

"In conclusion, I find that the claim by the respondents (former employees) that their packages were exempt from taxation and was a 'thank you' payment was not based on law, but on mere sentiments," Opio-Aweri said.

"All the decisions and orders of the lower courts are set aside and quashed. Considering the circumstances of this case, parties are to bear own costs," the judge ruled.

## Thematic register

By Betty Amam

The new thematic curriculum has registered learning in the 27 National Assessment

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The thematic curriculum aim of increasing concerns that child skills.

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