



**EAST AFRICAN COURT OF JUSTICE
FIRST INSTANCE DIVISION**



Hearing: 11th March 2020 from 9:30 am
(Open Court, 2nd floor, EAC Headquarters)

Reference No. 10 of 2013 Union Trade Centre Limited vs the Attorney General of the Republic of Rwanda and 3 Interveners

Reference filed on: 22nd November 2013.

Articles: 5 (3) (g), 6(d), 7(1) (a) and (2), 8(1) (a) (b) and (c), 27 and 30 of the Treaty for the Establishment of the East African Community.

Rules: 1(2) and 24 of the EACJ Rules of Procedure, 2013.

Subject matter: *Alleged illegal seizure and auctioning of a mall.*

The Applicant Union Trade Centre Limited (UTC) is a duly incorporated limited liability company in the Republic of Rwanda.

The Applicant alleges that, on 1st August 2013 the office of the Committee in Charge of Unclaimed Property in Nyarugengye District in Rwanda, ordered the Applicant to present to it various documents regarding the UTC Mall. The Applicant presented the documents on 2nd August 2013.

On 2nd October 2013, the said office wrote a letter to the Applicant's tenants, informing them that the UTC Mall was put in the hands of the Committee in Charge of Unclaimed Property in Nyarugengye District. Further, the tenants were directed to pay their monthly rentals into the Committee's bank account held with FINA Bank with effect from 1st October 2013. However, the Applicant was never served with a copy of the said letter and as a result, all tenants started remitting their monthly rental charge into the said bank account.

It is the Applicant's submission that, at the time the Mall was taken over, it had a credit facility with the Bank of Kigali to a tune of 1,300,000,000 Rwandan Francs (FRW). Within the provisions of Law No. 28/2004 under which the Mall was taken over, all finances from abandoned property are under the Government control within the office of the Auditor General, an organ of the Respondent. It was then the responsibility of the Government of Rwanda to settle all claims and statutory obligations owed to the Mall since its takeover.

Rwanda Revenue Authority (RRA) thereafter purportedly seized the Mall on the basis of a purported tax arrears of 1,174,334,658 FRW and purportedly auctioned it to Kigali Investment Company. Prior to 2nd October 2013, the Applicant never received any notification from the Rwandan Revenue Authority of any outstanding tax arrears.

The Applicant further alleges that, by the time the Respondent seized the assets of the Applicant in October 2013, the Applicant had been collecting a monthly rental amount of US Dollars 120,000, which comes to US Dollars 5,760,000 calculated since the takeover in October 2013, an amount sufficient to cover the purported tax claim.

The Applicant submits that, neither Rwanda Revenue Authority nor the Respondent has disclosed the procedures it followed in the sale, how much it actually sold the Mall, to whom it was sold to and how it applied the proceeds from the sale.

The Applicant therefore avers that, the Respondent's actions are in contravention of the said Treaty provisions and seeks the following reliefs;

- a. Declarations that the actions of the Respondent of taking over the Applicant's property and consequently selling it off, are illegal and in contravention of Articles 5(3) (g), 6(d), 7(1) (a) and (2), 8(1) (a), (b) and (c) of the Treaty for the Establishment of the East African Community (EAC).
- b. An order directing the Respondent to account for all proceeds from the Applicant's Mall from 1st October 2013 to date.
- c. An order directing the Respondent to return to the Applicant, the Mall and all the properties therein, or in alternative to be compensated the value of the Mall from the date of Judgment plus interest at Court's discretion until payment in full.
- d. General damages, costs and other orders as may be just and necessary in the circumstances.

The Respondent, Attorney General of the Republic of Rwanda opposes the Reference for being filed out of time, the Applicant having no locus stand, this Court lacks jurisdiction to entertain the matter and seeks for dismissal of the Reference with costs

The Interveners: Succession Makuza Desire, Succession Nkurunziza Gerald and Ngofero Tharaisse are shareholders in UTC ltd.

This case summary is a document produced by the Registry to assist in understanding forthcoming matters before the Court. It does not bind the Court. For authoritative Decisions, Judgments and general information about the Court please visit <http://www.eacj.org>

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