

THE REPUBLIC OF UGANDA
IN THE ELECTRICITY DISPUTES TRIBUNAL
HOLDEN AT KAMPALA
COMPLAINT NO. EDT 53 OF 2018

1. TURYAKIRA HARUNA
2. BAFAKI PAUL & 28 OTHERS ::::::::::::::::::::COMPLAINANTS

VERSUS

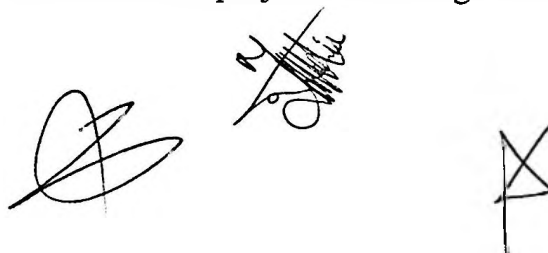
ATTORNEY GENERAL ::::::::::::::::::::RESPONDENT

BEFORE:

- 1. Charles Okoth- Owor.....Chairperson**
- 2. Anaclet Turyakira.....Vice Chairperson**
- 3. Jude Mike Mudoma.....Member**

JUDGEMENT

The first and second Complainants together with another 28 listed in the Appendix to the Complaint represented by Counsel Justus Agaba, filed this Complaint against the Attorney General representing the Rural Electrification Agency (REA), a government agency, seeking for orders from the tribunal to compel the Respondent to compensate the Complainants for the loss incurred due to possession of their piece of land and destruction of property by the Respondent during the extension /erection of Hydro Power line under Katenga- Rubaare- Katooma- Rwagashani 33KV line project at Katanga sub county in Mitooma District.



The full list of Claimants as appeared in the Appendix to the Complaint with the amounts claimed were as follows:

- 1. Nkyenguzi Godfrey:.....2,134,000=
- 2. Mugisha Owembabazi Emmanuel:.....14,036,000=
- 3. Baryaho Lurenzio:.....21,520,000=
- 4. Innocent Katesigire:.....3,052,000=
- 5. Tumusiime Pretaz:.....13,604,000=
- 6. Sam Katungwensi:.....26,378,000=
- 7. Kakyakuzi Alfred:.....9,316,000=
- 8. Bafaki Paul:.....21,502,000=
- 9. Tumwijukye Tefuro:.....5,580,000=
- 10.Ngarame Eliasaph Kankiriho:.....27,420,000=
- 11.Rutakunda Alfred:.....10,090,000=
- 12.Tumwine Jackson:.....27,494,000=
- 13.Turyakira Haruna:.....20,385,000=
- 14.Gaudensia Gumisiriza:.....4,098,000=
- 15.Rugaga Wilson:.....5,192,000=
- 16.Bekiza Fabiano:.....8,420,000=
- 17.Katate Aloysius:.....10,370,000=
- 18.Mpabanobi Joseph:.....10,336,000=
- 19.Kasimbura Saverino:.....8,662,000=
- 20.Barigye Scovia:.....1,640,000=
- 21.Mugisha Sulait:.....5,070,000=
- 22.Nduhuura George:.....3,160,000=
- 23.Mujuni Elias:.....9,608,000=
- 24.Tinsasa Fred:.....5,368,000=
- 25.Basheija Elard:.....5,000,000=
- 26.Kamusiime Denis:.....14,596,000=
- 27.Nuwagaba Francis:.....27,700,000=
- 28.Queen Mary:.....3,010,000=
- 29.Tumuramy Lauben:.....7,172,000=
- 30.Bwirizayo Prunari:.....3,124,000=

Total

Handwritten signatures and initials are present below the list, including a large signature on the left, a signature with a checkmark in the middle, and initials on the right.

The Complainants' facts were that they are residents and owners of pieces of land situated in Kitega Sub-county in Mitooma District, and that sometime in 2012 the agents of the Respondent, that is Rural Electrification Fund (REA) entered upon their pieces of land which had developments which variously included houses, Eucalyptus and pine trees, banana plantations, mango trees, sugar canes, pawpaw, tea plantations, maize and coffee gardens; and destroyed them and that this was done without their prior consent or compensations. They claim that REA in the process constructed a power line over their respective lands, planted electric poles on their pieces of land and constructed roads on the same, all without compensation. The Complainants claim that it is only 2014 that REA brought forms titled **"Wayleaves Compensation Assessment Forms"** and those titled **"Power line Construction Notice"** which they left with the L.C.1 Chairmen of various villages who dropped them at the doorsteps of the Complainants.

It is the Complainants' claim that the activities of the Respondent, namely the power lines and roads constructed on their pieces of land consumed their pieces of land and they cannot carry out agriculture which has been their source of live hood.

It is their claim that as a result of the above activities, they have suffered loss and damages and hold the Respondents liable. The Complainants seek Compensation, collectively estimated at **UGX 351,367,000=** being the value of pieces of land, houses that were demolished, banana and tree plantations, maize, pawpaw, cassava gardens, fruit trees, eucalyptus and pine trees. The respective amounts claimed by each Complainant was shown in a valuation report prepared by Bold Capital Ltd dated 27th November 2017, admitted as exhibit **CE1** of the Complainants and summarised in the Appendix to the Complaint and reproduced on page2 hereof. In addition to the special damages stated above they sought general damages, interest at the rate of 25% on the special damages claims from 2012 till payment in full and costs of the Complaint.

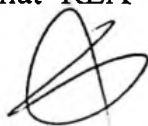


On the part of the Respondent represented by Phiona Asiimwe Bamanya, a State Attorney from the Attorney General's Chambers; the Respondent denied all the Complainants' allegations and contended that the Complainants are not entitled to any of the reliefs or claims they sought from the tribunal but conceded that the Respondent entered the Complainant's lands and constructed a power line that traversed the lands.

It is the Respondent's facts that in 2013 to 2014, the Respondent, Rural Electrification Agency (REA) on behalf of the Government of Uganda undertook construction of medium and low voltage 33KV power lines through the areas of Katenga-Rubaare Katooma-Rwagashana, all situate in Mitooma District. That prior to the construction works commencing, REA carried out sensitization community engagements and issued power line construction notices for persons affected by the construction works, seeking right of way to allow the power lines to traverse their lands by a 5-meter corridor.

Respondent further averred that they issued WayLeaves Assessment Forms to the Complainants who duly signed them and the Respondents denied that the forms were just dropped at the Complainant's door steps. Respondent averred that each Complainant was to indicate the extent of damage to the property, one owned. The Respondent conceded that the construction of the power lines occasioned damage to crops but contended that this was with the consent of the affected persons and asserted that the construction works neither destroyed houses nor created roads and sought to put the Complainants to strict proof of these facts. It was also the Respondent's facts that they contracted M/s RESCO Property Consultants & Surveyors who carried out an assessment and valuation of the crops and trees that were affected by the construction works.

Finally, the Respondent averred that the compensation rates that it applied were duly approved in 2015 by the office of the Chief Government Valuer, based on the approved rates of Bushenyi District Local Government. It was also the Respondent's assertion that REA went to compensate the Complainants or



Claimants, but they rejected the compensation, and that the compensation was for the damaged property as per the WayLeaves compensation forms in January 2019. The Respondent finally asserted that the amounts payable will be limited to the values duly approved by the Chief Government Valuer but, not land. The Respondent sought the dismissal of the Claimants' Claim with costs.

The following were agreed upon as the issue for determination by the tribunal:

- 1. Whether the Complainants/ Claimants are entitled to compensation from the Respondent**
- 2. What are the remedies available to the parties?**

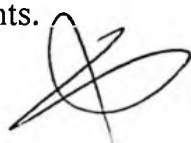
By consent of both parties the following were to be the witnesses for the respective parties. The Complainant's Counsel Justine Agaba listed the following as witnesses; **Bafaki Paul** and **Turyakira Haruna** on their own behalf and on behalf of the rest of the 28 Complainants as their attorneys or agents. He also added one **Boaz Tukahirwa**, a Surveyor registered with the Surveyors Registration Board. The Respondent's Counsel promised to present the following as Respondent's witnesses: **John Banga**; an official from Rural Electrification Agency and a consultant from the Chief Government Valuer's Office.

The following were the Complainant's proposed exhibits:

1. Valuation report by Bold Capital Limited
2. Power line construction notices
3. Way Leaves compensation forms
4. Photographs of destroyed property, houses, where power lines are passing
5. Power of Attorney
6. Any other with leave of the tribunal.

The Respondent proposed to exhibit the following:

1. Bushenyi District Local Government Compensation rates 2012/2013
2. Report prepared by Resco Property Consultant Surveyors who were the Respondent's consultants.



3. Power Line Construction Notices issued by the Respondent (Rural Electrification Agency).
4. Wayleaves Compensation Assessment Forms.

It is noted by the tribunal that Counsel for both parties were in agreement that mediation between the parties had failed on the issue of compensation of land taken, much as there was agreement that crops destroyed ought to be compensated, following which the parties agreed to schedule as shown.

At the commencement of the hearing, the parties were ordered to file Witness Statements and the witnesses were to appear for cross-examination. The Complainants filed statements of 3 witnesses namely, Bafaki Paul, Turyakira Haruna and Boaz Tukahirwa a Consultant Valuer with Bold Capital Ltd. Respondent filed only one Witness Statement made by one Balinda Birungi Solomon, the Consultant Valuer from Resco Property Consultant Surveyors, the firm contracted by the Respondent to assess and value the properties affected.

The first issue agreed upon for determination was: **whether the Complainants are entitled to any compensation from the Respondent.** It is on record that both parties agreed that the Respondent constructed the power line that traversed the complainants' land. It is however the Respondent's contention that the power line constructed through the areas of Katenga-Katoowe Rwenga Shema, all situate in Mitooma District is of medium and low voltage of 33KV and not high voltage. It is also the contention of the Respondent that it (REA) contracted a consultancy firm, M/s Resco Property Consultant Surveyors to carry out an assessment and valuation of the crops and trees that were to be affected by the construction of the power line. Respondent further contended that Power Line Notices and Wayleaves Assessment Forms were issued as prescribed by the law to the land owners/occupants of the lands to be affected, seeking the right of way to allow the power lines traverse their respective pieces of land.



The Respondent admitted in their pleadings that the construction of the power line occasioned damage to crops, and trees but denied that houses were destroyed or roads were created on or in the Complainants' pieces of land.

It was the Respondent's assertion that the assessment and valuation of compensation for the damaged property was done based on the compensation rates of Bushenyi District as it was then, for the financial year 2012/2013 and the same was duly approved by the Chief Government Valuer. The Respondent filed in the tribunal on 27th January 2021 the Witness Statement of Balinda Birungi Solomon who described himself therein as a consultant valuer working under Resco Property Consultant Surveyors. In the circumstances the intended Witness Statement was expunged from the tribunal record.

There was also no indication and evidence brought forth that the assessment and valuation of compensation was approved by the Chief Government Valuer contrary to paragraph 5(f) of the Respondent's Witness Statement of Response.

For the Complainants; one **Bafaki Paul (CW1)** testified that the Respondent through its agent, Rural Electrification Agency entered on to their pieces of land, some of which had developments including houses, banana plantations, mangoe trees, sugar cane, pawpaws tea, maize and coffee gardens with a purpose to construct a hydro-power line termed as Katenga-Rubaare- Katooma- Rwagashani 33KV line Project at Katenga Sub County. He testified that during the course of constructing the power line the Respondent constructed WayLeaves, and destroyed crops of the Complainants including banana plantations, coffee trees, mango trees, pine trees, Avocadoes, eucalyptus trees, e.t.c and some people's houses. It was **CW1's** testimony that the Respondents even planted electric poles in their pieces of land. It was further his testimony that later in the year 2014, the Respondent's agents brought forms titled **WayLeaves Compensation Assessment Forms and others titled Power Line Construction Notices** and dropped some at the door steps of the Complainants' homes and others at the homes of the L.C 1 Chairpersons and disappeared. That consequently some of the

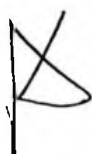


Complainants never received the said WayLeaves and Power Line Construction Notice, even though their land was taken for the Respondent's use and property destroyed.

CW1 testified that along with other Complainants they decided to hire the services of BOLD CAPITAL LTD, Valuers to come to the village, inspect and value the destroyed properties and land taken by the Respondent. He testified that consequently thereupon, Bold Capital Ltd produced an inspection and valuation report of properties for compensation purposes, with all values for each Complainant. This report was admitted by the tribunal as complainants' exhibit CEX1.

CW1 concluded his testimony by stating that, as a result of the actions and activities of the Respondent's agents, the Complainants have suffered loss, inconvenience and damage for which they sought special damages of UGX 351,367,000= (Three hundred fifty-one million, three hundred sixty-seven thousand only) and general damages of UGX 50,000,000= (Fifty Million) per Complainant.

CW1 also stated that the WayLeaves and the power line constructed in their pieces of land cannot allow the Complainants to carry out agriculture which has been their source of livelihood, their land having been consumed by the activities of the Respondent's agents and without compensation. He also claimed that for those whose houses were demolished, they have suffered to find alternative accommodation. Haruna Turyakira who was Complainants' second Witness ("CW2") largely reiterated the same testimony given by CW1 save that in Cross examination, he stated that one Nuliat Turyakira was his wife and that she had personally received the Power Line Construction and WayLeaves Notices (CE2(iv) and CE3(ii), on 17th November, 2014. He also stated that some of the Complainants never received the said WayLeaves Notices, even though their land was taken and property destroyed.



Complainants also presented as their Witness (“CW3”) one **Tukahirwa Boaz**, a Valuation Surveyor, who valued the Complainant’s/Claimants’ property located in Katenga Sub County for compensation purposes. It was his testimony that upon instructions from the Complainants in November 2017, he along with his team went to Katenga, Mitooma District and inspected the properties of the Complainants. That they made individual valuations including land where electric poles pass and the crops that were cut on those pieces of land and the houses that were demolished; The report **CEX1** was to the above effect with all the findings and values. The report stated on page2 thereof that *“the property comprises land, developments, improvements, crops trees that are affected by a 33KV power line and respective low voltage supply line”* (italics are of the tribunal). **The report further states that “it should be noted that for 33KV power lines and low voltage supply lines, it is government policy that only improvements, crops and trees that lie within the Wayleaves of the power line are compensated. Land is only compensated for selected pieces of land where transformers and underground earthing are situated”.**

It also stated that; **“This valuation however includes assessment for land and developments as opinions requested by the respective property owners”**. He stated that the inspection for valuation purposes was done in November 2017 and the valuation was based on Market value of the land, crops trees, semi-permanent improvements, trees and other developments. Witness Tukahirwa testified that he arrived at the Compensation Rates in the report using the 2012/2013 compensation rates for Bushenyi, District and an updated professional opinion based on the market as of November 2017. He added that these compensation rates do not apply to value of land and that the component of land was done **because his clients had requested him to value the different pieces of land.**

Respondent’s intended witness, one Balinda Birungi Solomon, said to be a Consultant Surveyor working under M/s Resco Property Consultants did not appear to testify and for cross-examination. The tribunal then closed the hearing.

Respondent had earlier in its pleadings averred that the intended witness carried out an assessment and valuation of the crops and trees that were affected by the construction works. The Respondent's pleadings had further alleged that the compensation rates were duly approved by the office of the Chief Government Valuer basing on the approved rates of Bushenyi District Local Government. As stated above, the Respondent failed to avail this Witness to the tribunal, to testify and furnish evidences, upon which may have been cross-examined.

Reverting to the testimony of Boaz Tukahirwa (CW3); We note that he states in paragraph 4 of his witness statement, that some houses were demolished, and that in cross-examination he re-stated that he assessed the values of the houses demolished.

We do however take note that in the same cross-examination he earlier stated that "I don't recall how many houses were demolished" and that "the report does not detail which houses were demolished" and further that "I did not find out how the houses were demolished". He also told the tribunal the policy is that Districts should review the compensation rates annually but that this had not been done and neither had the new districts including Mitooma District, carved out of the former Bushenyi District developed their own compensation rates. Upon the tribunal directing the closure of the hearing, it directed the Complainant's Counsel to file his written submissions by 24th May 2021 and the Respondent in absentia, to file theirs by 24th June 2021. The Complainant complied and filed submissions on 24th May 2021 while the Respondent did not or failed to file its submissions accordingly, or at all.

From a review of all the testimonies and the exhibits before the tribunal, we take note that the Respondent's agent entered on to the pieces of land of the Complainants to construct a power line and wayleaves over their lands. It is also not disputed that in the process of the said construction of Power Lines, WayLeaves were created, electricity poles were fixed on some of the pieces of land and various crops/trees were destroyed on the different pieces of land of the

Complainants, with promises of compensation. Indeed, the Wayleaves Compensation Assessment Forms exhibited by the Complainant as CEX3(1) to CEX3(xi) testify to crops and trees that were adversely affected or to be adversely affected by the construction works of the Respondent. All these exhibits are dated in November 2014, just as the Power Line Construction Notices CE2(i) to CE2(vii) collectively exhibited as CE2 are all dated in November 2014, consistent with CW1 and CW2 testimonies and particularly that the crops were destroyed before compensation. It is not in dispute that the Respondent's agents REA, entered in 2012 the various Complainant's land and cut down the crops of different nature and created a way and erected electricity poles and lines carrying 33KV electricity power and others of low voltage.

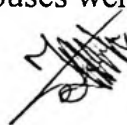
Indeed, CW1 Bafaki Paul testified that the electricity is very beneficial to him and the community, thus confirming to the existence of these lines over their lands. It is a given fact between the two parties that crops of a different variety and nature were destroyed and the two parties have no dispute as to the fact that the Complainants are entitled to Compensation for the crops destroyed during the process. The dispute is firstly as to whether the land over which the lines are constructed and the Wayleaves should also be compensated in addition to the crops and plants destroyed and, secondly, whether the amounts payable be limited to the values which the Respondent avers in its pleadings were duly approved by the Chief Government Valuer basing on the approved compensation rates of Bushenyi District Local Government of 2012/13 or the compensation be paid according to the values given by Bold Capital Limited. The firm Bold Capital Ltd states in the second paragraph of Clause 6 on page4 of CEX1, thereof that "The Market Approach of valuation.... has been applied to analyse the market value of the land" while in the third paragraph of the same clause, it states that; "Compensation rates have been used for valuation of semi-permanent developments improvements, crops and trees". CW3 in cross examination stated that; 'The compensation rates I used are of Bushenyi District. The compensation rates don't apply to the value of land. They only apply to the value of temporary



structures, crops, economic trees and impermanent improvements on the land', thus amplifying on his statement in the report **CEX1**. He also stated that he arrived at the rates in his report **CEX1** basing on the compensation rates of 2012/13 of Bushenyi District and on updated professional opinion based on the market value as of November 2013. **CW3** Boaz Tukahirwa, who described himself as a valuation surveyor, of registration number 183 with the surveyors Registration Board, and with 13 years' experience as a valuation surveyor who assess the economic worth of property stated in cross examination, that he stated in paragraph 3 on page 2 of his report that "*it should be noted that for 33KV power lines and low voltage supply lines, it is government policy that only improvements, crops and trees that are lie within the Wayleaves of the power line are compensated. Land is only compensated for selected pieces where transformers and underground earthling are situated*". We note that he bolded this statement. Asked why he included land in his assessments, **CW3** stated that he included the land component because his clients instructed him to include the assessment of land; implying that his assessment and valuation of loss and damage was otherwise limited to crops and structures.


We note that in the same cross examination, he stated that there were no pieces of land that he surveyed that had transformers and underground earthlings. Although he could not produce the policy document that limited compensation to only crops, trees and temporary structures damaged or destroyed, in the course of erecting power lines and wayleaves by the Respondent's agent, REA; yet we have no hesitation in believing that what he, a professional Valuation Surveyor and Consultant for over 13 years' experience stated in paragraph 3 on page 2 of his report is indeed the policy. Land is in our opinion not compensated under this project, save in instances stated, by **CW3**.

We recall that he also testified in cross examination that; he could not recall the number of houses demolished and that neither their report **CEX1** contain details of houses demolished nor did he find out how these houses were demolished, but



that he still went ahead to assess the values of the houses alleged to have been destroyed. Given the foregoing testimony by **CW3**, the tribunal declines to take in consideration any claim by the Complainants for compensation for houses which were allegedly destroyed by the Respondent's agents, REA, while constructing the 33KV Power Line and respective low voltage supply line in Kitenga Sub-County, Mitooma District.

It may however be different in respect of land if, consent to use the land, however belatedly had not been obtained. Indeed, **CW2** claimed that the Power Line Construction Notices and WayLeaves Compensation Forms were never received but merely brought to homes and dropped under the door with a few signing. Our examination of a number of Power Line Construction Notices collectively exhibited as **CEX2** by the Complainant show that they bore the signatures of persons said to be owners of the property to be affected. These are such Power Line Construction Notices to Rugaga Wilson of Rubaare 'A' L.C.1 cell Katenga Sub County, Mitooma District; Gumisiriza Gaudensia of the same location; (**CEX2**) and WayLeaves Compensation Assessment Forms of Gumisiriza Gaudensia, Barigye Scovia, Rugaga Wilson (**CEX3**), all of Katenga Sub County. Some notices were received by adult members of the family as is in the case of Turyakira Haruna **CW2**, who admitted that his wife Nullat Turyakira received the Notices. Bafaki Paul **CW1** stated that others found Notices at their door steps and others received them from the Local Council 1 officials. The above leads us to the belief that although the Respondents did not bring evidence of community sensitization having taken place; the Complainants generally were made aware of the intended project through among others the Power Line Construction Notices as exhibited by the Complainant's witness **CW1** and by the Compensation Assessment Forms exhibited by **CW1**, signed by the Complainants or adult members of their families, and testimonies of **CW1** and **CW2** that L.C.1 Chairpersons distributed some of the forms mentioned above.



We believe that the Complainant's were at the beginning of 2012 notified of the project, and underwent, albeit belatedly in 2014 the assessment of crops etc damaged, and that this was without Complaint at the time, as evidenced in forms collectively exhibited as CE3 by the Complainants, signed by some of the Complainants to signify acknowledgement. No witness also testified and proved that they never consented. The Complainant in our opinion has arisen because of failure or delay to compensate the affected persons for their crops, trees and plants destroyed way back in 2012/2014. We are of the opinion that compensation is due to them as a matter of right and law, and the Complainants are entitled to compensation from the Respondent for their destroyed crops and trees. Although the Respondent failed to avail their only witness, Balude Birungi, Solomon to testify before the tribunal and be cross examined, we however note the Respondent in paragraphs 4(d) and 4(f) of their pleadings admit that the Power Line occasioned damage to crops and that compensation amounts are payable. The Complainants are consequently in our opinion, entitled to compensation from the Respondent for their destroyed crops, plants and trees but not to the lands over which the line passes or WayLeaves created, save in the exceptional cases stated by CW3 in their report CEX1; that is land upon which transformers are planted or earthings pass underground.

This leads us to the next and last issue: **what remedies are available to the parties?**

The Complainants sought for the following remedies:

- a) Compensation estimated at **UGX 351,367,000=**
- b) General damages
- c) Interest at the rate of 25% in (a) from the date of default in 2012 till payment in full
- d) Costs of the Complaint

The claim for damages of **UGX 351,367,000=** is a claim for special damages. It is known that special damages are damages which are presumed by law, but must



be expressly pleaded and proved, otherwise compensation cannot be recovered in respect of it. Special damages financially compensate the Complainant or Claimant for quantifiable financial losses suffered due to the Respondent's actions.

In this instance the Complainants from their pleadings collectively sought compensation of UGX 351,367,000= allegedly being the value of pieces of land, houses that were demolished, banana plantations, coffee trees, maize tea plantations, pawpaw, cassava gardens, fruit trees, eucalyptus and Pine trees destroyed by the Respondent's agent REA as it constructed the electricity line in question. The Complainants through their lawful Attorney Bafaki Paul (CW1) by virtue of a Power of Attorney dated 8th February 2018 presented a sample of WayLeaves Compensation Assessment Forms CE3(1) to CE3(xi) prepared by the Respondents agents REA, witnessed by the L.C.1 Chairman/Representative of the areas and in some instances signed by the owners of the lands and stating crops, plants and trees destroyed as a result and a sample of Power Line Construction Notices, issued, exhibited collectively as CEX2 wherein the Complainants were notified that low voltage Power Lines were to be constructed in their area and that this may result into their property like crops being affected by the said power lines. The same CEX2 notified those to be affected which includes the Complainants that they will be duly compensated if affected by the said power line. Report CEX1 exhibited by Boaz Tukahirwa CW3 for the Complainants includes, land developments and a variety of crops. The said report CEX1 on page 2 thereof and specifically on paragraph 5.0 on page 4 states that **"it should be noted that for 33KV power line and low voltage supply lines, it is government that only improvements, crops and trees that lie within the Wayleaves of the power line are compensated. Land is only compensated for selected pieces where transformers and underground earthling are situated"**

CW3 in his oral testimony and cross examination stated that none of the lands that he surveyed had transformers upon them nor earthlings. Further in his



testimony during cross examination, he stated that he could not recall how many houses were demolished, nor does his report **CE1** detail which houses were demolished, and how these houses were demolished, but that he nevertheless in 2017 assessed the values of the houses demolished.

In the circumstances narrated above and those earlier stated in this judgement there is no proof that most of the lands of the Complainants is compensatable, save those on which transformers are erected and or underground earthing are situated, as per **CW3**'s testimony.

A perusal of **CEX1** has three (3) exceptions, that being the land of one **Nduhuura John** on **page 28** of the report, which shows a transformer is erected, on his land and, the report gives the compensatable value of **UGX3,160,000=**. The other one is the land of **Nuwagaba Francis** which is shown on **page 33** as bearing a transformer and the value of the land is placed at **UGX 22,200,000=** by the report **CEX1**. There is also a claim by **Tumuukye Tefuro** as captured on **page 14** of the report, a transformer on his land and valued at **UGX 2,620,000=** by **CW3**.

There is a claim for compensation for developments and improvements valued at **UGX 8,000,000=** for **Mujuni Elias** on **page 29** of report **CEX1**. This claim is however undermined by the presence of a house in 2017 on the land, as is shown by the photograph on the said **page 29**. The claim for compensation for developments and improvements destroyed is in the circumstances not sustainable, as there is no evidence of destruction of developments and improvements adduced in any form. The claim for compensation for developments and improvements as also claimed by one **Baryaho Lurenzio** of **UGX 15,000,000=** on **page 8** of the report is equally not sustainable for the same reason. The photograph on the page shows a house that is apparently standing and intact. In conclusion, compensation for land as claimed by the Complainants is not sustainable except for the 3 Complainants above; These are the pieces of land carrying transformers and qualify for compensation in the respect described by **CW3** as government policy, which restricts compensation to crops destroyed or



damaged and to land which transformers or underground earthlings are located. The rest of the Complainants' claim for compensation for land is accordingly not upheld.

We however have no hesitation in upholding the Complainants' claim for compensation for crops and trees destroyed in the process of constructing the electricity lines and poles in Katenga Sub county- Mitooma. To date the Complainants have not been compensated, despite the Respondent's agent undertaking in the collective sample exhibits **CEX2** to the affected persons, that they will duly be compensated and the assessment of the damage caused as is shown in the collective sample exhibits **CEX3** having been carried out. This is 7 years the down road after the damages/destruction of the Complainants' property.

While the tribunal has no hesitation to declare that compensation is due to the respective Complainants; It has however observed that there are variances in the **quantities and types** of crops allegedly destroyed or damaged in the process of construction of the power lines. There are differences in the quantities and types of crops as captured in 2014 in the exhibits collectively designated **CEX3** from the quantities as and types attributed to the same respective Complainants in the report **CEX1** following an assessment by **CW3** in 2017. A few examples may illustrate this point:

1. **Bafaki Paul**; the 2014 assessment in **CWX3** captures the following:

<u>CROP/TREE</u>	<u>QUANTITY</u>
• Eucalyptus trees	17
• Banana Blumps	20
• Coffee	02
• Pine trees	02
• Mango trees	01

On the other hand, the Reports **CEX1** of 2017 captures the following:

<u>CROPS/TREES</u>	<u>QUANTITY</u>
• Trees	18
• Coffee	12
• Banana	131
• Mangoes	01
• Pine tree	01

2. **Rutakunda Alfred:**

2014 assessment in **CEX3** is as follows:

<u>CROPS/TREES</u>	<u>QUANTITIES</u>
• Coffee	05
• Banana	81
• Pawpaw	02
• Eucalyptus	03

While the 2017 assessment in **CEX1** captures the following:

<u>CROPS/TREES</u>	<u>QUANTITIES</u>
• Coffee	105
• Banana	19

In the 2017 report, mention is not made of Pawpaws and the eucalyptus trees.

3. **Gaudensia Gumisiriza:**

2014 assessment in **CEX3** is as follows:

<u>CROPS/TREES</u>	<u>QUANTITIES</u>
• Banana Clumps	12

CEX1 assessment made in 2017 is as follows:

<u>CROPS/TREES</u>	<u>QUANTITIES</u>
• Banana	57
• Coffee	8



4. **Barigye Scovia**
2014 assessment as per **CEX3** is as follows:

<u>CROPS/TREES</u>	<u>QUANTITIES</u>
• Mango	01
• Coffee	03

When it comes to the assessment in **CEX1** of 2017:

• Trees	02
• Banana	04

5. **Rugaga Wilson**
2014 assessment in **CEX3** is as follows:

• Avacado	02
• Banana Clump	35
• Coffee	03
• Bark Cloth	01

2017 assessment in **CEX1** is as follows:

• Coffee	07
• Banana	80

There is now no mention in 2017 of the bark cloth and Avocado.

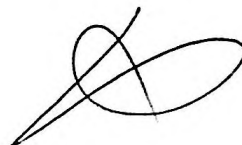
6. **Mugisha Emmanuel Owembabazi** the following were captured in 2014 as per **CEX3(i)**

• Coffee (mature)	13
• Coffee (Average)	12
• Coffee Young)	24
• Eucalyptus	30

The assessment of **CW3** in **CEX1** captures the following:

Coffee	246
Banana	14
Sugar cane	18
Others	8





This trend is repeated for all the Complainants, with the latter assessments made in 2017 having greater quantities than those of 2014 and in some instances omitting or adding some crops different from those captured in the 2014 assessment.

For Turyakira Haruna, he had Arabic Coffee, Banana Clumps, tree and eucalyptus trees in his 2014 assessment as captured in exhibit **CE3(iii)**, while his 2017 assessment in **CE1** page 18 has mangoes, tea, and sugar cane which were not captured in 2014!

It is difficult for the tribunal to reconcile these differences in quantities and some instances the type of crops that were affected, save to believe that by 2017, memories may have faded, and Complainants could not remember exactly what crops they lost and the quantities. In the circumstances, the tribunal chooses to consider the assessments for compensation of crops/trees as captured in the **WayLeaves Compensation Assessment Forms** of the Rural Electrification Agency dated variously from 17-11-2014 to 22-11-2014, endorsed at that time by the respective Local Council 1 officials, stamped and dated accordingly with the L.C 1 village stamps of the relevant village and some such samples of forms were exhibited collectively as **CE3**. These are the assessments made at the actual or about the time the construction and destruction of crops, plants and trees was taking place, and when the memories were more fresh, whereas these in **CEX1** may be consequences of afterthoughts and faded memory. Both the Complainant's Witness **CW3**, a valuation expert and the Respondent in its pleadings agree that the assessment and valuation of compensation for the damaged property was based on the Bushenyi District Local Government Compensation Rates for the Financial year 2012/2013. In the circumstances the tribunal awards to the Complainant's compensation for those crops/plants that were destroyed/damaged in November 2014 as captured in the above stated WayLeaves Compensation Assessment Forms; samples of which were exhibited collectively as **CEX3**.



We also award interest at 18% per annum on the sums /amounts payable to the respective Complainants for the crops, trees and plants that were destroyed as captured in 2014, till payment in full, based on the 2012/2013 Compensation Rates of Bushenyi District Local Government rates.

The Complainants also claimed for **General Damages**. General Damages are the kind of damage which the law presumes to follow from the wrong complained of, and which therefore need not be set out in the Complainants/ Claimants' pleadings. General damages are intangible, non-monetary losses that do not have an exact shilling amount. These are like mental anguish, pain, suffering, and inconvenience. These are awarded at the discretion of Court (read tribunal). We believe that the case of the Complainants is one which deserves the award of general damages, for the pain, mental, anguish, suffering and inconvenience they have been put to since 2012, to date as they pursued compensation that was long due to them from the Respondent.

We find the award of **UGX 3,000,000=** per Complainant appropriate to compensate the Complainants for the pain, anguish, suffering and inconvenience suffered.

The above sum will attract interest at the rate of 12% per annum from the date of this award until payment thereof in full.

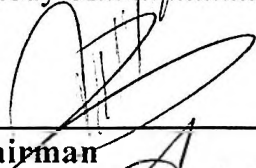
The complainants are awarded costs of the Complaint.

We so Order.



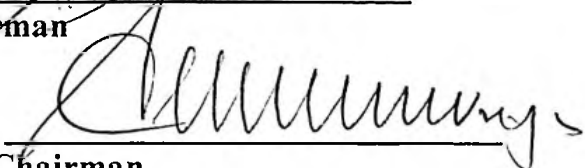
Dated at Kampala this.....^{18th}.....day of.....^{March}.....²⁰²².....2021.

Charles O. Owor




Chairman

Anaclet Turyakira



Vice Chairman

Jude M. Mudoma



Member

