

REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA
ANTI-CORRUPTION DIVISION
HOLDEN AT KOLOLO
CRIMINAL APPEAL 3 OF 2023

5 **DAWSON TAYEBWAAPPELLANT**

VRS

UGANDARESPONDENT

10 **BEFORE GIDUDU, J**

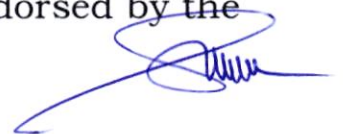
JUDGMENT

The appellant, an Ag. Water Officer of Sembabule District, was jointly charged and tried with one Sseruyange Ramadhan Ag. Planner of the for **Causing Financial Loss C/S 20(1) of the ACA, 2009 as amended; Abuse of Office C/S 11 of the ACA, 2009 as amended and Forgery C/S 342 & 347 of the PCA, Cap 120.**

15 They were both convicted and sentenced to 3 years and 2 years' imprisonment on different counts to run concurrently. They were also prohibited from being employed in Public Service for ten years. Each was ordered to refund **UGX. 13,210,130=** to the district. He appeals against the conviction and sentence.

20 The brief facts as accepted by the trial magistrate are that the appellant while acting as water officer originated a requisition in the names of PEHAN CONSTRUCTION LIMITED dated 4th September, 2014 for payment of UGX. 49,500,000= for construction of Ferro cement tanks at selected homesteads in the district.

25 The requisition was manipulated by attaching payment certificates and other documents which had been used to pay an earlier claim by the same company under contract SEMB551/WKS/11-12/00024. The requisition was forwarded by the appellant and endorsed by the



CAO/ Accounting officer for payment of a reduced sum of UGX. 28,106,660= to tally with the payment certificates and measurement sheets attached for alleged work done.

5 After payment was effected to the company, one Sseruyange, the district planner called Ikulu Peter, the proprietor of the company and informed him that 26,400,000= had been wired to his company account by error. He asked Ikulu to pay him the money on his personal account. Ikulu wrote cheque number 663 in the names of Sseruyange Ramadhan for 26,300,000= which Sseruyange collected
10 in person from Ikulu's home in Rakai.

A whistle blower reported this fictitious payment to the Inspectorate of Government. After investigations, the appellant and Sseruyange were charged and tried.

15 The appellant denied any wrong doing. His defence is that the payment was legitimate because PEHAN CONSTRUCTION LIMITED had done the work which he supervised and they were entitled to payment.

20 He denied making the requisition letter of 4th September, 2014. He contended that the letter was written by Namata Scholastica who is MD of PEHAN CONSTRUCTION LIMITED and wife to Ikulu who is the proprietor of the said company. He accused Namata (PW7) and Ikulu Peter (PW5) of being dishonest for denying work which their company executed.

Seven grounds of appeal were filed which I summarise below:

- 25
1. The learned trial magistrate erred in law and fact when he relied on the requisition letter to convict the appellant of forgery.
 2. The learned trial magistrate erred in law and fact when he failed to properly evaluate evidence which led to a wrong conclusion that the appellant had caused financial loss of UGX. 26,420,260.
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 3. The learned trial magistrate erred in law and fact when he failed to properly evaluate evidence which led to a wrong conclusion that the appellant had caused financial loss.