



THE REPUBLIC OF UGANDA

IN THE CHIEF MAGISTRATES COURT OF PALLISA AT PALLISA

CIVIL SUIT NO. 033 OF 2024

OLOK UNITED SAVINGS AND LOAN ASSOCIATION ::::::::::: PLAINTIFF

VS

OKUNI JOSEPH ::::::::::: DEFENDANT

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***Before: His Worship Kyembe Karim ESQ***

*Magistrate G.I*

**JUDGMENT**

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**Introduction.**

The plaintiff brought this suit by way of a plaint under summary suit under the provisions encapsulated under Order 36 of the civil procedure Rules seeking recovery of UGX. 550,000/= being un-paid principal sum and UGX. 825,000/= being accrued interest and costs of the suit.

By Misc. Application no. 039 of 2024 brought by way of Notice of Motion, the defendant sought and was granted leave to defend the suit.

Both parties were unrepresented lay litigants, hence this court deemed it a proper case to invoke **Article 128(2)(e)** of the Constitution of the Republic of Uganda, 1995 as amended to dispense justice without undue recourse to technicalities. Technical procedures were thus dispensed with and the suit heard as an ordinary suit.



### **Plaintiff's case:**

It's the plaintiff's case that on the 25<sup>th</sup> July, 2023, the defendant by virtue of being a member of the plaintiff association obtained a loan of UGX. 550,000/= payable in an "short" period of time with interest at the rate of 10% per month. That ever since the defendant received the said money, she has defaulted on repayment and she was in arrears of 15 months interest worth UGX. 825,000/= at the time of filing the suit.

### **Defendant's case:**

The defendant admitted that he had borrowed money from the plaintiff totaling UGX. 500,000/= for a period of 2 months at an interest rate of 10% and had so far paid back UGX. 150,000/= reducing his debt to UGX 450,000/= which he was willing to pay.

The plaintiff called 4 witnesses while the defendant called None. After closure of the plaintiff's case, the defendant was granted several adjournments and still failed to file a defence nor call witnesses.

### **Issues:**

1. Whether the plaintiff is entitled to the remedies sought?
2. What remedies?

### **Resolution:**

***Issue 1: Whether the plaintiff is entitled to the remedies sought?***

### **Evidence & burden of proof:**



**Section 101 of the Evidence Act, cap 8** is to the effect that *“he who alleges must prove.”*

**Section 58 of the Evidence Act, cap 6** provides that a fact in issue can be proved by direct oral testimony, save for the contents of a document.

In ***Haji Asuman Mutekanga –Vs- Equator Growers (U) Ltd, S.C. Civil Appeal No.7 of 1995***, it was stated that it is trite law that strict proof does not necessarily always require documentary evidence. Oral testimony is good evidence to prove a fact in issue.

### **Analysis**

**Section 57 of the Evidence Act**, cap 8 Laws of Uganda, 2023 revised edition provides that facts admitted need not be proved.

**Pw1-Omio George Steven** told court that the defendant was advanced UGX.550,000/= to help with his school going child in kampala. The terms of the loan was that the defendant would pay back the principal sum together with interest of 10% per month. He exhibited **PEX1**- a loan book whereof they recorded the transaction and the defendant signed acknowledgement of receipt of the same. That testimony was re-echoed by the rest of the plaintiff witnesses.

In his defence, the defendant failed to file a defence even when he was granted leave and neither did he call witnesses.



His only facts can only be gathered from the affidavit in support of his Misc. Application no. 039 of 2024 seeking leave to enter defence. In a nutshell, his facts are that:

*“...I borrowed money from the plaintiff totaling UGX. 500,000/= for a period of 2 months at an interest rate of 10% and had so far paid back UGX. 150,000/= reducing my debt to UGX 450,000/= which I am willing to pay....”*

This court looked at the loan records book- **PEX1** which was not objected to and has satisfied itself that indeed the defendant signed off as having received UGX. 550,000/= from the plaintiff. The defendant’s plea that he paid back UGX. 150,000/= is unsupported by evidence.

**According to Section 2 of the Evidence Act Cap 8** “evidence” denotes the means by which any alleged matter of fact, the truth of which is submitted to investigation, is proved or disproved and includes testimonies by accused persons, admissions, judicial notice, presumptions of law and ocular observation by the court in its judicial capacity.

Under **Section 28 of The Evidence Act, cap 8, Laws of Uganda, 2024 revised edition** admissions are not conclusive proof but they create an *estoppel* against the party admitting the same.

Having admitted to be indebted to the plaintiff, the defendant is estopped from denying the same and the plaintiff is discharged under **Section 28**



**and 57 of *The Evidence Act cap 8, Laws of Uganda, 2024 revised edition*** from adducing any further proof thereof.

What is left for court's determination of how much the defendant is indebted to the plaintiff?

I note that the monthly interest rate of 10% was not contested by either party.

In **Kabale District Local Government Council vs Musinguzi (2006) 2 EA at 131** it was stated that a party presenting unchallenged evidence has no duty to prove it further. Same reasoning was adopted in **Uganda Commercial bank ltd vs Yakub (2013) UGCOMMC 153**.

As the defendant was afforded opportunity to challenge or rebut the plaintiff's pleadings and evidence and he failed/refused, this court is constrained to believe that the plaintiff's evidence is true and the plaintiff is duly discharged from adducing any further evidence thereof.

In conclusion therefore, I find as a matter of fact that the defendant borrowed UGX.550,000/= from the plaintiff at an interest rate of 10% per month and that he has failed to prove ever paying back any money ever since.

The plaintiff succeeded in proving to court that the defendant is indebted to them to the amounts claimed in the plaint under summary suit. As the defendant did not bother to prove the basis of his defence, this court is left no choice but to concur with the plaintiff.



However, this Court takes judicial notice of the public policy imperative to protect vulnerable borrowers, particularly in microfinance contexts involving high monthly rates and lay persons. While Ugandan statute (Tier 4 Microfinance Institutions and Money Lenders Act, Cap. 61) prohibits compound interest and empowers rate caps, principles of equity and fairness—recognized in common law and akin to the **in duplum** rule applied in sister jurisdictions like Kenya—prevent interest from accumulating indefinitely or disproportionately. The **in duplum** doctrine caps arrear interest at the principal amount to avoid oppressive debt burdens.

In this case, the claimed interest (UGX 825,000) exceeds the principal (UGX 550,000). Applying this equitable principle as a matter of substantive justice (and consistent with prohibiting exploitative terms), further interest accrual beyond the principal is unwarranted. The plaintiff is entitled to recovery, but limited accordingly.

The plaintiff succeeds on liability, but the quantum is adjusted.

***Issue 2: what remedies are available to the parties?***

In conclusion, I make the following orders:

1. The plaintiff's suit succeeds in part.
2. The defendant is ordered to pay the principal sum of **UGX 550,000/=** plus interest capped at an amount equal to the principal (**UGX 550,000/=**), for a total of **UGX 1,100,000/=** (Uganda Shillings One Million One Hundred Thousand only).



3. No further interest shall accrue post-judgment on the above sum, as the claim is bound by pleadings and equitable principles.
4. Each party shall bear their own costs, as they were unrepresented lay litigants.

**Note on pleadings and delay:** The case has been in court since filing on 12th November 2024. The plaintiff limited its claim to interest accrued at filing and did not seek post-filing interest. Court cannot award beyond pleadings, even where entitlement might exist.

I so order.

Dated at PALLISA this ...2nd.....day of .....February.....2025

A handwritten signature in black ink, appearing to be 'K. Karim', written over a dotted line.

**HIS WORSHIP KYEMBE KARIM**  
LEARNED MAGISTRATE GRADE 1