

HIGH COURT OF UGANDA
 COMMERCIAL DIVISION
 11 SEP 2017
 RECEIVED
 P.O. BOX 7085, KAMPALA
 248

SUDHIR RUPARELIA :::::::::::::::::::: APPLICANT

1. MMAKS ADVOCATES
2. AF MPANGA ADVOCATES (BOWMANS UGANDA)
3. CRANE BANK LIMITED (IN RECEIVERSHIP)
4. BANK OF UGANDA ::::::::::::::::::::::::::::::: RESPONDENTS

I, Sudhir Ruparelia, C/o Kampala Associated Advocates, KAA House, Plot 41 Nakasero Road, P. O. Box 9566, Kampala do affirm and state as THAT;

1. I am an adult Ugandan of sound mind and the Applicant herein and I have, with the help of my lawyers M/S Kampala Associated Advocates read and understood the affidavits of Mr. Ernest Sembatya, Mr. William Kasozi and Ms. Margaret Kasule and respond as below;
2. Paragraph 2 of Mr. Ernest Sembatya's affidavit is false in so far as it suggests that I am attempting to "conflate Crane Bank Limited" with myself. It is the Plaintiff in High Court Civil Suit 493 of 2017 who attempts to "conflate Crane Bank Limited" with myself.
3. Paragraphs 3 and 4 of Mr Sembatya's affidavit are false and argumentative.
4. Paragraphs 5 and 6 of Mr Sembatya's affidavit are based on contested facts which are completely false.

5. In further reply to the said paragraphs I know that MMAKS advocates have acted for Crane Bank and the Board (on which I sit) in the matters in issue in HCCS 493 of 2017 and have obtained knowledge as a result of acting as lawyers. Some of these matters in issue include but are not limited to; issues of shareholding, issues on the duties of directors; issues to do with Infinity Investments Limited and issues to do with Technology Associates. MMAKS Advocates will further be required as witnesses regarding the day to day running of the 3rd Respondent.
6. In reply to paragraph 7 of the Affidavit I know that the shareholding in Crane Bank is directly and substantially in issue in HCCS 493 of 2017 and the results of the MMAKS opinion will be wholly relied upon to dispute the allegations contained in the Plaint. In further reply, MMAKS did not just do a search as Mr. Sembatya claims but went ahead to advise about any shareholding anomalies and propose corrections. The manner of and even legality of some of the transfers are fundamentally in issue in HCCS 493 of 2017.
7. The allegations Mr Sembatya makes about Infinity Investments Limited in paragraph 8 of his affidavit are not extracted from the pleadings and are certainly not the case set out in the Plaint in HCCS 493 of 2017. The Plaint does not claim that the securities that were left in the bank after the write-off were “worthless” while the “valuable securities” were released. The Plaint does not even allege that any money from Infinity was deposited on my account or accounts I was operating through close associates. The Plaint however, alleges that no recovery efforts were made against Infinity Investments Limited at all and yet MMAKS Advocates were instructed to sue Mahmoud Bharwani and sell the mortgaged property. No reference in the plaint is made to PWC with regard to Infinity Investments Limited or to any of its contested reports. Paragraph 31.8 of the Plaint states “No recovery efforts were made on the Plaintiff’s behalf.” Mr Sembatya’s evidence is false and irrelevant.

8. In further reply to the said paragraph, I know that as the firm that conducted the due diligence on Infinity Investments Limited before any money was disbursed to the Company, and further as the firm that was instructed to recover the Bank's money from Infinity Investments Limited MMAKS Advocates are necessary, compellable and competent witnesses to answer the averments in the Plaint that are false. I further know that any attempt to use the knowledge they obtained to my prejudice as a result of the instructions they received is manifest breach of MMAKS Advocates' fiduciary obligations. Mr Sembatya by purporting to reveal the extent of his instructions, moreover falsely, in order to prejudice me and even expand the allegations in the plaint is a clear violation and betrayal of my more than twelve year trust in MMAKS Advocates.
9. In further reply to the said paragraph, I know that MMAKS Advocates has not informed me that they failed to sell the mortgaged property.
10. In reply to paragraph 9 of Mr Sembatya's affidavit, I know that the said paragraph is misleading in so far as it implies that MMAKS Advocates has never acted for Meera Investments Limited or that the firm has on "various occasions acted against entities" owned by me. The example given by Mr Sembatya is MMAKS Advocates acted against Meera Investments Limited in HCCS 185 of 2006. The fact is, we never raised any objection in the said suit and that was not a license for MMAKS Advocates to act in breach of confidence in the instant suit.
11. In further reply to the said paragraph, as the majority shareholder in Meera Investments Limited I know that I have personally instructed Mr. Masembe and MMAKS Advocates on a number of transactions for Meera Investments Limited. By way of example I personally instructed MMAKS Advocates, received and approved a fee note from MMAKS Advocates for work done in the preparation of a sale/purchase agreement and registration of transfers for property comprised in Kyadondo Block 208 Plots 555,556,557,558,559,560,561,562,563 and 564 Kawempe. **(A copy of the Tax Invoice from MMAKS Advocates to its Client Meera Investments Limited with my signature approving the**

invoice is attached and marked Annexure A and a copy of a receipt acknowledging payment is attached and marked Annexure B)

12. The assertion that MMAKS Advocates have never been my personal lawyers or lawyers for companies in which I have an interest is manifestly false.
13. In further reply to the said paragraph, I know that MMAKS Advocates was instructed to represent Crane Bank Limited, Meera Investments Limited, Rosebud Limited and Speke Hotel (1996) Limited, companies in which I have an interest in a dispute regarding memorandum and articles of Association of the said companies and a law firm Joel Cox Advocates. A consent judgement was subsequently entered and signed on behalf of Crane Bank Limited, Meera Investments Limited, Rosebud Limited and Speke Hotel (1996) Limited by Mr Timothy Masembe Kanyerezi of MMAKS Advocates. The allegation by Mr Sembatya that MMAKS has routinely acted against me is patently false. **A copy of the Consent Judgment is attached hereto and marked Annexure C.**
14. In the time I dealt with MMAKS Advocates, I dealt with the partners of MMAKS Advocates, specifically Mr. Timothy Masembe Kanyerezi in relation to the companies in which I have an interest like Crane Bank Limited, Meera Investments Limited, Rosebud Limited and Speke Hotel (1996) Limited and in my personal work. Mr. Masembe is aware of the extent of my client-advocate relationship with MMAKS Advocates.
15. In reply to paragraph 11 of Mr Sembatya's affidavit, I have been advised by my lawyers which advice I verily believe to be true that MMAKS Advocates are necessary, competent and compellable witness.
16. In specific response to paragraphs 3, 8, 13, 18, 19, 20 and 21 of the affidavit of Mr William Kasozi I have been advised by my lawyers which advice I verily believe to be true that the said paragraphs are

argumentative, not based on any facts and violate the rules as to affidavits and further are based on Mr Kasozi's "views", "disappointments" and "contentions" none of which matters are capable of being deposed in an affidavit.

17. Paragraph 4 of the affidavit of Mr William Kasozi is false and further the 3rd Respondent in its late Reply to the Written Statement of Defence admitted that AF Mpanga Advocates were advocates of Crane Bank and by virtue of my being a shareholder and director of the 3rd Respondent the said firm were my lawyers.
18. In specific response to paragraphs 5, 6 and 7 of Mr Kasozi's affidavit I have been advised by my lawyers which advice I verily believe to be true, that the said paragraphs buttress and confirm the need for lawyers from the firm of AF Mpanga to assist court as witnesses to material questions of fact in regard to the existence of the PWC document, the methodology used to arrive at its conclusions and indeed on the conclusions themselves.
19. In specific response to paragraphs 10, 11, and 12 of the affidavit of Mr William Kasozi, I will require AF Mpanga Advocates as witnesses to confirm that in handling of the constitutional court case on such a sensitive matter I was not in close day to day control of the case and hence the allegations in the Complaint are false.
20. In further response to the said paragraphs, I know that in the handling of that case, the said lawyers became aware of facts which may be prejudicial to me in HCCS 493 of 2017 which case is about the "day to day" operations of Crane Bank Limited.
21. In the above constitutional case, Mr. David Mpanga and Mr. Brian Kalule were in personal conduct of the matter and not Mr. William Kasozi. I have been advised by my lawyers which advice I verily believe to be true that Mr. Kasozi cannot depone on information I purportedly gave to Mr. David Mpanga and Mr. Brian Kalule.
22. Paragraph 14 of Mr. Kasozi's affidavit is false in so far as it alleges that the Complaint in HCCS 493 of 2017 is based on an alleged forensic

report allegedly written by PWC Uganda. The PWC document was not attached to the plaint and the Plaintiff declined to avail the same to me when I made a formal request for the production of documents.

23. In reply to paragraph 16 of Mr. Kasozi's affidavit, the CSRA deals with the substance of HCCS 493 of 2017. The meetings, discussions and negotiations on it and each party's conduct after it was signed are material to both the main suit and the counterclaim. In all these dealings, the principal actors for Crane Bank Limited and Bank of Uganda were MMAKS Advocates and AF Mpanga Advocates. They are necessary, competent and compellable witnesses to elaborate on the matters of the CSRA and the role they personally played in the break-down of its implementation.
24. I have read the affidavit of Ms. Margaret Kasule and note that it is full of falsehoods.
25. I know the suit cannot be based on the PWC document of 2017 when the same was neither relied upon nor annexed in the plaint.
26. In response to paragraphs 12 and 22 of Mr. Sembatya and Mr. Kasozi's affidavits respectively, their averments stating that MMAKS Advocates and AF Mpanga Advocates are the only capable, ethical and incorruptible lawyers in Uganda capable of handling this matter are false, scandalous, and presumptuous.
27. I swear this affidavit in rejoinder to the affidavits of Margaret Kasule, William Kasozi and Ernest Sembatya.
28. That what is stated herein above is true to the best of my knowledge save that which is based on the information/ advice from the sources herein disclosed.

AFFIRMED by the said

SUDHIR RUPARELIA *Sudhir*
at Kampala this *11th* day of *September* 2017

[Signature]
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DEPONENT

BEFORE ME:



KENNETH AKAMPURIRA
ADVOCATE & COMMISSIONER
FOR OATHS
P. O. BOX 2658, KAMPALA

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A COMMISSIONER FOR OATHS

Drawn & filed by:

**M/S Kampala Associated Advocates,
Plot 41 Nakasero Road,
P.O.BOX 9566,
Kampala**