THE REPUBLIC OF UGANDA
IN THE MATTER OF THE COMPANIES ACT CAP. 106
AND
IN THE MATTER OF THE COMPANIES (POWERS OF THE REGISTRAR) REGULATIONS SI NO. 71 OF 2016
AND
IN THE MATTER OF ASHTAVINAYAK MANAGEMENT LIMITED
COMPANY APPLICATION NO. 90621 OF 2026
BRN: 80020000590621

AIJU APPUKUTTAN PILLAI::APPLICANT

VERSUS

1. **VARSANI TULSIDAS HARJI**
2. **VARSANI SHIKHA TULSIDAS**
3. **VARSANI HARJI RAMJI::RESPONDENTS**

RULING

Before: Daniel Nasasira - Assistant Registrar of Companies

A. *Representation*

1. *Gerald Nuwagira of Nuwagira, Tusiime Advocates represented the Applicant, while Issa Ogomba and Loretta Owori from Praxlex Advocates and Arcadia Advocates, respectively, represented the Respondents.*

B. *Introduction and Background*

2. Ashtavinayak Management Limited is a Limited Liability Company duly incorporated in Uganda on 28th December 2017. *(Hereinafter referred to as "the Company")*
3. At the time of incorporation, the Applicant and the First Respondent were the initial subscribers and shareholders of the Company, each holding 50 shares. They

were also appointed as Directors of the Company, with the Applicant additionally serving as the Company Secretary.

4. On 17th July 2026, the Applicant filed the present Application after conducting a search of the Company's records at the Companies Registry, whereupon he discovered that he was no longer reflected as a shareholder, Director or Company Secretary of the Company. The Applicant alleged that his removal from the Company had been effected through resolutions and other company filings bearing a signature purportedly attributed to him, which he contended was fabricated.
5. The Applicant consequently challenged the impugned filings and entries on the Companies Register, contending that they had been made without his knowledge, consent or authority and had unlawfully deprived him of his rights and interests as a shareholder, Director and Company Secretary of the Company.
6. The Respondents denied the Applicant's allegations of forgery, fabrication and illegality. Their position was that the Applicant voluntarily signed and handed over the requisite instruments and documents necessary to effect his removal as a Shareholder, Director and Company Secretary, and that the subsequent changes to the Company's records were lawfully undertaken and duly lodged with the Registrar.

C. *<u>Applicant's Case</u>*

7. The Applicant deposed under paragraphs 2 and 3 of his Statutory Declaration supporting the Application that on 28th December 2017, he and the first Respondent incorporated the Company with each of them subscribing for fifty (50) ordinary shares out of the one hundred (100) issued shares of the Company, thereby making them equal shareholders. He further stated that the two of them were appointed Directors of the Company, with the Applicant also serving as the Company Secretary.

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8. The Applicant contended that following the prolonged period of failed communication between the Applicant and the first Respondent, he conducted a search on the Online Business Registration System (OBRS) and discovered that he had been unlawfully removed as a Director and Company Secretary without his knowledge or consent. He attached a copy of the Special Resolution and Company Form 20 in support of his assertion.
9. The Applicant averred that the purported Special Resolution indicated that the Applicant attended the meeting and consented to his removal as a shareholder, whereas he neither attended such a meeting nor signed the said resolution. Furthermore, the Applicant deposed under paragraph 7 of his Statutory Declaration that he also discovered that his signature had been fabricated on a share transfer Form purporting to transfer his shareholding (50 ordinary shares) in the Company to the second Respondent herein without his knowledge, authority or consent.
10. In addition, the Applicant stated that he subsequently further discovered that the second Respondent was later removed from the Company records and replaced by the third Respondent as Director and Shareholder, allegedly through further company filings founded upon the same unlawful and fabricated endorsements.
11. The Applicant averred that his purported removal as a Director and Company Secretary, the transfer of his shareholding, the appointment of the second Respondent as Director, Shareholder and Company Secretary, and the subsequent appointment of the third Respondent as Director and Shareholder, were actions all founded upon fabricated documents and therefore illegal, null and void.
12. The Applicant contended that he caused the disputed signatures appearing on the impugned company documents to be examined by a qualified Forensic Document Examiner from the Directorate of Government Analytical Laboratory, Ministry of

Internal Affairs, whose report conclusively established that the signatures attributed to the Applicant were forged and were not authored by him.

13. That by reason of the foregoing illegal entries on the company register, the Applicant deposed that he has suffered loss of his rights as a Shareholder, Director and Company Secretary, financial loss, disruption of his investment plans and considerable psychological distress.

14. The Applicant therefore prayed for rectification of the Company register by expunging all illegal entries and reinstating him as a shareholder, Director and Company Secretary as it was at the time of incorporation.

D. *Respondents' Case*

15. The Respondents raised a preliminary objection to the effect that the Registrar lacks Jurisdiction to entertain issues like those contained in the instant Application, including allegations of fraud and forgery/fabrication.

16. Regarding the merits, the Respondents denied the Applicants' allegations of fabrication and unlawful/illegal entries to the company register. The First and Second Respondents deposed in their respective Statutory Declarations in Reply to the Application that the Applicant willingly signed and handed over all necessary instruments and documents. They tendered a Forensic Report from Brilliant Forensic Investigation Pvt. Ltd, which found that the disputed signatures on the contested documents belonged to the Applicant.

17. The First Respondent further asserted that at the time the Applicant handed over the signed documents, the Company Accountant, namely Mr. Joseph Miro, was allegedly present. He contended that the Applicant left the business because he felt that it was no longer productive and that since he handed over the documents, he had never participated in the affairs of the Company.

18. The First Respondent averred that he had worked and managed to resurrect the business operations to the current level of growth and profitability. He averred

that he had invested enormous amounts of personal financial resources into the Company without the participation of the Applicant. He further contended in paragraphs 10 and 11 of his Statutory Declaration that he had invested personal funds to purchase property for the operational expansion of the business, which he registered in the name of the Company, and that the Applicant's allegation of fabrication of signatures was a disguised tactic to take ownership of his property registered in the Company's name.

19. The Respondents' case was supported by the Statutory Declaration of a one Joseph Miro, who stated that he had worked with Tulsi Group of Companies for a period of 5 years as an accountant, which group included Ashatavinayak Management Limited. He deposed under paragraphs 5 and 6 that he was aware that the Applicant was a shareholder in Ashatavinayak Management Limited; however, that due to the financial difficulties at the time, the Applicant decided to leave the Company. He averred that he was present at the time when the Applicant was signing the transfer forms and resolutions and that the Applicant was no longer interested in the affairs of the Company.

20. The Respondents contended that all actions carried out were legal and that neither the Company nor its shareholders had engaged in any unlawful acts as alleged by the Applicant.

21. In addition, that the Applicant's claims were entirely baseless, malicious, and designed to disrupt the lawful operations of the Company.

22. The Respondents prayed that the Application be dismissed with costs.

E. ***Rejoinder***

23. In the rejoinder to the preliminary objection that the Registrar of Companies lacks jurisdiction to entertain the matter, the Applicant denied the assertion, stating that the matters raised fall squarely within the jurisdiction of the Registrar of Companies under Regulations 3 and 8 of the Companies Powers of the Registrar

Regulations SI No.71 of 2026, which empower the Registrar to rectify the Companies Register in circumstances where there are irregular entires to the Register, which the Applicant argued was the instant case.

24. The Applicant, upon the advice of his lawyers, averred that a complaint of fraud and fabrication/forgery does not, without more, oust the jurisdiction of the Registrar, particularly where the relief sought concerns the accuracy and integrity of documents appearing on the company register.

25. In response to the allegations and statements made by Joseph Miro, the Applicant averred that the assertion that there was a company Accountant called Joseph Miro was false and that strict proof was required of this fact and the allegations that he witnessed the Applicant signing the impugned documents. Furthermore, that the Respondents were required to clarify and strictly prove in which meeting, on what date and at what venue, and with which documents he allegedly witnessed.

26. The Applicant contended that the fact that the first Respondent may have subsequently been running or managing the Company did not by itself confer upon him lawful authority in the circumstances to remove, exclude or otherwise oust the Applicant from the management of affairs of the Company.

27. The Applicant put the first Respondent to produce the alleged company resolution upon which he relied upon and to show the date on which the same was passed, the meeting at which it was passed, the persons present, the notice convening the meeting, the agenda and the meeting minutes from the purported meeting.

28. The Applicant denied the allegations that he left the business because he considered it to be no longer productive. He invited the Respondents to produce any communication, agreement or any other contemporaneous documents demonstrating that the Applicant voluntarily surrendered or handed over his rights and interest in the Company.

29. Regarding the First Respondent's assertion that he had injected personal funds into the Company and purchased property which he put in the Company's name, the Applicant averred that no documentary evidence was provided to substantiate the assertion, including a sale/purchase agreement, proof of payment, source of funds, transfer documents.

30. The Applicant maintained that the issue before the Registrar concerns the legality, validity and propriety of the contested documents, arguing that mere assertions that corporate governance was followed could not substitute actual corporate records by which such governance was demonstrated. He therefore challenged Respondents to produce the notices of relevant meetings, attendance records, minutes of the meetings, signed resolutions, and all other documents upon which the alleged corporate decisions were based.

F. *Directions to submit written submissions*

31. Having heard the matter and received evidence from the parties by way of Statutory Declaration pursuant to Section 286 of the Companies Act Cap 106, I directed both Counsel to file written submissions and issued schedules as outlined below;

    a) *Written submissions from the Applicant's legal representative were to be filed and served by 25th August 2026.*

    b) *Written submissions from the Respondents' legal representatives were to be filed and served by the 28th day of August 2026.*

    c) *Any submissions in rejoinder were to be filed and served by the 2nd day of September 2026.*

32. I informed the parties that the ruling would be issued on notice.

G. *Issues*

33. Considering the submissions of both parties, I find the following issues are sufficient to determine this dispute.

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a) Whether the Registrar of Companies has jurisdiction to entertain this matter?

b) Whether the impugned documents were legally obtained and filed at the registry?

c) What remedies are available to the parties?

H. ***Determination***

a. ***Whether the Registrar of Companies has jurisdiction to entertain this matter?***

34. The Applicant filed the present Application challenging filings and entries made on the Companies Register, which he contended were illegally and wrongfully obtained. He asserted that the contested filings had been made without his knowledge, consent or authority and had consequently deprived him of his rights in the Company.

35. The Applicant alleged that his removal from the Company had been effected through resolutions and other company filings which he described as fraudulent, particularly on account of them bearing a signature purportedly attributed to him, which he contended had been fabricated.

36. The Applicant consequently sought the rectification of the Companies Register by expunging the impugned filings and entries.

Respondents Submissions:

37. Counsel for the Respondents submitted that the Applicant had filed the present Application alleging "fraud" and "forgery" of his signature on the contested resolution and share transfer form. Counsel further submitted that the Applicant alleged that the introduction of the Second and Third Respondents as shareholders and directors was founded upon unlawful documents.

38. Relying on the case of *Gladys Wanjiru Ngacha & Teresa Chepsaat & 4 others [2013]*, Counsel argued that allegations of forgery require specific pleading and strict proof of particulars, including intent to defraud, and that the standard of proof is high. Counsel submitted that forgery cannot be presumed and must be established

by clear, positive and convincing evidence. It was further submitted that the Applicant had not particularised the alleged forgery.

39. Counsel further contended that fraud is criminal in nature and that its discovery requires not only the discovery of the acts complained of but also the identification of the actors, which requires a process of uncovering acts which the perpetrators intended to keep concealed. It was therefore Counsel's position that fraud had not been discovered in the present matter.

40. Counsel also submitted that, when the matter came up for hearing, the Respondents requested the Registrar's office to issue summons to enable the witness, Joseph Miro, to attend and testify regarding his alleged presence when the Applicant signed the share transfer form. Relying on Regulation 30 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016, Counsel contended that the Regulations empower the Registrar to serve summons upon any person requiring his or her attendance before the Registrar or requiring such person to produce, for purposes of evidence, documents, writings or other things in his or her possession. It was therefore Counsel's submission that the Respondents' request was declined despite the witness being crucial to their evidence and that the evidence needed to be tested. Counsel further submitted that the Applicant's chance to cross-examine had also been denied.

41. Counsel further highlighted that both parties had produced Forensic Analysis Reports in support of their respective cases and that the reports contradicted each other. Counsel submitted that contradictory expert reports ought to be approached cautiously by a court and interrogated together with the evidence and testimony of the parties. Counsel argued that, without a full hearing of the evidence of both parties, the veracity of the respective reports could not properly be ascertained.

42. Counsel therefore contended that for the Registrar of Companies to determine the alleged forgery would amount to the Registrar assuming the role of a court of law. Counsel submitted that the High Court was the appropriate forum for resolving the conflicting expert reports, particularly through the examination and cross-examination of the experts after their qualifications and evidence had been properly ascertained.

Applicants Submissions:

43. Counsel for the Applicant submitted that the Respondents' objection to the jurisdiction of the Registrar of Companies was misconceived. Counsel contended that the Registrar's jurisdiction is expressly conferred by statute and the Regulations and that the mere existence of an allegation of forgery does not automatically oust that jurisdiction.

44. Counsel submitted that Regulation 3 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016, expressly confers powers upon the Registrar, including the power to correct or amend the Companies Register.

45. In addition, Counsel submitted that Regulation 8 specifically provides for rectification of the Companies Register and empowers the Registrar to expunge information or documents which have been illegally or wrongfully obtained.

46. Counsel argued that the complaint in the present matter was squarely directed at the accuracy and legality of documents appearing on the Companies Register. It was therefore Counsel's submission that the Registrar was not being called upon to convict any Respondent of the criminal offence of forgery or fraud. Rather, the question for determination was whether the contested documents appearing on the Company's Register were legally and properly obtained and whether they complied with the requirements of the Companies Act.

47. Counsel reiterated that the Applicant specifically alleged that he had been removed without notice, that he did not attend the purported Extraordinary

General Meeting and that his signature had been forged on the Board Resolution and Share Transfer Form. Counsel argued that these matters were directly relevant to the accuracy and integrity of the Companies Register.

48. Counsel therefore submitted that the Registrar of Companies has jurisdiction to entertain and determine the present Application pursuant to Regulations 3, 8 and 20 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016.

Analysis:

49. I have considered the respective submissions of Counsel on the question of jurisdiction. It is settled law that jurisdiction is a creature of statute and that no court or tribunal may confer upon itself jurisdiction which has not been granted by law. Equally, where jurisdiction has been expressly conferred by statute, the body upon which that jurisdiction is conferred is required to exercise it within the limits prescribed by the law.

50. It follows that proceedings conducted without jurisdiction are a nullity. This principle was affirmed by the Supreme Court in ***Baku Raphael & Another v Attorney General, Supreme Court Civil Appeal No. 1 of 2005***, and was subsequently cited with approval in ***National Medical Stores v Penguins Ltd, HCCS No. 29 of 2010***.

51. The jurisdiction of the Registrar of Companies is provided for under the Companies Act, Cap. 106 and the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016. In ***Bryan Xsabo Strategy Consultants (Uganda) Ltd & 2 Others v Great Lakes Energy Company N.V, Company Cause No. 13 of 2020*,*** Ssekaana J. observed that the Registrar exercises adjudicatory powers involving questions of both fact and law in determining disputes arising under the Companies Act. Similarly, in ***Tumuhimbise v Turyamwijuka & 4 Others, 2024 UGRSB 14***, it was held that the Registrar's jurisdiction extends, among other matters, to applications for rectification of the Companies Register under

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Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016.

52. The present Application invokes that statutory jurisdiction. The Applicant is not asking the Registrar to pronounce upon whether a particular person committed the criminal offence of forgery or fraud. He complains that documents and filings which he alleges were procured without his knowledge, consent or authority were used to alter the Company's records and, consequently, his status as a shareholder, Director and Company Secretary. The relief sought is the rectification of the Companies Register by expunging the impugned filings and entries.

53. I agree with Counsel for the Respondents to the extent that the Registrar of Companies is not a criminal court and cannot assume jurisdiction to determine criminal liability for forgery or fraud. Neither is the Registrar called upon, in the exercise of the rectification jurisdiction under Regulation 8, to determine a separate cause of action founded on fraud and impose civil or criminal liability upon the alleged perpetrator. Such matters, where they require a determination of liability beyond the Registrar's statutory mandate, fall to be determined by the appropriate court.

54. However, it does not follow that the mere use of the words "fraud", "forgery" or "fraudulently obtained" in an application automatically ousts the Registrar's jurisdiction. In determining jurisdiction, the substance of the complaint and the relief sought must be considered rather than the wording attached to the allegations.

55. In the present matter, the allegations of forgery and fraud arise in the context of the Applicant's challenge to entries and documents on the Companies Register. The Applicant alleges that he was removed from the Company without his knowledge or consent; that he did not participate in the purported Extraordinary

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General Meeting; and that his signature was fabricated on documents which were subsequently relied upon to effect changes to the Company's records.

56. These allegations are therefore not advanced as an independent claim seeking a finding of criminal or civil liability for forgery or fraud. Rather, they constitute the factual basis upon which the Applicant challenges the validity of the documents and entries appearing on the Companies Register and seeks their expungement.

57. This distinction is important. Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016, empowers the Registrar to rectify the Companies Register by expunging information or documents which fall within the grounds prescribed by the Regulation, including information or documents which are misleading or inaccurate, are issued or entered in error, contain an illegal endorsement, or have been illegally or wrongfully obtained.

58. In exercising that statutory power, the Registrar is required to examine the circumstances in which the impugned document or entry came to be made. Where an Applicant alleges that a document was obtained without his knowledge or authority, or that a document relied upon to alter the Register was not genuinely executed by him, the Registrar cannot determine whether the Register ought to be rectified without considering those allegations to the extent necessary to establish whether the document or entry falls within the statutory grounds for rectification.

59. Thus, there is a material distinction between adjudicating fraud or forgery as an independent cause of action and considering allegations of fraud or forgery for the limited purpose of determining whether an entry or document on the Companies Register was illegally or wrongfully obtained. The former may fall outside the Registrar's jurisdiction where it entails a determination of civil or criminal liability; the latter falls within the Registrar's statutory mandate where it is necessary for the proper exercise of the rectification powers conferred by Regulation 8.

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60. I therefore do not find merit in the Respondents' contention that the allegations of forgery and the existence of competing forensic reports, in themselves, deprive the Registrar of jurisdiction. The existence of disputed evidence may affect the manner in which the evidence is evaluated and the weight to be attached to it; it does not, without more, determine whether the Registrar has jurisdiction to entertain an application for rectification of the Companies Register.
61. The Respondents' submission that the matter necessarily requires the full procedure of a court, including the cross-examination of witnesses and experts, is similarly not, in itself, a jurisdictional objection. The question whether the evidence before the Registrar is sufficient to enable a proper determination is distinct from the question whether the Registrar has jurisdiction to entertain the Application in the first place.
62. In the circumstances, I find that the Applicant's allegations of fraud and forgery do not, by themselves, transform the present Application into a claim for the adjudication of fraud or forgery outside the Registrar's jurisdiction. The substance of the Application is a challenge to the validity and legality of documents and entries on the Companies Register and a request for their rectification under Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016.
63. I accordingly find that the Registrar of Companies has jurisdiction to entertain the present Application to the extent that it seeks the rectification of the Companies Register pursuant to the Companies Act and the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016.
64. Before I take leave of this matter, I shall also address the Respondents' submission regarding the attendance and examination of witnesses. Counsel submitted that the Respondents had requested the Registrar's office to issue summons to the witness, Joseph Miro, so that he could attend and testify regarding his alleged

presence when the Applicant signed the share transfer form. It was further submitted that the request was declined, notwithstanding that the witness was said to be material to the Respondents' case.

65. Section 286(1) of the Companies Act, Cap. 106, titled *"Mode of giving evidence in proceedings before the Registrar"*, provides: "*In any proceeding under this Act before the Registrar, the evidence shall be given by statutory declaration in the absence of directions to the contrary, but, in any case in which the Registrar thinks it right so to do, he or she may take evidence viva voce instead of or in addition to evidence by statutory declaration.*"

66. The language of the provision makes a statutory declaration the mode of presenting evidence in proceedings before the Registrar, while preserving a discretion in the Registrar to take evidence *viva voce* (orally) where the Registrar considers it appropriate to do so. The taking of oral evidence is therefore discretionary and is not the default mode of hearing proceedings before the Registrar.

67. In the present case, the parties presented evidence in support of their positions by way of statutory declarations, including their documentary evidence and forensic analysis report. Having considered the nature of the proceedings and the evidence placed before me, I was satisfied that the statutory declarations and accompanying evidence were sufficient for purposes of determining the issues raised in the Application.

68. I therefore did not consider it necessary to invoke the discretionary power under Section 286(1) to receive additional *viva voce* evidence. The fact that a party would prefer to have a particular witness examined orally does not create an obligation upon the Registrar to depart from the ordinary mode of receiving evidence prescribed by the Act.

b. __Whether the contested documents were validly filed?__

69. The Applicant principally challenges the following documents and entries on the Companies Register;

a) A Special Resolution filed on 6th July 2022 of a purported meeting of shareholders held on 7th March 2022 at the Company offices wherein it was resolved that the Applicant ceases to be a shareholder in the Company and further resolved to 'appoint' the second Respondent as a shareholder.

b) A transfer of Share Stock document filed on 6th July 2022 purporting to transfer the Applicant's shares in the Company to the second Respondent.

__Applicants Submissions__

70. Counsel for the Applicant contended that the Applicant was not challenging a genuine corporate decision merely because he disagreed with it, but rather the very existence and legality of the purported corporate acts upon which the impugned filings were based.

71. Counsel submitted that the Respondents relied upon an assertion that the Applicant had handed over signed documents and that a Company accountant, Mr. Joseph Miro, was allegedly present when this occurred. In addition, that the Respondents further asserted that the Applicant left the business because he considered it no longer productive. Counsel argued, however, that none of these assertions addressed the central question of where the corporate records, showing that the alleged meetings were lawfully convened and that the impugned resolutions were validly passed, were.

72. Counsel contended that a company meeting cannot lawfully be constituted in a vacuum, relying on Section 136 of the Companies Act, Cap. 106, which requires a general meeting to be called by the requisite notice, ordinarily being 21 days. Counsel further referred to Section 191 of the Companies Act, which requires Special Notice to a director in circumstances involving his or her removal.

73. Counsel contended that the Respondents had failed to provide evidence that Special Notice of the Applicant's removal was issued; that the Applicant received such notice; that the Applicant was informed of the meeting; that he was afforded the statutory opportunity to be heard; that the meeting was duly convened; that the Applicant attended the meeting; and that a valid resolution was passed.

74. Counsel further submitted that Section 148 of the Companies Act Cap 106 requires every company to keep minutes of all proceedings of general meetings and directors' meetings, which serve as evidence of what transpired at a meeting. The Applicant's position was that there were no minutes of the alleged meetings establishing who attended, who constituted the quorum, who chaired the meetings, what notices were issued, what business was considered, what resolutions were proposed, who voted, and other matters ordinarily recorded in the minutes of a corporate meeting. Counsel argued that the Respondents could not substitute assertions of corporate governance for the actual corporate records.

75. Counsel submitted that the Respondents' narrative of a voluntary handover did not establish a lawful transfer of shares. Counsel argued that shares constitute proprietary interests in a company and that their transfer must comply with the Company's Articles of Association and the Companies Act.

76. Counsel stated that the share transfer purporting to transfer the Applicant's shares in the Company was not executed by him and that his signature on the same had been fabricated. Counsel further referred to the forensic examination report annexed to the Applicant's evidence, which Counsel submitted confirmed that the signatures attributed to the Applicant were fabricated. Counsel contended that the Respondents were yet to establish the lawful chain of events by which the Applicant ceased to be a shareholder of the Company.

77. Referring to *Fang Min v Uganda Hui Neng Mining Limited & 5 others, HCCS No. 318 of 2016 [2019] UGCommC 29*, Counsel submitted that a meeting cannot validly

transact corporate business affecting a member's rights where the member was not properly notified, and the statutory requirements governing the meeting were not followed.

78. Counsel submitted that the mere fact that the impugned documents were registered could not be used as a defence to their legality.

Respondents' Submissions

79. Counsel for the Respondents submitted that the Company adhered to the requisite procedure when it held a meeting on 7th March 2022, at which it was resolved that the Applicant cease to be a shareholder and that his shares consequently be transferred to the Second Respondent.

80. Counsel averred that the Applicant appended his signature to both the resolution and the transfer form, relying on the forensic analysis report tendered by the Respondents, which Counsel submitted confirmed that the Applicant had signed the contested documents.

81. Counsel submitted that, for the Registrar to expunge a document from the Companies Register on the ground that it was illegally or wrongfully obtained, particularly in the presence of contested claims, a comprehensive investigation or inquiry was necessary before the Registrar could properly exercise the authority conferred under Regulation 8 to rectify the Register.

82. Counsel further argued that Section 169 of the Companies Act, Cap. 106 provides for the investigation of company affairs upon application by members. Counsel contended that there was no evidence to show that the Applicant was aggrieved by the actions of the Company and that, if he were, he would have applied to the Registrar to investigate the affairs of the Company. It was therefore Counsel's assertion that the present Application was an afterthought, with the Applicant now seeking to participate in the growth and profitability of a company which he no longer believed in.

83. Regarding the Applicant's submission that there was no proof of notice or minutes, Counsel submitted that the Articles of Association of the Company provided that the minimum number of directors of the Company was two. Counsel stated that, in the instant case, both directors present at the meeting at the time the resolution was passed possessed voting rights, and that proof of this was the purported signing of the resolution by the Applicant.

84. Counsel relied on *Re Duomatic Ltd (1969) 2 Ch 365*, and invoked the Duomatic principle, which Counsel argued enables company decisions through unanimous informal consent of all voting shareholders, provided all legal and constitutional requirements are met, and a clear agreement is demonstrated. It was therefore Counsel's submission that the fact that the Applicant appended his signature to the resolution meant that he was present at the meeting and that there was no need for notice.

85. Counsel further submitted that the fact that both shareholders with voting rights were present and agreed to what was resolved meant that the absence of formal meeting minutes could be overlooked. Counsel referred on *Re Express Engineering Works Ltd. (1920) 1 Ch 466*, in which, Counsel submitted, the Court held that the consent of all shareholders acting together can validate transactions even where formalities are lacking.

86. Counsel argued that the fact that the Respondents did not attach the documents in issue to their Statutory Declarations, including the notice to attend the meeting and the minutes, did not invalidate the transactions that took place in the Company.

87. Counsel asserted that the Applicant voluntarily gave up his shares to the Second Respondent for valuable consideration.

Analysis

88. The central question for determination is whether the documents upon which the Applicant's removal as a shareholder, Director and Company Secretary were effected were validly made and filed, and consequently whether the entries arising from those documents ought to remain on the Companies Register.

89. The chronology of the impugned transactions is material. According to the Respondents, the Applicant had decided to leave the Company because he no longer considered the business productive. A meeting was consequently held on 7th March 2022 at which it was allegedly resolved that the Applicant would cease to be a shareholder and that his shares would be transferred to the Second Respondent. The Special Resolution arising from that alleged meeting was subsequently filed on 6th July 2022, together with a Transfer of Share Stock document purporting to effect the transfer of the Applicant's shares.

90. The Respondents' position is that the Applicant attended the meeting, agreed to the arrangement and signed both the resolution and the transfer document. The Applicant, on the other hand, categorically denies attending such a meeting, agreeing to transfer his shares or executing the documents in question. He maintains that the signature attributed to him was fabricated.

91. The immediate question therefore is whether the Respondents have established, on the evidence before the Registrar, a lawful corporate process by which the Applicant ceased to be a shareholder and his shares were transferred to the Second Respondent.

92. I have considered the forensic analysis reports relied upon by both parties, which are contradictory, with each party relying upon an expert opinion favourable to its respective position. In such circumstances, the forensic reports cannot, standing alone, conclusively determine the matter. They are pieces of evidence which must be assessed together with the surrounding documentary and factual evidence.

Justice Stephen Mubiru in *Iwa Richard Okeny V Obol George Okot Miscellaneous Application No. 063 of 2012* highlighted that an expert is not a witness of fact and his/her evidence is only advisory. I shall therefore take note of these opinions as advisory and not conclusive in determining this matter. This is particularly important in the present matter because the validity of the impugned documents does not depend solely upon whether the signature appearing on them is genuine. The Respondents' case is that the Applicant voluntarily ceased to be a shareholder following a corporate meeting and thereafter transferred his shares to the Second Respondent. If that is so, there ought reasonably to be evidence of the corporate process through which that transaction was effected.

93. The Applicant accordingly put the Respondents to proof of the alleged meeting and the events said to have followed from it. The relevant evidence would ordinarily include the notice convening the meeting, the attendance record, minutes of the meeting, evidence of the resolution passed, the share transfer instrument and evidence of compliance with the Company's Articles of Association and the Companies Act.

94. The Respondents have not produced such evidence to establish, independently of the disputed signatures, that the alleged meeting of 7th March 2022 was duly convened and conducted. In particular, there is no evidence before me of the notice convening the meeting or minutes recording the proceedings of the alleged meeting. There is consequently no independent corporate record establishing who attended, who constituted the quorum, who chaired the meeting, what business was considered, or how the decision concerning the Applicant's shareholding was reached.

95. The Respondents relied on the Duomatic principle in *Re Duomatic Ltd (1969) 2 Ch 365*, arguing that unanimous consent of shareholders can, in appropriate circumstances, validate an informal corporate decision. I accept that the principle

recognises that the unanimous assent of shareholders entitled to vote may, in appropriate circumstances, be sufficient to validate a corporate act notwithstanding the absence of some formalities.

96. However, the principle does not assist the Respondents in the circumstances of this case unless the foundational fact upon which it depends—namely, the Applicant's informed and unanimous consent—is first established. The Applicant expressly disputes giving such consent and disputes the authenticity of the signature upon which the Respondents rely as evidence of that consent.

97. The same consideration applies to the Respondents' reliance on *Re Express Engineering Works Ltd. (1920) 1 Ch 466*. The principle arising from unanimous shareholder consent cannot be invoked merely by asserting that all shareholders agreed. There must first be sufficient evidence that the shareholders whose consent is relied upon actually assented to the transaction in question.

98. In the present case, the very fact of the Applicant's consent is disputed. It would therefore be unjust to infer unanimous consent merely from the presence of his disputed signature on the resolution. In the absence of minutes, attendance records, notices or other contemporaneous corporate records corroborating the alleged meeting and the Applicant's participation in it, the Respondents have not sufficiently established the factual foundation upon which the Duomatic principle could operate.

99. Further, the Respondents' assertion that the Applicant voluntarily handed over the business because he considered it no longer productive does not, without more, establish a valid transfer of his shares. A decision to cease participating in the management or operation of a business is not, by itself, equivalent to a legal transfer of shares. The transfer of shares must be effected in accordance with the applicable statutory requirements and governing documents of the Company.

100. In this regard, Section 81 of the Companies Act Cap 106 recognises shares as property. The transfer of such proprietary interests must therefore be evidenced by a valid transaction and effected in accordance with the applicable legal and constitutional requirements.

101. The Company's Articles of Association further provide under Article 5: *"Any party … proposing to transfer any shares shall give notice in writing to the other parties. The transfer notice shall specify the number of shares the transferor proposes to transfer"*

102. The Respondents did not produce evidence that the Applicant gave the written notice contemplated by Article 5 proposing to transfer his shares or specifying the number of shares he proposed to transfer.

103. I therefore find that the Respondents have failed to establish the necessary legal and factual chain by which the Applicant ceased to be a shareholder of the Company and his shares became vested in the Second Respondent. The contested Transfer of Share Stock document, standing alone and in the face of the Applicant's denial of execution, is insufficient to establish that a valid transfer occurred.

104. The position is further complicated by the fact that the same alleged transaction appears to have resulted in changes to the Company's directorship and office of Company Secretary, yet the corporate records placed before the Registrar do not disclose the resolutions or processes by which those changes were effected.

105. With respect to the Applicant's directorship, I agree with Counsel for the Applicant's submission. Section 191 of the Companies Act, Cap. 106 provides for the removal of directors. It provides as follows:

1) *A Company may, by ordinary resolution, remove a director…"*
2) *A <u>Special Notice shall be required of any resolution to remove a director</u> or to appoint somebody instead of a director so removed at the meeting at which he or she is removed"*

3) *On receipt of the notice of an intended resolution to remove a director…, <u>the Company shall send a copy of the notice to the director concerned and the director</u>, whether or not he or she is a member of the Company, shall be entitled to be heard on the resolution at the meeting*

106. The requirements set out above are clear. A director is entitled to receive the requisite notice of an intended resolution for his or her removal and to be heard at the meeting at which the resolution is considered. In the present matter, there is no evidence of a Special Notice of the Applicant's removal, no evidence that such notice was served upon him, and no resolution produced before me removing him as a Director. Justice Anna B. Mugenyi in ***Kirima Ltd & 4 Ors Vs. Dr. Hamlet Kabushenga HCCS No.0018 of 2022*** held that, *'as required by law, companies can only remove directors through an ordinary resolution, it is also a requirement of the law <u>that special notice shall be sent to the director purported to be removed</u> and <u>the director shall be entitled to be heard in the resolution</u>. This requirement is mandatory.'*

107. More significantly, there is also no resolution appointing the Second Respondent as a Director in place of the Applicant. The Second Respondent simply appears as a Director on Form 20 dated 6th July 2022. The corporate instrument or resolution by which that appointment was made has not been produced.

108. The absence of the underlying corporate resolution is particularly significant because the Form 20 is itself a filing reflecting a corporate act; it does not demonstrate how or by what authority that act was undertaken.

109. Similarly, a deficiency arises in relation to the Applicant's removal as Company Secretary. The Special Resolution purporting to transfer the Applicant's shares to the Second Respondent also purports to resolve that the Second Respondent would act as the Company Secretary.

110. However, Article 66 of the Company's Articles of Association provides: "*The secretary shall be appointed by the directors…and…may be removed by them.*"

111. The above provision expressly contemplates that the appointment and removal of the Company Secretary is a function of the directors. In the instant case, however, the purported appointment of the Second Respondent as Company Secretary was effected through a Special Resolution of the shareholders rather than a resolution of the Board of Directors. The instrument relied upon was therefore not the appropriate corporate instrument for effecting the appointment or removal contemplated by Article 66. The purported appointment was consequently made through an instrument endorsed in error, a circumstance falling within the grounds for rectification contemplated under Regulation 8.

112. Consequently, even if, for the moment, I put aside the dispute concerning the authenticity of the Applicant's signature, the corporate records before me do not demonstrate a lawful chain of corporate decisions by which the Applicant was removed as shareholder, Director and Company Secretary, or by which the Second and/or First Respondents were validly placed in those respective positions.

113. In addition, Respondents' reference to Section 169 of the Companies Act is misconceived. Section 169 invokes the Registrar's investigative powers in relation to the affairs of a company, whereas the Applicant's principal relief in the present Application is the rectification of the Companies Register. The present Application is not, in substance, an application seeking an investigation into the general affairs of the Company. Rather, it challenges specific documents and entries made on the Companies Register and invokes the Registrar's statutory power under Regulation 8 to rectify the Register where the prescribed grounds are established.

114. I have also considered the Respondents' submission that the absence of notices and minutes did not invalidate the transactions. While the absence of such documents would not necessarily, in every circumstance, render a corporate act invalid, the circumstances of the present case are different. Here, the Applicant expressly denies that the meeting occurred, denies consenting to the transfer and

disputes the signature relied upon as evidence of his participation. In such circumstances, contemporaneous corporate records assume considerable evidential importance.

115. The Respondents were therefore required to provide sufficient evidence, beyond the disputed documents themselves, to demonstrate that the alleged meeting occurred and that the Applicant knowingly and voluntarily participated in the decisions said to have been made at that meeting. They have not done so.

116. I accordingly find that the Respondents have failed to establish that the Special Resolution filed on 6th July 2022 and the Transfer of Share Stock document filed on the same date were validly obtained and executed so as to lawfully effect the Applicant's cessation as a shareholder and the transfer of his shares to the Second Respondent.

117. I further find that there is no sufficient corporate record evidencing the lawful removal of the Applicant as a Director or Company Secretary, or the corresponding appointment of the persons now reflected in those positions.

118. In the circumstances, the contested documents and resultant entries were not sufficiently shown to have been validly obtained and filed in accordance with the Companies Act and the Company's Articles of Association. They are therefore liable to be expunged in accordance with Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016.

c. ***<u>What remedies are available to the parties?</u>***

119. Having found that the contested documents and entries were illegally and/or wrongfully obtained, I find that they are liable to be expunged from the Companies Register pursuant to Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016. The appropriate remedy in the circumstances is therefore to restore the Companies Register to the position prior

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to the impugned filings and to expunge the documents and entries that were improperly made.

120. I also take cognisance of the fact that these proceedings have the potential to adversely affect the relationship between the parties, particularly given their existing association within the Company. While the determination of the dispute is necessary, I consider it equally important that the parties explore an amicable and practical resolution that enables them to move beyond the present impasse and preserve, where possible, their business relationship and the continued operations of the Company.

121. I therefore urge the parties to look beyond this dispute and make a genuine effort to agree on a way forward that serves their respective interests while safeguarding the continued viability of the Company. Where, however, the parties are unable to continue working together, it would be in the interests of fairness and commercial certainty for an independent and suitably qualified valuer to undertake a fair and objective valuation of the Applicant's shares. The Applicant should thereafter be fairly compensated for the value of his shareholding, subject to the terms agreed upon by the parties or as may otherwise be lawfully determined.

122. Upon completion of the valuation and payment of the agreed or determined consideration, the parties should ensure that a genuine and duly executed share transfer instrument and accompanying company resolution are lodged with the Registrar of Companies and that the Company's records are correspondingly regularised. Such an arrangement would provide a fair and transparent mechanism for the Applicant to exit the Company and realise the value of his investment, while at the same time enabling the Company to continue its operations without the continuing disruption occasioned by the dispute. In my view, such an outcome would not only bring finality to the present disagreement

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but would also balance the legitimate interests of the Applicant with the need to preserve the Company's business, assets, and ongoing commercial operations.

123. That said, having considered the present application, I find that, in the absence of evidence establishing that the Applicant participated in the meeting held on 07th March 2022 at the company's registered office purportedly confirming the transfer of his shares, the documents relied upon to effect or endorse the transfer were illegally and wrongfully obtained within the meaning of Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016. The Registrar cannot properly recognise or give effect to a change in the Company's records where the underlying documents upon which such change is founded have been shown to have been unlawfully or wrongfully obtained, as doing so would effectively legitimise a transaction whose evidential foundation is defective and would undermine the integrity, accuracy and reliability of the statutory records maintained by the Registrar. Consequently, pursuant to Regulations 8 and 32 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016, I accordingly make the following orders:

1) *The Special Resolution filed on 6th July 2022, purporting to transfer the Applicant's shares in Ashtavinyak Management Limited to the Second Respondent and further purporting to appoint the Second Respondent as Company Secretary in place of the Applicant, is hereby expunged from the Companies Register for having been illegally/wrongfully obtained.*
2) *The Transfer of Share Stock document dated 6th July 2022, purporting to transfer the Applicant's shares in the Company to the Second Respondent, is hereby expunged from the Companies Register for having been illegally obtained.*
3) *The Company Form 20 dated 6th July 2022, indicating the Second Respondent as a Director of the Company, is hereby expunged from the Companies Register for having been wrongfully obtained.*

4) *The Special Resolution filed on 17th August 2023, purporting to transfer 50 ordinary shares in Ashtavinyak Management Limited from the Second Respondent to the Third Respondent, is hereby expunged from the Companies Register for having been wrongfully obtained.*

5) *The Company Form 20 dated 10th August 2023, indicating the Second Respondent and the Third Respondent as Directors of the Company, is hereby expunged from the Companies Register for having been wrongfully obtained.*

6) *The Ordinary Resolution dated 7th October 2024 and filed on 28th October 2024, authorising the Company to open UGX and USD accounts with Bank of Baroda and signed by the First and Third Respondents as shareholders of the Company, is hereby expunged from the Companies Register for containing an illegal endorsement.*

7) *The Companies Register in respect of Ashtavinayak Management Limited shall revert to the position before the impugned filings, with the Applicant and the First Respondent reflected as equal shareholders and Directors of the Company, and the Applicant reflected as the Company Secretary.*

I so Order.

Given under my hand this 09th day of September 2026

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Daniel Nasasira

Assistant Registrar of Companies