



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 MPEEBWA INVESTMENTS LIMITED
COMPANY PETITION NO. 35666 OF 2026
BRN.80010002935666

1. NAKIDDE MARIA
2. KADDU EMMANUEL
3. NYANZI CLAIRE
4. KALEMBA RICHARD:.....: PETITIONERS

VERSUS

1. FRANCIS KASIBANTE
2. STELLA NASSUNA
3. LILLIAN BULYA:.....:RESPONDENTS

RULING

Before: Daniel Nasasira - Assistant Registrar of Companies

A. Representation.

1. *Tebyasa & Co. Advocates represented the Petitioners, whereas, Katongole Yiga & Musane Advocates represented the Respondents.*

B. Introduction and Background.

2. The Petitioners are adult Ugandans and initial subscribers/shareholders in Mpeebwa Investments Limited with each holding 60 shares.



3. Mpeebwa Investments Limited is a Company limited by shares incorporated on the 5th day of July 2006 under Registration Number 80010002935666 (hereinafter referred to as '*the Company*').
4. The Respondents are founding shareholders and current directors of the Company. The Petitioners contend that the Respondents made false representations and provided misleading information to the Companies Registry which resulted in the Petitioners' exclusion from the affairs of the Company and the loss of their beneficial interests in the Company and its assets, including land.
5. The Petitioners contended that whereas the Company was incorporated by their Late father Sempebwa John Chrisestom who included all his children inclusive of the Respondents, as members of the Company, the Respondents on 8th November 2016 purported to pass an extra ordinary resolution wherein the Company share capital was increased from two million shillings to ten million shillings. The Petitioners contended that the same resolution indicated that a section of the members had fully paid for their shares. The Petitioners disputed the validity of the said resolution.
6. The Respondents denied the Petitioners' allegations and contended that following a call on shares made in September 2015 by Katongole, Yiga & Masane Advocates to shareholders who had not paid for their allotted shares, the Petitioners failed to comply with the notice despite having received it. The Respondents maintained that the other shareholders had paid for their respective shares and stated that they would adduce evidence in support of this position. They further asserted that the Petitioners were never excluded from the Company but instead elected not to participate in its affairs and management despite repeated notices and invitations to do so.



C. Petitioners' case

7. The Petitioners' case was jointly presented by the first, second and fourth Petitioners' who contended under paragraphs 1, 2 and 3 of their statutory declarations that they are part of the fourteen children of the late Sempebwa John Chrisestom, formerly of Mutundwe who died on 12th July 2012. They maintained that the late Sempebwa John Chrisestom incorporated the Company and included all his fourteen children as shareholders, each holding 60 shares. They therefore contended that they were shareholders of the Company with 60 shares each.
8. The Petitioners contended under paragraphs 4 and 5 of their statutory declarations that in his will dated 1st October 2009, the late Sempebwa John Chrisestom bequeathed land comprised in Kyadondo Block 7 Plots 571 and 572 to the Company. They further asserted that following the death of the late Sempebwa, his widow, Julian Nagaddya Sempebwa and Francis Kasibante Luutu obtained Letters of Administration to the estate of the deceased.
9. The first Petitioner further emphasized under paragraphs 6 and 7 of her statutory declaration that without the consent of the Petitioners, the directors of the Company who are also the Respondents, by a resolution dated 8th November 2016 registered only eight siblings as shareholders of the Company on the basis that they had fully paid for 74 shares. The Petitioners contended that there was no evidence that the eight siblings had been notified of any call for payment of the shares or that they had made the alleged payments.
10. The Petitioners contended that a number of unlawful acts had been perpetrated by the Respondent directors namely, altering the Company's shareholding, making false representations to the Companies Registry, transferring unwilled land situated at Kibuga Block 35 Plots 95, 96 and 97 into the Company's name, falsely representing that only eight shareholders had fully paid for their shares and deliberately and fraudulently excluded the Petitioners from the Company.



11. The Petitioners emphasized that the Company's affairs had been conducted without their involvement in a manner they deemed oppressive to their interests as shareholders. The Petitioners sought the intervention of the Registrar of Companies pursuant to Section 243 of the Companies Act, Cap 106 and further sought the expungement of all the irregular documents filed by the Respondents' lawyer pursuant to Regulation 8 of the Companies (Powers of the Registrar) Regulations S.I. No. 71 of 2016.
12. The Petitioners made the following prayers in their petition;
- a) *That the Registrar investigates the affairs of the Company.*
 - b) *Orders that the Respondents avail proof that the eight shareholders namely; Josephine Sempeebwa, Patrick Masika, John C. Sempeebwa, Charles Lwanga Njuki, Joseph Francis Kasibante Luutu, Stella Nassuna Watya, Julian Cathy Ssagala Nakiwala and Kizito Paul paid for their shares.*
 - c) *That the Registrar restores the Petitioners as subscribers and shareholders in Mpeebwa Investments Limited.*

D. Respondents' Case

13. In their filed answer to the Petition, the Respondents denied the allegations made by the Petitioners. They contended that the allegations which included unlawful acts by the directors namely, altering the Company's shareholding, making false representations to the Companies Registry, transferring unwilling land situated at Kibuga Block 35 Plots 95, 96 and 97 into the Company's name, falsely representing that only eight shareholders had fully paid for their shares and deliberately and fraudulently excluding the Petitioners from the Company were unfounded.
14. Regarding the allegation concerning the alteration of the Company's shareholding and the exclusion of the Petitioners from the affairs of the Company, the Respondents contended that in September 2015, the Company, through M/s Katongole, Yiga & Masane Advocates, issued written notices calling upon



shareholders with unpaid shares to make payments for their shares. The Respondents maintained that the call was made in accordance with the Company's Memorandum and Articles of Association. They further contended that the Petitioners received the notices but failed to comply within the stipulated timelines and did not respond to the notices or provide any explanation for their failure to make payment.

15. The Respondents further contended that unless the Petitioners could demonstrate to the Registrar that they had responded to the call or paid for their allotted shares, this ground of the Petition could not be sustained as only shareholders who had paid for their shares were entitled to protection under the Companies Act. They argued that the Petitioners lacked locus to petition the Registrar in circumstances where they could not demonstrate that they had paid for their allotted shares. The Respondents further asserted that they would further adduce records prepared by the Company's accountant and shareholder, the late Josephine Ssempebwa who served in that capacity between 2006 and 2009 to demonstrate that the other shareholders had paid for their respective shares.

16. The Respondents also maintained that the Petitioners had never been excluded from the affairs and management meetings of the Company but rather they elected not to participate despite repeated notices/invitations.

17. Regarding the allegation concerning the transfer of land comprised in Kibuga Block 65 Plots 95, 96 and 97 into the names of the Company by the directors/Respondents which the Petitioners contended had not been bequeathed to the Company by the late Sempebwa John Chrisestom, the Respondents maintained that the land was voluntarily gifted to the Company by the deceased. The Respondents asserted that the subject land formed part of the estate of the late Sempebwa's father and that following the distribution of the estate by the late Sempebwa in his capacity as an appointed administrator, he retained the land in



question. They contended that he deliberately retained the property with the intention that his family would collectively preserve, develop and protect it through the Company as a lasting family legacy.

18. The Respondents further contended that the late Sempebwa subsequently transferred the land to the Company as a voluntary gift, having openly communicated his intention to the shareholders. They asserted that prior to his death, he caused the land to be commercially utilised on behalf of the Company with the proceeds applied towards the affairs of the Company.
19. Regarding the allegation that the Respondents fraudulently excluded the Petitioners from the affairs of the Company and falsely claimed that only eight shareholders had paid for their shares, the Respondents contended that the Petitioners bore the burden of proving these allegations. They further contended that they would adduce Company records demonstrating that the eight shareholders had paid for their respective shares and maintained that the Petitioners should be put to strict proof of their allegation that the eight Respondents had not paid for their shares.
20. The Respondents further maintained that the Petitioners had not demonstrated how they had been excluded from the affairs of the Company. They asserted that the Petitioners' shares had reverted to the Company and had not been allotted to any other shareholders. They contended that the Petitioners remained at liberty to acquire the shares upon payment for them. Accordingly, the Respondents prayed that all the grounds of the Petition be dismissed.

E. Petitioners' rejoinder

21. The Petitioners' rejoinder was presented by the Second Petitioner, who under paragraphs 1, 2 and 3 of his declaration contended that he had been authorised by the other Petitioners to depose the declaration on their behalf.

22. Under paragraphs 4, 5 and 6 of his declaration, the Second Petitioner maintained the grounds of the Petition and affirmed that the allegations therein were true to the best of his knowledge. He asserted that the Petitioners had never received or had any knowledge of the notice dated 12th September 2015 requiring them to pay for their shares in the Company. He further stated that the Petitioners had examined the signatures appearing against their names on the said notice and although the signatures were faint and difficult to recognise, all the Petitioners confirmed that the signatures indicated on the document were fabricated and that they had never seen or received the said notice.
23. He further contended that the Petitioners could not reasonably be expected to act upon a notice that they had never received or seen and whose contents they were unaware of. Accordingly, they could not be required to demonstrate any action taken in response to the said notice.
24. Under paragraphs 8, 9 and 10, the Second Petitioner addressed the Respondents' assertion that the Petitioners had never been excluded from the affairs of the Company but had instead opted not to participate. He maintained that this assertion was misleading and self-serving and was only intended to conceal the alleged unlawful removal of the Petitioners from the Company. He further maintained that contrary to the Respondents' assertions, that the late Sempebwa did not bequeath the contested land to the Company. In support of this contention, the Second Petitioner attached a copy of the late Sempebwa's will.
25. With regard to the Respondents' reliance on records allegedly prepared by the late Josephine Sempebwa who served as the Company's accountant before her death, the Second Petitioner contended that the Petitioners had on numerous occasions, requested audited Company records, including receipts and bank statements but had not been provided with them. He maintained that the said records should be produced at the hearing.



26. The Second Petitioner reiterated the prayers set out in the Petition and maintained that the Petition was brought to protect the Petitioners' interests in the Company and their beneficial interests in the land.

F. Directions to submit written submissions

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

- a. *Written submissions from the Petitioner were to be filed and served by 18th September 2026.*
- b. *Written submissions from the Respondent were to be filed and served by the 24th day of September 2026.*
- c. *Any submissions in rejoinder were to be filed and served by the 29th day of September 2026.*

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

G. Issues

29. Having considered the pleadings submitted by the parties, the following issues were agreed as sufficient for the determination of this matter:

- a) *Whether the contested documents/impugned documents that divested the Petitioners of their shares were legally obtained and filed with the registry?*
- b) *Whether any oppression was occasioned to the Petitioners pursuant to section 243(1) of the Companies Act, Cap 106?*
- c) *What remedies are available to the parties?*

H. Determination



- a) **Whether the contested documents/impugned documents that divested the Petitioners of their shares were legally obtained and filed with the registry?**

30. The first issue requires me to determine whether the documents relied upon by the Respondents as the basis for altering the Petitioners' shareholding were lawfully generated and validly lodged with the Registry. The question before the Registrar is not merely whether the documents exist on the Company file, but whether they constitute lawful corporate instruments capable of supporting the alteration of the Petitioners' status as members of the Company.

31. It is not disputed that the Petitioners were among the original subscribers to the Company and that each was recorded as holding 60 shares. The Petitioners' case is that they were subsequently removed from the Company without their knowledge or consent. The Respondents, on the other hand, contend that the Petitioners ceased to be shareholders following their failure to comply with a call on shares issued in September 2015.

32. I have considered the notice dated 12th September 2015 issued by Katongole, Yiga & Masane Advocates and relied upon by the Respondents as the foundation of the subsequent alteration of the Petitioners' shareholding. The Respondents contend that the notice was issued on behalf of the Company, received by the Petitioners and that the Petitioners failed to make the required payment. The Petitioners, however, categorically deny receipt of the notice and further dispute the signatures appearing against their names on the document.

33. The issued call on shares was addressed to Claire Fausta Nambogo Nyazi, Mary Thereza Kiwuka Nakidde, Richard Christian Lwandasa Kalemba, Emmanuel Lugayizi Kaddu and the Late Charles Kalemba's family C/o Peter Bogere, and was worded as follows;

RE: CALL FOR PAYING UP FOR SHARES IN M/S MPEEBWA INVESTMENTS LTD.

We represent our Client, M/s Mpeebwa Investments Ltd and we are under instructions to address you hereunder;



You are hereby informed/reminded that you are among the fifteen 15 subscribers of M/s Mpeebwa Investments Limited which was incorporated on July 5, 2006. According to the Memorandum of Association, you were allotted 60 ordinary shares then at the minimal value of UGX 20,000/= (Uganda Shillings Twenty Thousand Only) each. To date you have neither paid up for the said shares nor expressed interest.

The purpose of this letter is to inform you that currently the minimal value of each share is UGX 100,000/= (Uganda Shillings One Hundred Thousand Only) and to formally and finally request you to pay up the value of the 60 shares amounting to UGX 6,000,000 (Uganda Shillings Six Million Only by close of business on October 12, 2015 short of which the shares shall be withdrawn and you shall be deemed not to be shareholders.

34. At the outset, I consider it necessary to delineate the scope of my jurisdiction in determining the present matter. The Registrar's consideration of the issues concerning the Petitioners' shares is confined to the statutory jurisdiction conferred upon the Registrar in respect of the Petitioners' complaint of oppression under Section 243 that shall be dealt with in detail in issue two of this decision and the application for the expungement or removal of documents alleged to have been irregularly lodged with or maintained by the Registrar pursuant to Regulation 8 of the Companies (Powers of the Registrar) Regulations S.I No 71 of 2016. I do not, in this determination, purport to exercise the original jurisdiction of a court to conclusively adjudicate upon all questions of title, ownership or proprietary rights in the shares. Rather, any consideration of the validity of the call, the alleged default, the purported forfeiture and the subsequent corporate resolutions is undertaken only to the extent necessary to determine whether the Petitioners were subjected to oppressive conduct within the meaning of Section 243 of the Companies Act, Cap 106 and whether the impugned corporate documents/filings currently on the company register are founded upon acts that were irregular, unauthorised or otherwise incapable of supporting their continued existence on



the register in line with the Registrar's duty to safeguard the integrity of the register and maintain an accurate corporate register.

35. The findings that follow must therefore be understood within these statutory limits: they are directed to the legality and regularity of the corporate acts insofar as those matters bear upon the reliefs properly falling within the Registrar's mandate, and do not purport to substitute the Registrar's determination for any jurisdiction vested exclusively in the courts.
36. Within those statutory parameters, the first issue for determination is whether the alleged non-payment for the Petitioners' shares could lawfully have constituted the basis for the impugned filings made on the Company's file. Determining this issue is necessary to establish whether the documents in question were lawfully and validly lodged with the Registrar within the meaning of Regulation 8 of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016. This, in turn, requires an examination of the legal nature of a call on shares and the substantive and procedural requirements governing the validity of such a call.
37. The Supreme Court in *Matthew Rukikaire v Incafex Ltd*, Civil Appeal No. 3 of 2015, underscored the distinction between the liability attaching to unpaid shares and the circumstances in which that liability becomes enforceable. The Court observed that, "*the obligation of a member of a company limited by shares to pay for shares arises either when the company makes a call upon the shareholder to make payment for the unpaid shares during its operation or when the Company is being wound up.*" The effect of this principle is that, where shares have not been fully paid for, a member's liability to pay does not, in the absence of a valid call, become enforceable merely by reason of the allotment of the shares. A call must therefore be made in accordance with the company's Articles of Association and the applicable provisions of company law.



38. It is important, however, to distinguish a call on shares from forfeiture of shares.

A call is not, in itself, a mechanism for removing a member from a company or extinguishing his or her proprietary interest in shares. Rather, it constitutes a formal demand by the company for payment of an amount remaining unpaid on shares. Where the Articles vest the power to make calls in the directors, the making of the call constitutes a corporate act, which must be undertaken in accordance with the Articles and any applicable statutory requirements, including the giving of the prescribed notice to the member. A subsequent failure to comply with a valid call may, depending on the Articles, expose the shares to forfeiture; but forfeiture is a distinct corporate act and must itself comply with the applicable procedural requirements. Thus, the legal process as guided by Section 59 of the Companies Act Cap 106 and Articles 15 to 21 of Table A, ordinarily proceeds in a sequential manner: allotment of shares; a valid call for payment of any amount remaining unpaid; default by the member in satisfying the call; compliance with the prescribed notice and procedural requirements for forfeiture as provided for under Articles 33 to 39 of Table A; and finally, a valid corporate resolution effecting the forfeiture, which is thereafter lodged with the Registry. Each stage constitutes a distinct legal step and must independently satisfy the applicable statutory and Article requirements.

39. In the present matter, the Respondents' pleaded position is that the Petitioners failed to respond to a call on shares issued in September 2015 and that the Company subsequently passed the Extraordinary Resolution dated 8th November 2016, which, according to the Respondents, had the effect of divesting the Petitioners of their shares on account of non-payment. I am unable to accept, however, that the mere production or existence of a purported call notice is sufficient to establish that the Petitioners' shares were lawfully forfeited. Where the validity of the call itself is challenged, the Company bears the evidential burden



of demonstrating that the call was duly authorised, properly made, properly notified to the affected members and that the members thereafter failed to comply with a valid demand. This is particularly important in the present case because the Petitioners dispute both the validity of the call and their knowledge or receipt of the notice.

40. The Company's own Articles of Association reinforce the requirement for proper corporate authorisation. Article 10 of the Company's Articles extended the applicable provisions of Table A, including Article 16, which provided that a call would be deemed to have been made at the time when the resolution of the directors authorising the call was passed and that the amount called could be required to be paid by instalments. The provision therefore contemplates a prior corporate act of the directors authorising the call. Upon examination of the Company's records available at the Registry, I find no directors' resolution authorising the particular call upon which the Respondents rely. In the absence of evidence of such authorisation, there is no satisfactory basis upon which I can find that the contested call was duly made by the Company.

41. Furthermore, upon examination of the contested call, I find a fundamental defect in the amount demanded. The notice required each of the Petitioners to pay the entire value of the 60 shares allotted to him or her. This requirement was inconsistent with Article 15 of Table A of the Companies Act, Cap. 110, which prescribed the extent to which a call could be made on shares. In particular, Article 15 contemplated that a call should not exceed one-fourth of the nominal value of a share at any one time. The demand for payment of the entire value of the shares therefore exceeded the prescribed limit and could not, in that respect, constitute a valid call made in accordance with the governing provisions.



42. There was a further procedural defect in the notice. Article 15 of Table A contemplated that a member should be given at least fourteen days' notice,

specifying the time and place of payment, before becoming liable to pay the amount called. The contested notice does not appear to have specified either the time or the place at which payment was required to be made. The omission is not merely technical. The specification of when and where payment is to be made forms part of the procedural safeguards governing the exercise of the company's power to make a call. In the absence of compliance with those requirements, the purported call was materially defective.

43. There is an additional and material discrepancy concerning the value attributed to the shares. The contested notice treated each share as having a value of UGX 100,000/=, whereas the Company's Memorandum and Articles of Association, as they stood at the material time, recorded the nominal value of each share as UGX 20,000/=. I have not been presented with any resolution or other corporate instrument predating the contested call, which authorised the imposition of a premium or otherwise altered the nominal value of the shares so as to justify the amount stated in the notice. Significantly, the Company's share capital was subsequently increased from UGX 2,000,000/= to UGX 10,000,000/= by an ordinary resolution filed on 9th November 2016, which post-dated the contested call of 12th September 2015. The subsequent alteration of the Company's share capital cannot, without more, retrospectively validate a demand, which was defective when it was issued.

44. These matters, considered cumulatively, lead me to the conclusion that the contested call did not comply with the Company's Articles of Association and the applicable provisions of Table A. First, it demanded payment of the entire value of the shares rather than an amount within the prescribed limit. Secondly, it failed to specify the time and place of payment. Thirdly, there is no evidence of the directors' resolution authorising the call. Fourthly, the notice proceeded on the basis of a share value of UGX 100,000/= when the Company's constitutional



documents then recorded a nominal value of UGX 20,000/=, with no evidence of an authorised premium or prior alteration justifying the higher figure. These were substantive defects going to the validity of the call itself.

45. It follows that the purported call cannot properly be treated as a valid demand giving rise to a default by the Petitioners. Consequently, the Respondents cannot rely on the Petitioners' alleged failure to comply with that call as the foundation for a subsequent forfeiture of their shares. A forfeiture founded upon a defective or unauthorised call cannot acquire validity merely because the Company subsequently passed a resolution purporting to recognise or give effect to the forfeiture. The validity of the subsequent act necessarily depends, in the first instance, upon the existence of a valid liability arising from a valid call and upon compliance with the separate procedural requirements governing forfeiture.

46. I have therefore given particular consideration to the Extraordinary Resolution dated 8th November 2016, upon which the Respondents appear, at least in part, to rely as the corporate act by which the Petitioners ceased to be shareholders. The material before me indicates that the resolution increased the Company's share capital from UGX 2,000,000/= to UGX 10,000,000/= and recorded that 74 ordinary shares had been fully paid by eight members of the Company and 26 ordinary shares forfeited. The Petitioners, on the other hand contend that the resolution was used to remove them from the Company's membership and to recognise only eight of the siblings as shareholders.

47. The legal effect of the resolution must be considered separately from the question of the increase in share capital. A resolution increasing the Company's share capital does not, without more, constitute a forfeiture of existing shares, nor does it by itself confer upon the Company a power to extinguish the existing membership rights of particular shareholders. If the intention was to forfeit the Petitioners' shares for non-payment, the Company was required to demonstrate



compliance with the applicable forfeiture provisions, including the existence of a valid unpaid liability, a valid call, default in payment, any prescribed notice preceding forfeiture, and the requisite directors' resolution effecting the forfeiture.

48. I find no sufficient evidence before me that the Extraordinary Resolution of 8th November 2016 expressly and lawfully effected a forfeiture of the Petitioners' shares in accordance with the Company's Articles. Nor does the mere recording in the resolution that eight members of the Company had fully paid 74 ordinary shares and 26 ordinary shares forfeited establish, without more, that the Petitioners' shares had previously been validly forfeited. A declaration or record made by the Company cannot substitute for compliance with the substantive and procedural requirements by which membership rights may lawfully be brought to an end. It is also immaterial that the Respondents subsequently purported to authorize the reversion of the Petitioners' shares by an ordinary resolution dated 12th April 2024, upon production of their national identity cards, since a subsequent resolution could not retrospectively validate an act that was unlawful or otherwise invalid when undertaken.

49. More fundamentally, the resolution dated 8th November 2016 was passed after the contested call and cannot retrospectively cure defects in the call itself. If the call of 12th September 2015 was invalid because it was unauthorised, demanded an impermissible amount, failed to specify the time and place of payment, and proceeded upon an incorrect share value, the subsequent resolution of 8th November 2016 could not, without a fresh and lawful process, transform the earlier defective demand into a valid basis for forfeiture.

50. Accordingly, I find that the Respondents have not demonstrated a lawful chain of events by which the Petitioners' shares were extinguished. The evidence does not establish a valid call, a legally cognisable default arising from such call, or a subsequent forfeiture carried out in accordance with the Company's Articles and



the applicable law. The Extraordinary Resolution dated 8th November 2016, insofar as it is relied upon as having removed the Petitioners from membership, cannot on the material before me be treated as sufficient, in itself, to lawfully extinguish the Petitioners' rights as shareholders.

51. I therefore find that the Petitioners' alleged removal from the Company's membership was not sufficiently demonstrated to have been effected through a lawful process of forfeiture. The documents that were consequently filed as a result of this flawed process and are currently reflected on the company register cannot therefore be said to have been lawfully and regularly obtained. The said documents, including the resolution providing for the reversion of the Petitioners' shares are actually misleading and inaccurate in the meaning of Regulation 8 of the Companies (Powers of the Registrar) Regulations S.I No. 71 of 2016.

52. I am also unable, on the material before me, to treat the Extraordinary Resolution of 8th November 2016 as a substitute for a properly effected forfeiture. The resolution is primarily presented as an instrument increasing the Company's share capital and recording the payment position of certain members. It does not, on the material placed before me, satisfactorily demonstrate the procedural steps by which the Petitioners' existing shares were forfeited.

53. The Registrar's powers under Regulation 8 of the *Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016*, are directed towards ensuring that the register remains accurate. Regulation 8(1) empowers the Registrar to rectify and update the register to ensure its accuracy, while Regulation 8(2) permits the Registrar to expunge information or documents which, among other things, are misleading, inaccurate, issued in error, contain an illegal endorsement, or are illegally or wrongfully obtained.

54. The power under Regulation 8 is therefore particularly engaged where a document placed on the register purports to effect a corporate change but the underlying



corporate act is shown, from the record and evidence before the Registrar, not to have been lawfully undertaken. The Registrar is not required to preserve an inaccurate or misleading corporate record merely because the impugned document was previously accepted for filing. Maintenance of an accurate register is a continuing duty. Where documents on the register are later shown to have been irregularly obtained, it is the duty of the Registrar of Companies as the custodian of the register to maintain the integrity of the register by expunging any misleading document.

55. I am mindful, however, of the limits of this statutory jurisdiction. The Registrar's rectification jurisdiction is not a general jurisdiction to determine every disputed question of ownership or contractual rights between members. Where the question before the Registrar requires a definitive determination of competing proprietary Rights, which cannot be resolved from the corporate record, the appropriate forum may be the High Court, which has powers to direct the Registrar of Companies to expunge any misleading or irregular filing from the register. Defects apparent from the corporate record however, must be distinguished from contested substantive membership and allotment disputes requiring determination by the High Court.

56. The present complaint, however, is distinguishable to the extent that the Petitioners are not merely asserting an independent beneficial ownership claim. They challenge the corporate instruments and filings on the face of the register, by which their membership was altered and seek their expungement from the file. The Registrar is therefore entitled to examine whether those instruments provide a lawful basis for the rectification of the register.

57. On the evidence before me, I find that the Respondents have not sufficiently demonstrated that the Petitioners' shares were lawfully forfeited following the September 2015 call. In particular, the material before me does not satisfactorily



establish the complete chain of corporate acts required to move from the making of the call to the lawful forfeiture and subsequent alteration of the register to remove the Petitioners as shareholders.

58. The Ordinary Resolution dated 12th April 2024 and filed on 15th April 2024, purporting to authorize, '*the reversion,*' of the Petitioners' shares to the Company and insofar as it purports to form the basis for the removal or exclusion of the Petitioners is quite misleading. Indeed the resolution itself on its face does not expressly state what the Respondents legal representative sought to establish – a valid forfeiture of shares. It talks about a reversion of shares, an aspect that I find difficult to place in the realm of corporate law as capable of forming a basis for a valid forfeiture of shares. The resolution therefore on its face is irregular and misleading.

59. Additionally, while the Respondents relied on forfeiture as the justification for removing the Petitioners from the Company, the evidence shows that the Company was incorporated as a succession vehicle, and that none of the shareholders paid for their shares at inception. The Petitioners acquired their status as shareholders not through any equity capital contribution or expectation that they would contribute equity in the future, but by virtue of being children of the founder. It would therefore be unjust to strip the Petitioners of their shares on the sole ground that they never paid up for shares they were never expected or required to pay for in the first place.

60. This distinction matters because not every allotment of shares serves the same commercial purpose, and the character of a company shapes the obligations properly owed by and to its members. The obligations expected of members in a listed, public, large private company and family owned enterprise cannot be the same. Where business partners incorporate a company and agree, as between themselves, that share capital will be injected as a financing mechanism, non-



payment for shares strikes at the very bargain that brought the company into being, and a valid claim for forfeiture - exercised bona fide and for the benefit of the company as a whole, may properly arise. But where, as here, shares were allotted to family members purely by virtue of their status as the founder's children, in a company that functions, in substance, as a succession vehicle rather than a capital-raising enterprise, no such bargain as to payment ever existed to be broken. Such family or quasi-partnership companies should be treated differently from ordinary commercial company vehicles precisely because the underlying relationship and mutual expectations between the parties differ fundamentally - see the reasoning in a persuasive 1973 decision of *Ebrahimi v Westbourne Galleries Ltd* [1973] AC 360, where the House of Lords recognised that companies formed on the basis of family or personal relationships of trust carry equitable expectations beyond the bare terms of the Articles. To permit forfeiture in such circumstances would be to weaponise a mechanism designed for capital enforcement against shareholders who were never called upon to contribute capital in the first place - an outcome that is, in substance, unconscionable.

61. It is also necessary to distinguish between the Petitioners' claim to company property and their claim to their shares. As a matter of basic company law, a company is a separate legal person, and its property belongs to it and not to its individual members (*Salomon v A Salomon & Co Ltd* [1897] AC 22). The Petitioners accordingly possess no individual or proprietary claim over assets owned by the Company itself, and could not purport to sell or otherwise deal with Company property in their own right. Their shares, however, are a wholly separate species of property - personal property vested in each shareholder individually - and the Petitioners are entitled to deal with, transact in, and derive the benefit of that property, subject only to any lawful restrictions validly imposed by the Company's Articles. Shareholders in a succession vehicle of this kind cannot lawfully be



divested of that personal property through a forfeiture mechanism improperly invoked to achieve what is, in substance, an involuntary exit.

62. Rather than seeking to deprive the Petitioners of their shareholding through a process that, in substance, amounts to a disguised and improperly motivated forfeiture, the Respondents ought to have pursued a more equitable and commercially sensible course by engaging the Petitioners in good-faith negotiations for the purchase of their shares. Where the Company's Articles of Association expressly provide for a right of pre-emption, such a right should be exercised in accordance with its terms. In the absence of an express provision, the existence of such a right cannot be presumed merely because the Company is closely held; however, the parties may mutually agree on a share transfer arrangement that affords the Respondents the first opportunity to purchase the Petitioners' shares before they are offered to a third party.
63. This approach would serve the legitimate interests of all parties concerned. On the one hand, it would provide the Petitioners with a fair and lawful means of realising the value of their investment and exiting a company in which the relationship between the shareholders has evidently deteriorated. On the other hand, it would enable the Respondents to preserve the Company's existing ownership and management structure, without resorting to coercive or legally questionable measures to eliminate the Petitioners' interests. Subject to a fair valuation of the shares and mutually acceptable terms of sale, such an arrangement would also provide the Respondents with an opportunity to reorganise the Company's affairs, introduce additional capital, attract investment, and pursue its commercial objectives without the continuing disruption occasioned by unresolved family and shareholder disputes. In the circumstances, a negotiated buy-out would constitute a more proportionate and constructive response to the underlying disagreement than the purported forfeiture of the Petitioners' shares.



64. The more equitable and legally sound course, in my view, given that the parties relationship has evidently irretrievably broken down, would have been for the parties to engage an independent, professionally qualified valuer to determine the fair value of the Petitioners' shareholding, followed by a share buy-out on those terms. This is consistent with the relief customarily granted in minority-oppression petitions before the Registrar where a share buy-out at a fair price can be ordered in preference to more drastic or punitive measures such as winding up the company. Such a buy-out would fairly compensate the Petitioners for the value of the shares they legitimately hold, while leaving the Respondents in undisturbed control of the Company going forward. This represents a fundamentally more feasible, principled, and equitable commercial bargain than the arbitrary and improperly motivated dispossession of the Petitioners' shares that the purported forfeiture, in substance, sought to achieve.
65. Consequently, to the extent that the resolution and any consequential filings were used to alter the register by removing the Petitioners as holders of their respective 60 shares, I find that such documents and consequential entries are inaccurate and/or were improperly obtained for purposes of Regulation 8(2) of the Companies (Powers of the Registrar) Regulations and cannot properly remain on the register in their present form.
66. The Registrar of Companies is entrusted with the statutory responsibility of maintaining and safeguarding the integrity, reliability and accuracy of the National Register of Companies. This responsibility extends beyond the mere receipt and recording of documents presented for registration. It necessarily includes ensuring that the information and documents maintained on the register accurately reflect the lawful corporate position of a company and do not perpetuate entries or instruments, which are misleading, inaccurate, erroneous, illegally endorsed, or unlawfully or wrongfully obtained.



67. This mandate is expressly recognised under Regulation 8(1) of the Companies (Powers of the Registrar) Regulations, S.I. No. 71 of 2016, which empowers the Registrar to rectify and update the register to ensure that it is accurate. Regulation 8(2) further provides that, for purposes of such rectification, the Registrar may expunge from the register any information or document which *“is misleading; is inaccurate; is issued in error; contains an entry or endorsement made in error; contains an illegal endorsement; is illegally or wrongfully obtained; or which a court has ordered the Registrar to expunge from the register.”*

68. It follows that the Registrar is not required to preserve on the register a document merely because it has previously been lodged or registered. Registration does not, of itself, cure an otherwise unlawful or defective instrument. Where, upon examination of the material before the Registrar, it is established that a document was illegally or wrongfully obtained, contains an illegal endorsement, or has resulted in an inaccurate or erroneous entry, the Registrar is empowered, and is required in the proper exercise of the statutory mandate, to take steps to rectify the register and, where appropriate, expunge the offending document or information pursuant to Regulation 8.

69. The power of expungement therefore serves an important public and statutory purpose: to ensure that the Companies Register remains an accurate and reliable record of the legal and corporate particulars of registered companies. The Registrar’s intervention in such circumstances is not an alteration of the substantive rights of parties merely for its own sake, but a corrective measure directed at ensuring that the public register does not continue to reflect a corporate position founded upon documents or entries that are shown to be unlawful, inaccurate, erroneous or wrongfully obtained. Consequently, all documents purporting to arbitrarily remove the Petitioners from the Company as shareholders shall be expunged from the register for the reasons mentioned above.



b. Whether any oppression was occasioned to the Petitioners pursuant to section 243(1) of the Companies Act, Cap 106?

70. The Petitioners contended that they were deliberately and fraudulently excluded from the affairs of the Company. The Respondents on the other hand, denied the allegation and maintained that the Petitioners were never excluded from the Company but instead chose not to participate in its affairs. In determining whether the Petitioners were subjected to oppressive conduct, it is first necessary to establish whether they were members of the Company.

71. Justice Steven Musota in the case of *Olive Kigongo v Mosa Courts Apartments, High Court Company Cause No. 01 of 2015*, while interpreting the aforementioned provision, opined ‘...that there are two ways of becoming a member of a company and these are;

- a. *By being a subscriber to the Memorandum of Association of a company at the time of incorporation of that company or*
- b. *By acquiring shares in the company after incorporation.*

72. The Petitioners were among the original subscribers to the Company’s Memorandum and Articles of Association and, upon incorporation, were each allotted 60 shares in the Company. This position is further corroborated by the Respondents’ subsequent issuance of the impugned call on shares addressed to the Petitioners. The issuance of a call necessarily presupposes the existence of a shareholder or member against whom the liability to pay the amount called arises. The Petitioners were therefore members of the Company by virtue of their subscription and allotment of shares. I have already found that the impugned call was invalid and that the subsequent documents purporting to remove the Petitioners from the Company’s membership, insofar as they were founded upon the alleged default arising from that irregular call, could not lawfully achieve that effect. It follows that the Petitioners remained valid members of the Company, and



the impugned filings could not, in themselves, lawfully extinguish their membership.

73. Oppression connotes to conduct that is burdensome, harsh, or wrongful, and which constitutes a violation of a member's reasonable expectations as to the manner in which the affairs of the company ought to be conducted. In *Elder v Elder & Watson Ltd* [1952] SC 49, Lord Cooper observed that oppression entails "oppression requires a visible departure from standards of fair dealing and an infringement on the aggrieved party's proprietary or participatory rights."

74. For the Petitioners to succeed on the ground of oppression under the Companies Act, it must be demonstrated that first, the Petitioners were subjected to oppressive conduct in their capacity as members of the company and secondly, that such conduct arose from the manner in which the affairs of the company were conducted.

75. In *Re: Five Minutes Car Wash Services Ltd.* [1966] 1 All ER 242 at pp 246–247, *Buckley J* held that a member claiming oppression '*... must have established that at the time when his petition was presented, the affairs of the Company were being conducted in a manner oppressive of himself, or of a part of the members including himself, and unless a petitioner in his petition alleges facts capable of establishing that the Company's affairs are being conducted in such a manner, the Petitioner will disclose no ground for granting any relief and will be dismissed as being demurrable. First, the matters complained of must affect the person or persons alleged to have been oppressed in his or their character as a member or members of the Company. Harsh or unfair treatment of the member in some other capacity, as for instance a director or creditor of the Company, or as a person doing business or having dealings with the company, or in relation to his personal affairs apart from the Company, cannot entitle him to any relief.*' Furthermore, in *Cliff Masagazi v Afriland First Bank Uganda Ltd* (Company Cause No. 08 of 2020) the learned Hon. Justice Musa Ssekana observed that '*Oppressive conduct ... necessitates a course of*



conduct, not mere isolated acts...involving an invasion of legal rights, displaying lack of probity on the part of those conducting the company's affairs, and affecting the Petitioner in his capacity as a member.'

76. In the premises, having earlier established that the Petitioners are members of the company, I will now proceed to assess the acts complained of against the Respondents. The Petitioners contended that;

- a) The Respondents illegally orchestrated the filing of documents that excluded the Petitioners from the company's affairs and resulted into an alleged forfeiture of the Petitioners' shares.*
- b) The Respondents stripped the Petitioners of their proprietary interests and economic ownership in the Company*
- c) The Petitioners were not given a chance to be heard*
- d) The Petitioners were excluded from all affairs of the Company and treated as outsiders.*

77. Considering that the Company appears, on the evidence, to have been incorporated by the late Sempebwa John Chrisestom as a succession vehicle intended to benefit all of his children equally of whom the Petitioners are not contested to be children/beneficiaries, I find that the Respondents' conduct — in purportedly removing the Petitioners from the Company, depriving them of the benefits to which they were entitled both as shareholders and as beneficiaries of the late Sempebwa, denying them access to the Company's financial records, and deliberately sidelining them from its affairs — amounts to oppressive conduct within the meaning of the law.

78. The threshold for oppression is well established: conduct is oppressive where it is burdensome, harsh and wrongful, and departs from the standards of fair dealing that a shareholder is reasonably entitled to expect, having regard to the basis on which the parties' relationship with the company was founded, a standard given further content by the House of Lords in *Ebrahimi v Westbourne Galleries Ltd* [1973]



AC 360, which recognised that, in companies founded on relationships of family or personal trust rather than ordinary commercial bargaining, members carry legitimate expectations beyond the bare letter of the Articles of Association. Section 243 permits a member to petition the Registrar of Companies, where the company's affairs are being, or have been, conducted *"in a manner that is oppressive to the interests of some part of the members."* Where, as here, a company was deliberately structured to distribute the benefit of a family estate among all of the founder's children as a class, the systematic exclusion of some of those children from participation, benefit and information - while others continue to enjoy the full incidents of membership - is a paradigm example of conduct that defeats the very purpose for which the Company was created, and falls squarely within the conduct Section 243 was designed to remedy.

79. I am mindful of the Respondents' contention that certain existing shareholders had, in fact, paid for their shares. However, the burden of substantiating that averment rested squarely on the Respondents, who had expressly undertaken in their Answer to the Petition to adduce evidence in support of it, yet failed to produce any such evidence over the course of these proceedings. It is trite that a party who pleads a specific fact and undertakes to prove it bears the evidential burden of doing so, and a bare, unsubstantiated assertion - particularly one going to a central and contested issue - cannot be treated as discharging that burden (see, generally, Sections 101 and 103 of the Evidence Act which place the burden of proving a fact on the party who asserts it).

80. Nor does the Respondents' reliance on records said to have been prepared by the Company's accountant cure this deficiency. A valid call on unpaid shares is not a matter of internal bookkeeping; it is a formal corporate act requiring proper authorisation, ordinarily by resolution of the Board of Directors made in accordance with the Company's Articles of Association and the applicable



provisions of the Companies Act, Cap 106 governing calls on shares. An accountant's internal record, prepared unilaterally and without reference to any underlying board resolution, is neither the legal source of a call nor evidence that one was properly made - at best, it is a record of what someone believed had occurred. Significantly, a search of the records held at the Companies Registry did not reveal any resolution of the Board authorising the purported call.

81. In light of the foregoing, I find that the exclusion of the Petitioners from the affairs of the Company, the denial of access to relevant company records and information to which they were entitled as members, and the deprivation of benefits properly due to them as shareholders and as children of the late founder, cumulatively amounted to conduct that was oppressive to their interests as members of the Company. Taken together, this conduct falls squarely within the conduct contemplated under Section 243 of the Companies Act, Cap 106, and the authorities discussed by Courts above, and I accordingly find that the conduct complained of constituted oppressive conduct within the meaning of the law.

c. What remedies are available to the parties?

82. The Registrar of Companies has the power to rectify and update the company's register pursuant to *Regulation 8 (1) of the Companies (Powers of the Registrar) Regulations SI No. 71 of 2016*. *Regulation 8 (2)* stipulates that the Registrar may expunge from the register any information or document included in the register that is misleading, inaccurate, is issued in error, contains an entry or endorsement made in error, contains an illegal endorsement, or is illegally or wrongfully obtained.

83. Having established that the Petitioners were oppressed members of the Company through the actions complained of and the contested resolution dated 9th November 2016, pursuant to Section 243 and 286 of the Companies Act, Cap 106 and Regulations 8 and 32 of the Companies (Powers of the Registrar) Regulations,



S.I. No. 71 of 2016, I hereby make the following orders:

- 1) *The Respondents conduct in arbitrarily removing the Petitioners from the Company and excluding them from the affairs of the Company amounted to oppressive conduct within the meaning of Section 243 of the Companies Act, Cap 106.*
- 2) *The Extraordinary Resolution dated 2nd January 2016 and registered on 9th November 2016 - purporting to increase the Company's share capital and the nominal value of its shares, and to appoint Lillian Bulya and M/s Katongole, Yiga & Masane Advocates as Company Secretary - be and is hereby expunged from the Company's records, the same having been illegally and/or wrongfully obtained.*
- 3) *The notice of consolidation, subdivision, redemption of shares or the conversion of stock into shares (form 11) dated 28th October 2016 and filed on 9th November 2016 be and is hereby expunged from the Company's records, the same being misleading and having been wrongfully obtained.*
- 4) *The Return of Allotment filed on 9th November 2016, depicting the amount due on each share as UGX 100,000/=, be and is hereby expunged from the Company's records, the same being misleading and having been wrongfully obtained.*
- 5) *The Ordinary Resolution dated 12th April 2024 and filed on 15th April 2024, purporting to authorize, 'the reversion,' of the Petitioners' shares to the Company be and is hereby expunged from the Company's records, the same being misleading and having been wrongfully obtained.*
- 6) *The Notice of Increase of Share Capital filed on 4th February 2025, depicting a further increase in the Company's share capital, be and is hereby expunged from the Company's records, the same being misleading and having been wrongfully obtained.*
- 7) *The Register of the Company shall, to the extent affected by the impugned filings set out in Orders (1) to (5) above, be rectified and restored to reflect the position*



that existed immediately prior to the filing of those impugned documents.

8) *The Petitioners shall be restored as shareholders of the Company, with their shareholding reinstated to the position held immediately prior to the impugned filings.*

9) *I make no order as to costs*

I so order.

Given under my hand this 12th day of October 2026



Digitally signed

by Daniel

Nasasira

Location:

Uganda

Registration

Services Bureau

Date: 2026.10.12

12:06:24 +03'00'

Daniel Nasasira

Assistant Registrar of Companies

Obiter Dictum

The parties remain at liberty to explore, by mutual agreement, an amicable buy-out of the Petitioners' shareholding, particularly in view of the apparent breakdown in their relationship. If pursued, the value of the Petitioners' shares may be determined by an independent and suitably qualified valuer, providing an objective basis for agreeing the purchase price and terms of payment, whether by a lump sum or instalments. Upon agreement and payment of the consideration, the requisite share transfer instruments and related corporate documentation may be executed and lodged with the Registry.

Where the Company itself is to acquire the Petitioners' shares, the transaction would have to comply with the applicable statutory requirements governing a share buy-back, including the requisite corporate approvals and filings. Such an arrangement, if voluntarily agreed and lawfully implemented, may provide the Petitioners with a fair and structured exit while enabling the remaining shareholders to consolidate the Company's ownership and management and reduce the prospect of further disputes.

Digitally signed
by Daniel
Nasasira
Location:
Uganda
Registration
Services Bureau
Date: 2026.10.12
12:06:52 +03'00'

