

Commercial Court Orders against Diamond Trust Bank in the 120 Billion Fraud Case Ruling.



Diamond Trust was ordered as Follows:

Arising from the findings in the ruling above, Hon Peter Henry Adonyo made the following ORDERS, CONSEQUENTIAL and other SUPPLEMENTARY ORDERS;

1. This Application is allowed with costs to the Applicants.
2. The joint written statement of the Respondents filed in HCCS No. 43 of 2020 which is a perpetuation of illegalities is hereby struck out.

3. Judgment is hereby entered for the Plaintiffs as prayed for in their joint plaint by virtue of Order 9 rules 6, 8, 10 and 30 and Order 52 rules 1, 2 and 3 of the Civil Procedure Rules SI 71-1 and Section 98 of the Civil Procedure Act as follows;
 - a. I declare that by their illegal actions the Respondents / Defendants breached the different loan agreements terms entered into with the Applicants / Plaintiffs in the period between 16th February 2011 to 16th November 2019.
 - b. I declare that Credit Facilities between the 1st and 2nd Plaintiffs and the Defendants have since been settled at law.
 - c. I do order for the recovery by the Applicants from the Respondents/Defendants jointly of the Ugx. 34,295,951,553/= (Uganda Shillings Thirty-Four Billion Two Hundred Ninety-Five Million Nine Hundred Fifty –One Thousand Five Hundred and Fifty-Three Only) and USD. 23,467,670.61 (United States Dollars Twenty-Three Million Four Hundred Sixty-Seven Thousand Six Hundred and Seventy Only) being monies that were unlawfully taken by them from the Applicants / Plaintiffs loan accounts.
 - d. I do declare that since the 2nd Defendant did not produce and or attached a license allowing it to conduct financial institutions business in Uganda from Bank of Uganda in respect of the business alluded hereto then the alleged credit facilities that were stated to have been offered by it to the first Plaintiff were illegal and thus void *ab initio* and consequently unenforceable.
 - e. I do declare that the appointment of the 1st Defendant by the 2nd Defendant as agent bank and security agent in respect of the

2nd Defendant's loan was illegal, unethical, unlawful, in breach of trust, in breach of fiduciary duty and in breach of the Financial Institutions Act 2004 (As Amended) as well the Bank of Uganda Consumer Protection Guidelines 2011 and the Kenyan Banking Act.

- f. I do hereby issue an order for the unconditional release/discharge of mortgages allegedly created over the Plaintiffs' properties comprised in Kyadondo Block 248 Plot 328 land at Kawuku, FRV 1533 Folio 3 Plot 36 – 38 Victoria Crescent II Kyadondo and LRV 3176 Folio 10 Plot 923 Block 9 Land at Makerere Hill Road and all Corporate and personal guarantees issued by the Plaintiffs.
- g. I do hereby vacate the order previously issued by this court for the taking an audit and account of all the 1st and 2nd Plaintiffs' loan accounts for the period between 16th February 2011 to date as it is now overtaken by events.
- h. I do issue a permanent injunction restraining the Defendants from enforcing the mortgages over the Plaintiffs' properties comprised in Kyadondo Block 248 Plot 328 land at Kawuku, FRV 1533 Folio 3 Plot 36 – 38 Victoria Crescent II, Kyadondo and LRV 3176 Folio 10 Plot 923 Block 9 Land at Makerere Hill Road.
- i. I do not offer any General and punitive damages as against the Respondents for I have found nothing to warrant such.
- j. I do declare interest on (c) above from the date of filing this suit at the prevailing court rate of 8% per annum till payment in full.

- k. I award costs of this application and the head suit to the Applicants/ Plaintiffs.
- i. I do issue directives to Bank of Uganda which is the implementing authority under the Financial Authorities Act 2 of 2004 As Amended to take such necessary actions and measures to ensure that the provisions of the law is implemented in accordance with the intention of the law such as to protect the Ugandan economy from illegal hemorrhages and uncontrolled flows of financial resources and to ensure that financial institutional business in Uganda is operated within the letter of the law to protect the nascent banking business industry in Uganda.