

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**CIVIL DIVISION**  
**CIVIL SUIT NO. 247 OF 2020**

**OYELLA GERTRUDE .....PLAINTIFF**

**VERSUS**

**CAVENDISH UNIVERSITY UGANDA LIMITED ..... DEFENDANT**

**BEFORE: HON. JUSTICE SSEKAANA MUSA**

**JUDGMENT**

The plaintiff was admitted on 16<sup>th</sup> day of June 2016 by the defendant to pursue a Diploma in Business Administration. The plaintiff pursued her studies for a 2 year period and successfully passed the examinations. The plaintiff was never included on the list of graduates and her name was missing on the 'scientific graduation' list.

The plaintiff sought the following orders that;

1. *An order of release of her Transcript and Certificate for a diploma in Business Administration.*
2. *A declaration that she completed the Diploma in Business Administration, Punitive damages, General damages and Costs for the suit .*

The defendant in their defence contended that the plaintiff was never graduated because she her failed in her examination of a vocational Certificate from UNEB.

The plaintiff was admitted conditionally after she presented her UCE and result slip of UNEB Technical Education Certificate from Nakawa Vocational Training Institute.

The University realized that she had not qualified to be admitted because she had not passed her vocational certificate which would have qualified her to pursue her a diploma certificate. The conditional or provisional admission required her to re-sit the paper she failed and to become eligible for the course and thus be able to graduate with a Diploma in Business Administration.

The plaintiff had earlier on before graduation admitted that she did not have the requisite qualification and would thus not have been allowed to undertake the studies for a diploma since she had no certificate in Technical Education which was a prerequisite.

During the joint Scheduling memorandum the parties came up with the agreed facts and issues as follows;

### **AGREED FACTS.**

The Plaintiff was conditionally enrolled by the Defendant for the course of Diploma in Business Administration (DBA)

### **AGREED ISSUES .**

- 1. Whether the Plaintiff qualified for the award of a Diploma in Business Administration?*
- 2. What remedies are the parties entitled to?*

The plaintiff was represented by *Counsel Amany Joseph* while the defendant was represented by *Counsel Isaac Walukagga*.

The parties led evidence of one witness each by way of witness statements and thereafter were required to make brief oral submissions. The plaintiff's counsel failed or opted not to make any oral submissions while the defence counsel made his oral submissions.

## **RESOLUTION.**

### ***Whether the Plaintiff qualified for the award of a Diploma in Business Administration?***

The defendant's counsel submitted that the plaintiff was admitted conditionally on presentation of the UCE certificate and a results slip of vocational certificate and was required to present a Certificate from UNEB.

It was later discovered that the plaintiff had failed a paper and could not present a certificate and this made her ineligible to obtain a diploma.

## ***ANALYSIS***

It was an agreed fact that the Plaintiff was conditionally enrolled by the Defendant for the course of Diploma in Business Administration (DBA)

The plaintiff in her evidence appeared to depart from what had been agreed upon in the joint scheduling memorandum that she was admitted conditionally.

During the cross examination she confirmed the same position and accepted that indeed she wrote a letter or a note to Vice Chancellor that her admission was conditional on satisfaction of the requirements for admission as set out by the National regulator-National Council for Higher Education.

The results slip presented by the plaintiff titled Uganda National Examinations Board-Examination Result Slip (Technical Education) clearly showed that the plaintiff pursued a course at Nakawa Vocational Training Institute for a course in Electrical Installation Craft Part II.

The details of performance was as follows;

<i>SUBJECT</i>	<i>GRADE</i>	<i>RESULT</i>
<i>2002/21 ELECTRICAL PRINCIPLES</i>	<i>7</i>	<i>FAIL</i>
<i>2002/22 ELECTRICAL INSTALLATION &amp; REGULATION</i>	<i>6</i>	<i>PASS</i>
<i>2002/21 COURSE WORK ASSESSMENT</i>	<i>4</i>	<i>CREDIT</i>

***FAIL (RP) NO CERTIFICATE TO FOLLOW***

The defendant in their evidence testified that the plaintiff had voluntarily applied for an award of a Diploma in Business Administration and at the time of her application for admission she had both a UCE and a UNEB Result slip in Technical Education from Nakawa Vocational Training Institute though she had failed a paper called "Electrical Principles" and for that reason she had not been issued a Certificate by UNEB.

The defendant witness testified further that the plaintiff was admitted conditionally and was required re-sit the paper she failed and therefore become eligible for the said course that would upon completion of her studies make her eligible for graduation. The Plaintiff was aware that much as she had been allowed to undertake studies, she would only graduate after she upgraded her papers by re-sitting and passing the paper she had failed and upon completing her studies in the Diploma in Business Administration she wrote to the Defendant admitting that she was not eligible for admission and that she had no certificate in Technical Education which was prerequisite for her graduation.

The Plaintiff failed to regularize her qualifications and as a result the Defendant as an education institution regulated by the National Council for Higher Education and governed by law could not graduate the Plaintiff before she had regularized her qualifications since she did not possess a certificate which would have made her eligible to admission for a diploma in education.

The requirements of National Council for Higher Education for a diploma certificate are possession of Uganda Certificate of Education UCE or its equivalent and Uganda Advanced Certificate of Education or its equivalent. This therefore means the plaintiff was aware or ought to have been aware that she possesses the minimum standard set by National Council for Higher Education.

This position fully supports the evidence presented by the defendant that the plaintiff required to satisfy this minimum requirement and in its absence she could not be eligible to graduate as this would be illegal and contrary to the National Council for Higher Education standards.

There is a growing tendency for students to run to court seeking academic orders as seen in this case which needs to stop. Students should only run to court in instances of clear violation of constitutional rights, bias, or bad faith which the applicant has not proved in this case. The student should not try to use court to do something which is illegal or against examination regulations/rules. *See Logose Florence Judith v Law Development Centre HCCM No. 190 of 2021*

In *Isingoma Micheal v Law Development Centre Misc. Cause No. 344 of 2019* court held that;

*"...This court holds the same view and re-echoes the position that students must adhere to the requirements of their institutions. They cannot use the court simply as a tool to intimidate their academic institutions into giving them what they want. They must adhere to laid down rules and only seek court's intervention when there is a clear violation of the law or unfairness..."*

The plaintiff sought an order to release her transcript and Certificate for a Diploma in Business Administration and a declaration that she completed the Diploma in Business Administration. These orders are basically inviting this court order the defendant to commit an illegality or breach of

the law to graduate a person who does not possess minimum academic requirement to pursue a diploma by Uganda Standard.

The plaintiff seems to premise her case on the fact that she attended classes and had successfully completed the diploma programme. A student who is ineligible under the rules and guidelines for admission could not invoke promissory estoppel against the University as the University could not be forced to do something illegal. See *Mukesh Kumar v Rani Durgawati Vishwavidyalaya [1989] AIR MP 292*

It is clear the plaintiff was admitted conditionally subject to re-sitting the failed paper in order to obtain a certificate which would have enabled her to be a proper candidate for the diploma programme. Thus, there was no unequivocal assurance by the University that her admission was final and conclusive. The plaintiff ought to have established that her qualifications fall within the set out criterion or minimum standard set by National Council for Higher Education and cannot feign ignorance that she wholly depended on the advice or guidance given by the admissions office. See *Agaba Patience v Makerere University & Anor HCCS No. 427 of 2017*

The university indeed has a duty to approve or reject the provisional or conditional admission within a reasonable time. There was some delay on the part of the University in effecting the cancellation of admission which occasioned the plaintiff some financial hardship. However, this should not be used to break the set rules of admission by the regulator (NCHE) as this would create a bad precedent in future admissions policy in all universities in Uganda.

I, therefore find that the defendant's failure to graduate the plaintiff was lawful since she did not have the requisite requirement to pursue a diploma in business administration which fact was within her knowledge and this court should not make weird declarations sought by the applicant.

This suit lacks merit and is accordingly dismissed with costs to the defendant.

I so order.

**SSEKAANA MUSA**

**JUDGE**

***28<sup>th</sup> April 2023***