

REMARKS BY THE
CHAIRPERSON, UGANDA BANKERS' ASSOCIATION, Ms. SARAH ARAPTA
DURING
THE TRAINING OF JUDICIARY HELD AT MESTIL HOTEL ON 27th MAY, 2022
THEME: DEVELOPMENTS & TRENDS IN THE BANKING/FINANCIAL SECTOR

Protocol

- My Lord the Principal Judge, Hon. Justices & the Supreme Court, Justices of Appeal, High Court Judicature Judges, Registrars of the Courts, Your worships the Magistrates.
- The Honorable Lady Justice Damalie Lwaga , Executive Director, Judicial Training Institute (JTI)
- The Executive Director Supervision Bank of Uganda- Twinemanzi Tumubwiene
- UBA Member Bank CEOs present.
- The Uganda Bankers' Association Secretariat team lead by the Executive Director.
- Members of UBA legal Committee present.
- All invited guests in your respective capacities
- Ladies and Gentlemen

Good Morning to you All,

It is my pleasure to welcome you all to this half day training session that has been organized by the Uganda Bankers' Association (UBA) in partnership with the Judicial Training Institute (JTI).

In 2019, an MOU was signed between the Uganda Bankers' Association (UBA) and the Judicial Training Institute (JTI) to among others:

- Collaborate to provide technical support to judicial officers in a bid to strengthen the capacity of the Judiciary to dispense justice in the courts of law.
- Provide a platform for UBA to create awareness about trends and developments in the banking and broader financial sector.

- Sensitize Judicial officers and staff on various aspects of commercial and Banking including some of our products, processes and compliance requirements under the prevailing laws and regulations in the banking /financial sector.

We are delighted to see this inaugural training, come alive today. It is a first of many more that will be delivered in phases in agreement with JTI.

The Banking Sector, which I represent here has expressed growing concerns about the challenges we face with the Judicial system which include.

- The increasing case backlog, resulting, in part, from limited number and capacity of the judges and the increasingly complex commercial & interpersonal disputes.
 - The delay in resolution of these disputes has affected the sector adversely, to contextual this in value terms - over UGX Seven (7) trillion in capital is locked up in court cases and inaccessible for reinvestment in the wider economy. Please note that UGX 7 trillion translates to about 6.5% of Uganda's GDP). *Staggering whichever way one looks at it.*
 - Consequently, the expansion of commercial activity essential to actualization of business opportunities and economic growth of our economy has been affected because businesses either closed or constrained but above all denying borrowers access to the would-be available capital available for lending. (We use dispositors money to on lend to customers, when we unable to recover these moneys following disputes, our capital is eroded and locked away until such disputes are dispensed off with)

The Banking industry commends the Judiciary for the steps that have so far been taken to address this issue of case back-log, notably.

- the establishment of the case back-log committee.
- creation of party led small claims court.
- promoting alternative dispute resolution methods like mediation, and of course most recently.
- the development and implementation of the Electronic Case Management System whose objective is to expedite and ease court processes and cases.

It however goes without saying that the Courts need all the support that they can get, and we the Financial Institutions are willing to participate in efforts to extend this support when presented with the opportunity.

The need for an alternative dispute resolution Centre to promote access to justice by supplementing the existing mechanism, offering an alternative avenue for speedy, cost efficient and effective option for the resolution of commercial disputes, gave birth to the International Centre for Arbitration and Mediation in Kampala "ICAMEK", -a partnership between Uganda Bankers Association and Uganda Law Society, which was officially launched in April 2019 by the then Minister of Justice and Constitutional Affairs Hon. Kahinda Otafire.

Currently the Centre is fully operational, governed by a well constituted Board of Directors and a registrar who manages the day-to-day administration and to whom all disputes are referred. Since its launch 3 years ago, a total of up to 36 disputes have been filed with ICAMEK.

In addition to the collaborative role played by UBA in the establishment of the Centre above, the banking sector also remains committed to contributing to strengthening the technical support as mentioned earlier and that is the reason, we are gathered here this morning.

Today's session is largely introductory with many more to follow. Some of the issues we intend to bring out in these gathering include.

- A discussion around the strict enforcement of the 30% security deposit requirement in suits involving mortgages especially where money was disbursed and used by the borrowers.
- Concerns in regard to the prolonged interim orders without specific timelines. Our opinion is that in order to meet the of justice for both sides, these should be used sparingly to minimize the costs they bring to the sector and economy at large.
- The cumbersome need to seek court orders before taking over possession/evicting of defaulter during the foreclosure process. In our view, Mortgages are governed by a specific law (The Mortgage Act No.7 of 2009) which provides for an extensive process before a mortgagee can foreclose the mortgagor's equity of redemption. A related parallel procedure arising out of the recent Presidential directive on land evictions contributes directly to the case backlog problem and unnecessarily prolongs the loan recovery process.

- We look forward to dialoguing on this, and seek the judiciary's support to lobby for the exemption of the Banking sector from having to seek such court orders.
- The general abuse of the court system by using it as a tool to stall recoveries and avoid legal obligations under agreements. This usually happens through filing frivolous suits in different courts (forum shopping), wrongly issued orders sometimes by non-judicial officers. Etc.
- Trends by some borrowers to frustrate international lenders or co-lenders with whom financial institutions in Uganda partner with to raise more capital. These trends send very wrong signals that impact capital flows which in-turn impact the country as a destination for business as well as ease of doing business once in-country. I can not over emphasize the adverse effect such trends are having on our perception as a top investment destination in the emerging markets.
- To put this into perspective, the determining factors global competitive index (GCI) a highly competitive index that captures the micro and macro-economic foundations of national competitiveness (competitiveness of institutions policies and factors such as contract enforcement to determine the level of attractiveness to investment and level of productivity of a country)
- Efficient contract enforcement is essential to economic development and sustained growth. Economic and social progress cannot be achieved without respect for the rule of law and effective protection of rights, both of which require a well-functioning judiciary that resolves cases in a reasonable time and is predictable and accessible to the public. Economies with more efficient judiciary, in which courts can effectively enforce contractual obligations, have more developed credit markets and a higher level of development overall. According to a world bank study , enhancing the efficiency of the judicial system can improve the business climate, foster innovation , attract foreign direct investment and secure tax revenues .
 - **My lords and ladies the emphasis and reliance on technicalities, to gain unfair advantage in debt disputes, that is so far trending may make courts a refuge for willful defaulters.**

I am certain that these sessions will enable us to learn, share and enable us to forge an agreeable way forward on some of these issues.

I believe that at the conclusion of this training you will have an improved appreciation of some of the developments in the banking & financial sector and best practices for the industry, which in turn will enable and foster the faster resolution of debt disputes for our economy to thrive and sustainably attract more mobilization and flow of both domestic & international capital.

I thank you all for making time to be here and I wish you successful deliberations.

Sarah Arapta

UBA Chairperson.