IN THE CAPITAL MARKETS TRIBUNAL

AT DAR ES SALAAM

CIVIL CASE NO. 01 OF 2025

GEORGE JARED KIDINDIMA *(The Administrator of the Estate of the late Mussa Manzjared Nakomolwa Kidindima)*..**PLAINTIFF**

VERSUS

DARES SALAAM STOCK EXCHANGE PLC......................................**DEFENDANT**

JUDGMENT

The plaintiff, being the administrator of the estate of his father, Jared Nakomolwa Kidindima, filed the instant case against the defendant, claiming payment of TZS 61,040,000/=, being the specific loss suffered due to the defendant's negligence and breach of statutory obligations by failing or refusing to avail its decision to the plaintiff in due time. The plaintiff also claims general damages for negligence and inconvenience caused by the defendant's failure to communicate its decision to the plaintiff. The dispute is premised on the fact that on 13 May 2020, the plaintiff lodged a complaint before the defendant against Solomon Stockbrokers Limited for selling 38,200 CRDB shares that belonged to the plaintiff's father, the late Jared Nakomolwa Kidindima, at the price of TZS 115 per share instead of TZS 180 per share as per the investor's limit order. It was the plaintiff's claim that the broker also sold 280,000 shares without the plaintiff's instructions. On 4 December 2020,

the defendant directed the broker to restore the 280,000 shares and compensate for the price difference on the 38,200 shares. However, the defendant failed to communicate the decision to the plaintiff, thereby breaching its statutory duty. The defendant informed the plaintiff that the broker had appealed to the Authority and that the retrial was scheduled for 20 September 2021. On 1st October 2021, the defendant informed the plaintiff that the matter had ended without disclosing the reliefs awarded in a timely manner. The plaintiff further alleged that he came across the defendant's decisions in January 2025, which were attached as exhibits in an Appeal No.1 of 2024 before this Tribunal. It was the plaintiff's assertion that due to the defendant's negligence and failure to provide timely decisions, the plaintiff was unable to enforce the restoration of 280,000 CRDB shares. As a result, the plaintiff prayed for the following orders: that the defendant pay TZS 61,040,000/= as specific damages; that the defendant pay general damages for negligence, breach of statutory duty, and inconvenience caused at a rate the tribunal deems just; interest on (a) above 24% per annum from the date of filing this suit to the date of judgment; interest at the tribunal's rate from the date of judgment until final payment; costs of this suit; and any other relief that this Honourable Tribunal may deem fit and just to grant. Before the hearing, the tribunal framed the following issues for an easy disposal of the matter:

1. *Whether the defendant had a duty to avail its decision to the plaintiff.*

2. *Whether the defendant negligently breached the duty to avail its decision to the plaintiff in due time.*
3. *Whether the plaintiff suffered loss as a result of the defendant's negligence.*
4. *What reliefs are the parties entitled.*

When the case came for hearing, the plaintiff appeared in person and without representation, whereas the defendant was represented by the learned Advocates, Ms. Mary Mniwasa and Ms. Jackline Kilama. The plaintiff, while under oath, testified that he is the administrator of the estate of his late father, Jared Nakomolwa Kidindima. He was so appointed by the Primary Court of Utemini in Singinda on 1st December 2011 (Exhibit P1). On 13th May 2020, he lodged his complaint against Solomon Stockbrokers Limited with the defendant for selling 38,200 shares at a price below the value identified by the deceased. The broker sold at TZS 115 per share, instead of the price stated by the deceased, TZS 180 per share. Hence, there was a difference of TZS 65 per share. Also, the broker sold 280,000 CRDB shares without the administrator's approval. The complaint before the defendant was heard from 13 May 2020 until 03 December 2020. After the hearing concluded, he waited for the decision. The next day, that is, 4th December 2020, the defendant delivered a decision in his favour, ordering the broker to pay the difference in the share prices. The broker was further ordered to return 280,000 shares

sold without his approval/consent. The broker was served with the defendant's decision on the same day it was delivered, i.e., 04 December 2020. He tendered the defendant's decision, which was admitted as (Exhibit P2).

PW1 testified further that he was not aware of the defendant's decision because the same was delivered in his absence. After two weeks, he enquired at the defendant's office, but he was informed that the responsible officer(s) were on Christmas leave; he was therefore advised to wait until their return. He kept waiting until mid-January 2021; he phoned the office again and was informed that the decision had not been delivered because the defendant's officers had not resumed office after Christmas leave. He waited until the end of January 2021, and he was informed that the officers were already in the office, but the decision had not yet been made. He stayed until mid-February 2021, and he was again informed that there was no decision. He waited again until the end of February 2021. He phoned the defendant's office in mid- and end-of-March 2021. He phoned the defendant's office in mid-April 2021. On 25th April 2021, he received a letter from the defendant informing him to await the decision. The letter was dated 23rd April 2021 (Exhibit P3).

While awaiting the defendant's decision, the broker had already been informed of the defendant's management's decision dated 04 December 2020

(Exhibit P2). Also, on 01 March 2021, the broker was informed of the defendant's board's decision (Exhibit P4). According to PW1, the defendant's decision to reprimand and pay a fine of TZS 2,000,000 does not substitute for the decision to restore the unlawfully sold shares of 280,000. Once a member breaches DSE rules, there are three departments from the defendant's office: first, the DSE Management, which determines whether the member has breached the rules. In this case, the DSE Management established that the broker breached the rules. Second, the Listing and Trading Committee (LTC), under rule 37(3) of the DSE Rules, receives the report from the Management and has the power to recommend disciplinary measures. The recommendations are presented to the board. This is the third department responsible for addressing rule breaches, in accordance with Rule 37(4) of the DSE Rules. The Board thereafter imposes measures in accordance with the LTC's recommendations under Rule 37(5) of the DSE Rules. PW1 prayed to tender the recommendation from LTC to the Board, which comprises the report from the Management to LTC (Exhibit P5).

PW1 testified that Exhibit P5 simply complements the decision of the DSE Management. Until that time, he had not received the decision from the defendant until 09 September 2021, when he received an email from the defendant's Chief Legal Counsel informing him that the broker had appealed to the Capital Markets and Securities Authority, and there was already an

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order of retrial of the dispute before the defendant which was scheduled on 20 September 2021. He tendered the copy of the email from the defendant's Legal Counsel, which was admitted as Exhibit P6.

One week later, he enquired about the decision originating from the retrial of the case. On 01 October 2021, he got a letter from the defendant informing him that the dispute had been heard, but he was not invited to attend. However, the letter did not disclose what actions the defendant took. He prayed to tender the defendant's letter regarding the information received on 01 October 2021 (Exhibit P7). PW1 further testified that, even after the retrial, the defendant referred him to the Capital Markets and Securities Authority. Being unhappy with the defendant's decision, he wrote a letter to the defendant on 11 October 2021 (Exhibit P8). After the letter, the defendant never responded. After the retrial, the defendant notified the broker by letter dated 23 September 2021 of the decision. However, he was not informed about the outcome of the retrial. He prayed to tender a defendant's letter to the broker on the outcome of the retrial and was admitted as (Exhibit P9).

It was the plaintiff's testimony that he finally obtained all the defendant's decisions against the broker in January 2025, when the defendant filed the Written Statement of Defense in Appeal No. 1 of 2024, which was filed before this Tribunal. Such decisions were attached to the defendant's written

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Statement of Defense, and he learned of them at that time. Therefore, it was the plaintiff's averment that the defendant's act caused a loss, including the loss of dividends from 2020 to 2025. He tendered a declaration of dividends notice from 2020 until 2025 (Exhibit P10). He testified that in 2020, the dividend per share was TZS 22; in 2021, TZS 36; in 2022, TZS 45; in 2023, TZS 50; in 2024, TZS 65; in 2025, TZS 90. The loss of such dividend amounted to TZS 86,240,000/=. He also spent a lot of money following up on this matter with the defendant, the Capital Markets and Securities Authority, and other offices. He also suffered general damages due to the defendant's six years of inconvenience and trauma. He prayed for 24% per annum of the above amount suffered, and the costs of this case; compensation for the costs suffered and other reliefs as this Tribunal may deem fit to grant.

On cross-examination by the learned advocate, Ms. Jackline Kilama, PW1 testified that immediately after the defendant's decisions, he expected to receive the same decisions. The decision was made on 04 December 2020, but he saw the same in January 2025. There is no specific timeline for receiving the decisions, and the decision made by the defendant was between him and Solomon Stockbrokers. He had a letter requesting the defendant's decisions (Exhibit P8). Also, Exhibit P7 informed him that the defendant retried the case against the broker and that disciplinary action was to follow. The exhibit P7 was not a decision he expected, because it ought to be made

in the format set out in section 30(2) of The Capital Markets and Securities Act, Cap. 79 RE 2023. All the complaints before the defendant must be decided in compliance with section 30(2) of the Act. The exhibit P7 did not state any relief claimed by the plaintiff because section 30(2) of the Act sets out the general format for decisions. He only got Exhibit P3 and P6 since the complaint was filed before the defendant. According to him, none of these responses was a decision in the real sense because they did not contain the defendant's decision. He knows that dividends are paid only if there are existing shares, and that the defendant does not pay dividends; in this case, he claims dividends on 280,000 shares. Currently, he does not have such shares because they were sold in 2012; hence, the claim of TZS 86,240,000 is based on the loss of dividends. The claim of TZS 61,000,000/= is based on dividends from shares from the years 2020 to 2024. The claim of TZS 61,000,000 represents dividends excluding those of the year 2025. The defendant's act deprived him of his right to receive dividends. Though he is not claiming dividends from the defendant, he claims the loss caused by the defendant's act.

When cross-examined by the learned advocate, Ms. Mary Mniwasa, PW1 informed the tribunal that the defendant's decision (exhibit P2) was not final, though it is the foundation of this case. The decision in Exhibit P2 prevailed, which is the basis of his complaint before this tribunal. The format came in

after he was dissatisfied with the defendant's response. This was not the decision because it was not contained in the legal format stipulated under section 30(2) of the Act. The defendant was supposed to receive the decision from the Authority and communicate it to him. In this case, PW1 communicated with the Authority, and he was referred back to the defendant (Exhibit P8). He sent Exhibit P8 to the defendant by post office, and he had no other proof to that effect. Also, he did not consult Solomon Stockbroker regarding the restoration of 280,000 shares because he had not received a decision from the defendant. He could not have applied for the restoration of shares because he had no decision to enforce. He is claiming loss from the defendant because she denied him access to the decision. He had the right to get the decision, regardless of whether the stockbroker appealed to the Authority. The decision that affected him was made by DSE Management, not by the DSE Board.

In the defence, the defendant summoned two witnesses. DW1 (Happiness Mushi), the Head of Risk and Compliance Manager, informed the tribunal that after receiving the plaintiff's complaint, they filed charges against Solomon Stockbrokers. The broker responded on 30 October 2020. Thereafter, they invited the broker for a meeting on 03 December 2020. They heard the broker, the plaintiff, and his brother, Patrick Kidindima. The defendant wanted to know the gist of the complaint. They informed the plaintiff that they were

working on the complaint and would notify him once the process was complete. The decision was to be made by the DSE Board. After that meeting, they did not inform the plaintiff because the whole process was not complete. However, they informed Solomon Stockbrokers of the DSE Management's decision on 4th December 2020. Solomon Stockbrokers also responded on 21 December 2020, resisting the Management's decision. The management took the matter to the DSE Committee (LTC) on 11 February 2021. The matter later went to the DSE Board on 26 February 2021. The Board ordered Solomon Stockbrokers to pay a fine of TZS 2,000,000/= for violating the DSE Rules. Solomon Stockbrokers was unhappy with the decision and had 7 days to appeal to the Authority. On 05 March 2021, the stockbroker appealed to the Authority, and on 11th March 2021, the Authority wrote to the defendant requesting information on how the case between the plaintiff and the broker was handled. On 17th March 2021, the defendant sent the information to the Authority as requested. Thereafter, the defendant sent a letter to the plaintiff on 23rd April 2021 informing him of the case's progress and that they were still working on it (Exhibit P3). The Authority finally wrote to the defendant on 12th July 2021, directing the complaint to be retried. The Authority directed so because the broker complained that, during the hearing of the matter, it was represented by a junior officer. The Authority wanted the matter to be handled by an officer with authority from the broker. Hence, the second meeting to address the complaint was held on 20th September 2021 and was

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attended by the stockbroker's CEO, Ms. Miriam Solomon. In that meeting, the stockbroker gave his evidence, but they still found a breach of the rules. However, the DSE did not confidently determine whether the person who authorized the sale of the shares complained of was George (Plaintiff) or Patrick. The broker was found guilty of failing to obtain documents that would have enabled him to identify his customers. The defendant communicated such information to the plaintiff on 01 October 2021 (Exhibit P7). Thereafter, the plaintiff made no further response.

DW1 attended the meeting on 3rd December 2020, which was attended by Solomon Stockbrokers and the defendant. The plaintiff and Patrick Kidindima were heard by phone. Patrick Kidindima agreed that he had authorized the sale of the shares to raise money to treat their mother. He further said that they informed the plaintiff about the sale of such shares. After reviewing the documents, the defendant realized that the signatures of George and Patrick Kidindima were identical. Solomon Stockbrokers further said that the plaintiff and his brother, Patrick Kidindima, conspired to get money from the stockbroker. The plaintiff was advised through a letter dated 1st October 2021 (Exhibit P7). According to the DSE rules, the DSE Board had the final decision.

On cross-examination, DW1 testified that the defendant intended to inform the plaintiff of the decision after the DSE had settled with the stockbroker

using internal mechanisms. Under the internal mechanisms, the complaint must be decided by the DSE Board; the stockbroker is informed of the decision and has seven days to challenge it. The Board convened on 26 February 2021, and the defendant did not communicate any decision to the plaintiff. The stockbroker responded on 21 December 2020. The DSE Management has no final decision; the dispute is normally taken to LTC and finally to the Board. The stockbroker challenged the decision to the LTC and finally to the Board. The stockbroker challenged the order to restore 280,000 shares and hence appealed to the Authority. The defendant intended to inform the plaintiff after all the processes were completed. After the retrial of the complaint, the decision remained the same, finding that the stockbroker had violated the rules by failing to follow proper procedures in determining the proper customer.

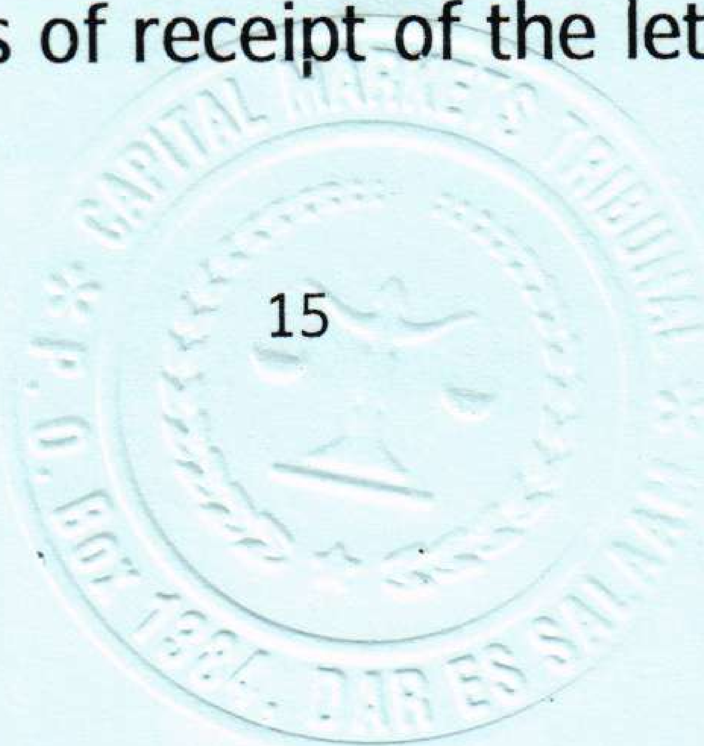
DW2 (Mecklaud Edson) testified that, when the complaint is filed, the decision is communicated to the complainant after the Board's decision. The complainant files a written complaint, and management processes it. The defendant has DSE rules and a customer service charter. There are several types of complaints, from complex to simple. Some complaints need investigation, and the information is communicated to the responsible persons. The management has been processing the plaintiff's complaint, and the information was communicated. DW2 personally communicated with the

plaintiff on several occasions, and the plaintiff was informed of the Board's decision. After the management meeting, there was uncertainty regarding the approval of the share sale. The documents and information from the stockbroker differed from those communicated by the plaintiff and his brother, Patrick Kidindima. It is fortunate that the defendant recorded the meeting, and if an audio recording is needed, the defendant may provide it to the tribunal. The stockbroker was supposed to conduct the procedure to get to know the customer. The information regarding the plaintiff was supposed to be presented to the defendant's Board of Directors. The stockbroker did not restore the shares; instead, he appealed to the Authority, and the matter came back to the defendant for rehearing. The Board decided that the stockbroker did not follow the required procedure to identify the customer and was consequently charged. The defendant informed the plaintiff that the broker was charged. The defendant directed the plaintiff to communicate with the Authority. Regarding signatures, the defendant referred the plaintiff to other authorities for verification. The Authority has the power to order a rehearing of the case because the stockbroker was unrepresented. The complaint was reheard on 20 September 2021. On 01 October 2021, the defendant communicated the decision to the plaintiff by letter (Exhibit P7). This was the defendant's final decision. There was no appeal from the plaintiff immediately after communicating that decision.

DW2 stressed that the plaintiff was informed of the process from 3rd December 2020 until the retrial. The plaintiff was informed through letters, email, and phone calls. For instance, the letter dated 23rd April 2021 (Exhibit P3) and the email of 9th September 2021 (Exhibit P6). The charges against the stockbrokers typically do not involve an investment, unlike in the plaintiff's case. The communication from the DSE to the stockbroker was issued by the DSE Management. The defendant did not communicate with the plaintiff because the matter had not reached the DSE Board. After the Board made its decision, the defendant communicated the decision to the plaintiff by letter dated 01 October 2021 (Exhibit P7).

On cross-examination, DW2 testified that there is no rule empowering the defendant to conduct separate sessions rather than inviting the parties to a hearing. In the email (Exhibit P6), the defendant simply updated the plaintiff (Exhibit P6). The management does not communicate with investors before obtaining the Board's approval. The defendant communicated with the plaintiff after the Board's decision. The plaintiff has been engaging us through various means of communication and with different stakeholders. He insisted that the defendant informed the plaintiff of the decision of the defendant's Board (Exhibit P3).

Based on the above evidence, the tribunal is obliged to address the above issues and determine the plaintiff's claims. The first issue is whether the defendant had a duty to disclose its decision to the plaintiff. However, before addressing this issue, we wish to draw the backdrop of this dispute. The plaintiff lodged the complaint with the defendant on 13 May 2020. After the defendant's internal complaint-handling process, the defendant directed the broker to restore 280,000 shares and compensate for the price difference arising from the sale of 38,200 shares at the market price instead of the limit order. On 5 March 2021, the broker appealed the defendant's decision to the Capital Markets and Securities Authority. The matter was later remitted back to the defendant to afford the broker the right to be heard. The dispute was reheard, and the broker was fined TZS 2,000,000 for breach of the DSE Rules. As clearly stated in the evidence, the process begins with management's decision, moves to the LTC, and finally to the defendant's Board before the decision can be communicated to the public. It was an uncontroverted fact that the defendant's Board has final approval of the decision before an appeal to the Capital Markets and Securities Authority. In the instant case, the same procedure was followed, and the broker was ordered, among other things, to restore 280,000 shares which were sold without the plaintiff's instructions and pay the difference in price for the 38,200 shares which were sold at the market order instead of a limit order. The broker was required to comply with the above order within 14 days of receipt of the letter (Exhibit P2). The broker



appealed to the Authority against the above order, and the matter was remitted back to the defendant for retrial/rehearing. Both parties were afforded the right to be heard before the defendant for the second time. The broker appeared, and the plaintiff, together with his brother (Patrick Kidindima), was heard on a recorded call. The existence of the audio recording was not challenged by the plaintiff. It later became evident that the broker did not exercise due diligence in knowing its customer, as the instructions to sell 280,000 came from the plaintiff's brother (Patrick Kidindima) rather than the plaintiff. The plaintiff's brother was emphatic that they had decided to sell the shares to raise funds for their mother's treatment. According to the plaintiff's brother, the plaintiff was closely involved. However, during the determination of this complaint, the signatures of the plaintiff and his brother were in issue, and the defendant instructed the plaintiff to refer the issue to the responsible authorities. The record is silent on whether the two signatures were referred for examination.

After the retrial/rehearing, the defendant was content that the broker violated Rule 93(1) of the DSE Rules, which required the broker to ensure that she received bona fide instructions from clients and to identify the persons from whom they took instructions to effect transactions. The broker was found to have failed to comply with Rules 22(1), 26(1), 34, 36(2), 93(1), and 93(2). As a result, the broker was reprimanded and fined TZS 2,000,000/= (Exhibit P4).

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In our view, therefore, if the plaintiff was unhappy with the above decision, he should have taken the necessary steps to impugn it. In this case, the plaintiff now blames the defendant, as the share market regulator, for failing to inform him of the decisions in time, resulting in the loss of his shares. Under section 30(5) of the Capital Markets and Securities Act, Cap. 79 RE 2023, the defendant was obliged to communicate the decision to the complainant. The section provides:

> *"Any person who is aggrieved by the decision of a stock exchange under this section may, within one month after he is notified of the decision, appeal to the Authority and where the decision is made by the Authority the appeal shall lie to the Tribunal."*

In line with the above provisions of the law, therefore, we find that the defendant was duty-bound to communicate its decisions to the plaintiff. It cannot be argued that the defendant, being the regulator, after receiving the complaint and handling it, had no obligation to communicate the decision to the complainant. We are in the firm view that the defendant was obliged by the law to inform the plaintiff of its decision.

The second issue is whether the defendant negligently breached the duty to avail its decision to the plaintiff in due time. We have already shown how the defendant received, handled, and determined the dispute. Throughout the process, the plaintiff was involved and well informed. The defendant's

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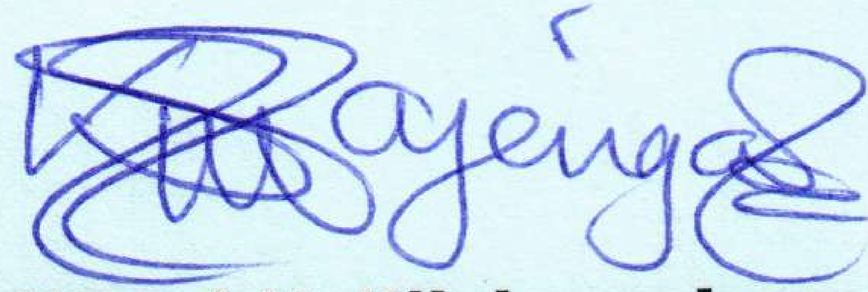
evidence leaves no doubt that there were communications with the plaintiff via email, phone calls, and letters. For instance, on 1st October 2021, the defendant informed the plaintiff about its decision (Exhibit P7). In that letter, which was actually tendered by the plaintiff, the defendant reminded the plaintiff about the communications they had been making. In that letter, the plaintiff was advised, *inter alia*, to take the matter to the Capital Markets and Securities Authority and other responsible authorities for the claims. It is therefore not correct to allege that the plaintiff knew the defendant's decisions after they were attached as annexures in the appeal before this Tribunal in 2025. On the other premises, assume that the defendant violated its duty to inform the plaintiff; in our view, there would be no monetary losses occasioned by the defendant's act to the plaintiff. We say so because, when the plaintiff filed the complaint against the defendant on 13 May 2020, the broker had already sold the shares. Even if the defendant's decision could have been communicated, the decision was, in the first place, in favor of the plaintiff and could not have been challenged. No wonder there was no action taken by the plaintiff after the defendant's decision was made on 4th December 2020. The plaintiff argues that he was denied the defendant's decision and only learned of it through Appeal No. 1 of 2024, which was determined by this tribunal. However, such an argument seems to contradict facts contained in Appeal No. 1 of 2024, which this tribunal has taken judicial notice of. The plaintiff seemed well informed about the defendant's decision,

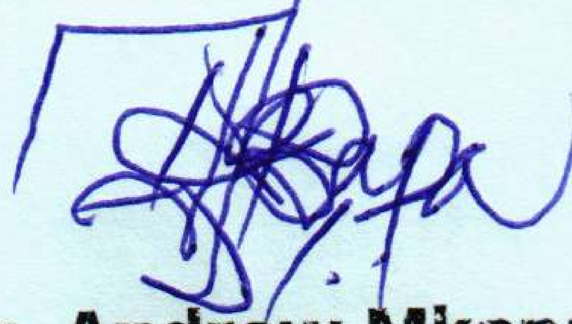
took the matter to the Capital Markets and Securities Authority, and ultimately brought the matter before this tribunal. It is a bit awkward to argue that he was unaware of the defendant's decisions in this case. We find that the defendant did not breach any legal duty. As analyzed above, the plaintiff was well informed about the defendant's decisions.

The third issue is whether the plaintiff suffered loss as a result of the defendant's negligence. In analyzing the second issue, we have observed that there was no negligence by the defendant, as the decision was communicated to the plaintiff. Secondly, it is also a fact that when this suit was brought before the respondent, the disputed shares, which the plaintiff alleges were used to deprive him of dividends, had already been sold. So, at the time he filed the complaint, the plaintiff was not in possession of any shares that could have earned him dividends. Consequently, based on these facts, this prayer cannot stand. Thus, in our view, there was no direct financial loss suffered by the plaintiff as a result of the delay or non-communication of the decision by the defendant.

The fourth issue is on the reliefs to which the parties are entitled. Having resolved the above issues, the consequential relief or order is to dismiss the plaintiff's claim as we hereby do. Thus, the plaintiff's case is dismissed, and, in

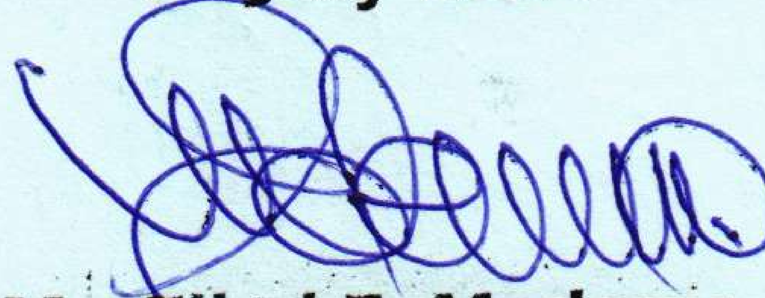


Hon. Ntemi N. Kilekamajenga, J.
Chairperson
01 July 2026



Mr. Andrew Mkapa
Member
01 July 2026

Ms. Sia B. Mrema
Member
01 July 2026



Mr. Eliad E. Mndeme
Member
01 July 2026

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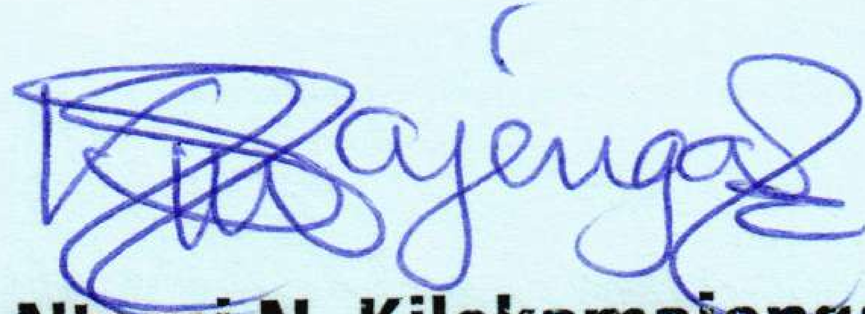
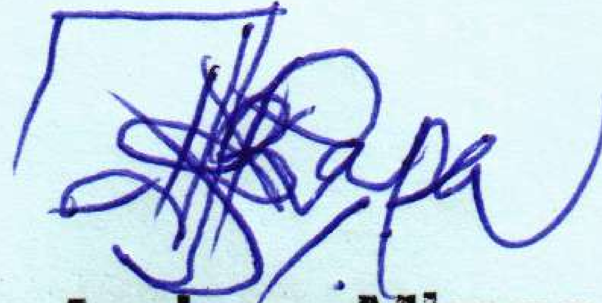
light of the nature of this action, each party should bear its own costs. Order accordingly.

Dated at **Dar es Salaam**, this 01 July 2026



Hon. Ntemi N. Kilekamajenga, J.
Chairperson
01 July 2026



Mr. Andrew Mkapa
Member
01 July 2026

Ms. Sia B. Mrema
Member
01 July 2026

Mr. Ellad E. Mndeme
Member
01 July 2026

CAPITAL MARKETS TRIBUNAL
P. O. Box 1384
DAR-ES-SALAAM

Tribunal:

Judgment delivered this 1st July 2026 in the presence of the plaintiff present in person and Ms. Jackline Kilama for the respondent. Right of appeal explained to the parties.