

EQUITY BANK RWANDA LTD v. SEBAHIZI

[Rwanda Supreme Court – RS/INJUST/RCOM00001/2017/SC
(Mukanyundo, P.J; Kayitesi R. and Rugabirwa, J.) 26 January
2018]

Law regulating banks – Liability – Negligence – The fact that the bank failed to the obligation of calling the client before withdrawing money from his account and transferring it elsewhere as provided in bank’s internal rules, it is held liable – Law N°45/2011 of 25/11/2011 governing contracts, article 64

Facts: Sebahizi opened an account of United States Dollar (USD) inequity bank Rwanda Ltd on which were withdrawn 30,000USD and transferred to Singapore without his approval. He filed a claim before Nyarugenge commercial Court requesting the bank to refund his dollars and various damages; that Court held that the his claim has merit and ordered the bank to refund him 30,000USD, and to pay for moral damages and attorney’s fee. EQUITY BANK RWANDA LTD appealed before Commercial High Court and ruled that the appeal has merit in part because Sebahizi did not protect properly his bank account and led to withdraw on it 30,000USD by unknown people, it held also, that the cross appeal of Sebahizi has no merit, and ordered the bank to refund Sebahizi 15,000USD equivalent to the half (1/2) of 30,000USD withdrawn on his account without his approval.

Sebahizi unsatisfied with the ruling of the Commercial High Court, he wrote to office of Ombudsman requesting the review

due to injustice the judgment RCOMA0032/16/HCC as he did not authorize the withdrawal of 30,000USD on his account; rather it was due to the negligence of the bank.

The office of the Ombudsman wrote to the president of Supreme Court requesting to review that judgment due to injustice, as the bank did not make a phone call to Sebahizi before the withdrawal of that money on his account as provided in EQUITY BANK RWANDA LTD internal rules.

President of Supreme Court after considering the report of the inspectorate general of Courts, he requested the registry of this Court to put this case on the cause list.

Before the Supreme Court Sebahizi states that, the Commercial High Court ruled to share the liability with the bank because he did not protect enough his account whereas the Court did not highlight what he should have done so that his account could not be hacked.

He continues Stating that, when he opened the USD account, they agreed that before withdrawing money on his account, he must fill documents known as e-mail indemnity and Diaspora application for funds transfer using a handwriting to make sure that they are originals and they had to call him as provided by bank's internal rules, thus, that bank must refund him his money with interests and various damages.

EQUITY BANK RWANDA Ltd defends that it cannot refund Sebahizi 30,000USD withdrawn on his account by unknown people because it has not been involved in this operation, and it had no sine qua non obligation to call him before transferring that money, because they don't have an agreement providing that, and the bank does not usually call its clients due to a large sums of money requested, rather it calls them when it has

doubts on the cheque deposited but when the bank has no doubts it has to deliver money without any further complication

The bank also, filed a cross appeal requesting that the ruling of Commercial High Court ordering it to pay 15,000USD would be reversed because what the bank did was provided by their mutual contract.

Sebahizi argues that the cross appeal has no merit because the bank did not claim beforehand to the office of Ombudsman for injustice.

Held: 1. The fact that the bank failed to the obligation of calling the client before withdrawing money from his account and transferring it elsewhere as provided in bank's internal rules, it is held liable. Thus, the fact that the bank withdrawn the money on Sebahizi's account and transferred it to Singapore without calling him first, this make it the sole liable.

2. The fact that Sebahizi was deprived the right to use his money due the negligence of the bank, this caused a loss to his family; therefore, the bank must give him damages.

3. Procedural and attorney's fees are awarded in Court's discretion when the request is excessive.

4. None can raise the inadmissibility of cross appeal in the hearing of the case review due to injustice arguing that the claim has to be filed beforehand to the office of Ombudsman because the claim is filed before Court not to the office of Ombudsman.

**The application of case review due to injustice has merit.
The ruling of the judgment rendered by the Commercial
High Court is reversed in part.**

Statutes and statutory instruments referred to:

Organic Law N°03/2012/OL determining the organization, functioning and jurisdiction of the Supreme Court, article 81, paragraph 2.

Law N°45/2011 of 25/11/2011 governing contracts articles 64 and 137.

Law N°15/2004 of 12/06/2004 relating to evidence and its production, article 110.

Decree Law of 30/7/1888 relating to contract or convention obligations, article 258.

No case referred to

Judgment

I. BACKGROUND OF THE CASE

[1] This case started in Nyarugenge Commercial Court, Sebahizi Jules suing EQUITY BANK RWANDA Ltd requesting it to refund him 30,000USD withdrawn on his account N°04003211159434 without his approval, and was also requesting various damages.

[2] On 30/11/2015, the Court rendered the judgment RCOM1408/15/TC/Nyge, and ruled that the claim of Sebahizi has merit and ordered EQUITY BANK RWANDA Ltd to refund him 30,000USD withdrawn on his account without his approval and 2,000,000Frw for moral damages and lawyer's fee.

[3] EQUITY BANK RWANDA LTD appealed before Commercial High Court which rendered the judgment RCOMA0032/16/HCC on 19/02/2016, and ruled that its appeal has merit in part regarding the fact that Sebahizi Jules did not protect enough his account aforementioned which caused the withdrawal on that account 30,000USD by unknown people, it ruled also that the cross appeal filed by Sebahizi Jules has no merit and ordered EQUITY BANK RWANDA Ltd to refund Sebahizi Jules 15,000USD equal to the half (1/2) of 30,000USD withdrawn on his account and transferred to Singapore without his approval.

[4] Sebahizi Jules wrote to the office of Ombudsman requesting to review the case RCOMA0032/16/HCC rendered by the Commercial High Court on 19/03/2016 due to injustice, because he was not involved in the withdrawal of 30,000USD on his account, instead it was due to the negligence of EQUITY BANK RWANDA Ltd because it transferred that money to Singapore without his consent.

[5] After examining this issue, the Ombudsman found that the case RCOMA0032/16/HCC has to be reviewed due to injustice because based on the EQUITY BANK RWANDA Ltd's internal rules known as operations procedures manual, it should have called Sebahizi Jules before withdrawing and transferring 30,000USD to Singapore, thus, since EQUITY BANK RWANDA Ltd admitted in the hearing of Commercial High Court that it did not call him before transferring that money abroad, this might led EQUITY BANK RWANDA Ltd to lose the case as provided by article 110 of the law N°15/2004 of 12/06/2004 relating to evidence which stipulates that, the statements that the accused or his or her representative makes

before the court serve as judicial admission and such statements shall serve as plaintiff arguments. Because failure to call him caused a withdrawal on his account of that money without his consent and consequently a loss to him.

[6] The Ombudsman wrote to president of Supreme Court requesting to review the case RCOMA0032/16/HCC due to injustice explained above. After considering the report of general inspectorate of the Courts, president of Supreme Court made an order N°013/2017 of 14/03/2017, requesting the registry of this Court to put the case on the cause list so that the case shall be reviewed due to injustice, then the case was recorded on RS/INJUST/RCOM00001/2017/SC

[7] The case was heard in public on 18/07/2017, Sebahizi represented by Counsel Bizimana Shoshi Jean Claude while EQUITY BANK RWANDA Ltd was represented by Counsel Karemera Frank.

[8] On 06/10/2017, the Court rendered an interlocutory judgment and ruled that the hearing of the case will be resumed on 20/12/2017, so that all parties in the case would have a say on EQUITY BANK RWANDA Ltd's internal rules known as Branch Operations Procedures Manual and it suspended the court fees.

[9] The hearing of the case was resumed on 20/12/2017, EQUITY BANK RWANDA Ltd represented by the same Counsel while Sebahizi Jules was present and assisted by Counsel Bizimana shoshi Jean Claude.

II. ANALYSIS OF LEGAL ISSUES

Whether Sebahizi Jules was involved in withdrawing 30,000USD to his account so that, he can be also held liable for the half (½) of the loss he incurred

[10] Bizimana Shoshi Jean Claude, the Counsel for Sebahizi Jules states that, based on article 81 paragraph 2°, of the organic - Law N°03/2012/OL of 13/06/2012 regulating organization, functioning and competence of the Supreme Court provides that the final decision of the Court can be reviewed when there are provisions and irrefutable evidence that the judge ignored in rendering the judgment; therefore, the judgment RCOM0032/16/HCC rendered by Commercial High Court on 19/02/2016 has to be reviewed due to injustice because that Court ordered EQUITY BANK RWANDA Ltd to refund him 15,000USD only because Sebahizi at his side did not protect enough his e-mail address so that his account N°04003211159434 could not be hacked and withdrawn on it 30,000USD, but that Court did not highlight what he should have done so that his account could not be hacked.

[11] He further states that EQUITY BANK RWANDA Ltd must refund to Sebahizi Jules 30.000USD withdrawn on his account without his approval, because the bank transferred that money to Singapore without first calling and ask him whether he is the one who authorized this operation, as provided in article 14 of it's internal rules titled operations procedures manual which states that EQUITY BANK RWANDA Ltd must first call the client before the transfer of 100,000Frw elsewhere or even the amount of money less than that when it doubt on the cheque deposited, also the specific contract between two parties called e-mail indemnity, does not cancel the internal rules or

other measures taken by EQUITY BANK RWANDA Ltd in order to protect the safety of the money of his clients from theft.

[12] He continues explaining that he can not understand why EQUITY BANK RWANDA Ltd did not call him before transferring 30.000USD abroad as confessed by it's Counsel at first instance, appeal level and even before this Court, while it called him three times inquiring whether he is the one who ordered the bank to give Bikema Vanessa 1.700USD; 1.500USD and 1.800USD, and these ones were local operations, whereas it is not reasonable to transfer such important amount of 30,000USD abroad basing on e-mail indemnity and Diaspora-application for funds transfer filled with computer while he has always been filing such documents with a handwriting.

[13] Sebahizi Jules states that he is not a business man, instead he is an employee of USAID working in Liberia, he opened an account in EQUITY BANK RWANDA Ltd, Remera branch to enable him receiving money from Rwanda, but they had no agreement with the bank providing that his account will be managed on line, instead when he had to request the transfer of money from the bank, the bank used to request him to fill an e-mail indemnity and Diaspora application for funds transfer using a pen so that it can be clear that those documents are originals and he did so three times when he requested money mentioned above, even before transferring that money EQUITY BANK RWANDA had to make a phone call to him to make sure that he is the one who requested that money, then it transferred it through Bikema Vanessa as it was so required by the bank when he opened the account so that, the bank can transfer the money to an account of a person he trusts and that

person received that money several times and transferred it to him through Western Union successfully.

[14] He explains that EQUITY BANK RWANDA Ltd withdrawn from his account 8,500USD on Monday 29/06/2015 and 21.500USD on Friday 03/07/2015, all totaling to 30.000USD, and transferred it to Singapore for purchasing papers while he does not deal in papers. After transferring that amount, the manager of EQUITY BANK RWANDA Ltd Remera branch called on Tuesday asking him whether he is the one who authorized that operation and he denied, the branch manager told him that he is going to do his best to retrieve that money while it is still possible, afterwards, he was surprised by the fact that he switched off his phone for two weeks, and that time EQUITY BANK RWANDA Ltd was not denying its responsibility. He requests EQUITY BANK RWANDA Ltd to refund him 30,000USD withdrawn from his account without his approval and various damages.

[15] Counsel Karemera Frank, representing EQUITY BANK RWANDA Ltd, argues that the bank cannot refund Sebahizi Jules 30,000USD withdrawn from his account N°04003211159434 by unknown people because it was not involved, and it had no *sine qua non* obligation of calling him before the transfer of that money because they don't have an agreement providing that, and the bank does not usually call its client due to large sums of money requested, instead it calls him when it has doubts on the cheque deposited but when the bank has no doubts it has to deliver money without any further complication .

[16] He states further that article 14 of its internal rules titled operations procedures manual, as raised by Sebahizi Jules which

requires EQUITY BANK RWANDA Ltd to call its client is not applicable in this case, because it is a general provision that govern all clients, thus they should be governed by a specific contract known as mail indemnity because it is the one which provides for the management of the account. He further explains that EQUITY BANK RWANDA Ltd concluded with Sebahizi Jules a specific agreement, because it believed that it's internal rules are not sufficient to prevent risks available in e-commerce.

[17] He states again that EQUITY BANK RWANDA Ltd may be liable for those dollars if this Court finds that it did not respect article 3,4, 5 and 6, paragraph 6 of the specific contract mentioned above. He explains that article 3 of that contract, provides that when the bank receives an e-mail different with the address provided by the client, it has to ignore it, but in this case the bank did not suspect that the e-mail received does not belong to Sebahizi Jules, instead it was clear that it was his, because he had sent to the bank an invoice from Hong Kong showing the recipient of that money, the country where he is located, his account number and the purpose for it. This led the bank to transfer that money, but afterwards, it was clear that his account was hacked as he also acknowledges.

[18] He continues explaining that article 4 of the specific contract mentioned above provides that the client agreed that all e-mail instructions will be considered as they were sent by him and accept all consequences related to that e-mail, this means that the client was also aware that EQUITY BANK RWANDA Ltd has no full capacity of supervising his e-mail. He states that article5 of that contract, provides that the client can pay damages to the bank when necessary, and Sebahizi Jules exonerated the bank from the liability as he admitted that this

business is risky. He added that article 6 paragraph 6, of that agreement indicates that the bank is not liable for false informations. In conclusion, he states that, though EQUITY BANK RWANDA Ltd did not call Sebahizi Jules, it cannot be held liable because it took all the necessary precautions, so that these dollars won't be stolen even though it has been stolen against it's will.

VIEW OF THE COURT

[19] Article 81 paragraph 2° of the Organic Law N°03/2012/OL of 13/06/2012 determining the organization, functioning and jurisdiction of the Supreme Court provides that "The review of a final decision due to injustice shall only be applied when there are provisions and irrefutable evidence that the judge ignored in rendering the judgment"

[20] While article 64 of the Law N°45/2011 of 25/11/2011 governing contracts provides that "Contracts made in accordance with the law shall be binding between parties. They may only be revoked at the consent of the parties or for reasons based on law"

[21] Article 9 of email – indemnity, concluded between EQUITY BANK RWANDA Ltd and Sebahizi Jules on 07/04/2015, contained in the case file states that the indemnity and all future transactions shall be governed by all applicable laws and the Banks policies and procedures. While article 14 of EQUITY BANK RWANDA Ltd Branch Operations Procedures Manual which govern the procedure of transfer of money from one client's account to another provides that Operations Manager, before transfer of the money from one client's

account to another based on instructions sent by a client through e-mail, they have obligation to check whether that e-mail is from the real client and check also, that the e-mail indemnity form is attached, If they find those requirements complete, they shall call the client to confirm the authenticity of the said instruction.

[22] The case file shows that on 05/06/2012, Sebahizi Jules who was working for USAID in Liberia by then, opened an account N°4003211159434 in EQUITY BANK RWANDA Ltd, they agreed that for the bank to transfer money to him, he had to fill an e-mail indemnity and a document titled Diaspora application for funds transfer, and send those documents to the bank through his e-mail address makuzajules@gmail.com.

[23] The case file indicates also that on 13/03/2015 Sebahizi Jules filled an e-mail indemnity and Diaspora-application for funds transfer in his hand writing, then he sent these documents to EQUITY BANK RWANDA Ltd through his e-mail address, makuzajules@gmail.com mentioned above requesting to transfer 1,700USD from his account N°4003211159434 to account N°4003211287114 belonging to Bikema Vanessa an employee of that bank, and the latter transfers the money to him. Sebahizi Jules did these operations on 07/04/2015 when he requested the transfer of 1,500USD, and on 27/05/2015 when he requested the transfer of 1,800USD all transferred through Bikema Vanessa's account mentioned above and Sebahizi Jules admits that he received that money without any complication.

[24] As stated by both parties, in the case file contains e-mail indemnity and Diaspora application for funds transfer of 29/06/2015 filled by unknown person using computer and bore a scanned signature of Sebahizi Jules which were sent to

EQUITY BANK RWANDA Ltd through Sebahizi Jules's e-mail (makuzajules@gmail.com) mentioned above, requesting the bank to transfer 8,500USD from his account N°4003211159434 to the following address; Beneficiary's name: Chong Tze Min, Beneficiary's Account N°245660375, Beneficiary's Bank: DBS Bank Limited, Country: Marina Bay, Singapore, Swift Code/IBAN/Fed wire N°DBSSSGSG. This was done again on 03/07/2015, when the same unknown person requested EQUITY BANK RWANDA Ltd to transfer 21,500USD from Sebahizi Jules's account to the same address, thus EQUITY BANK RWANDA Ltd transferred 30,000USD (8,500USD+21,500USD) in two installments.

[25] The Court finds without merit the statement of EQUITY BANK RWANDA Ltd's Counsel that in this case the Equity Bank Limited, Branch Operations Procedures Manual should not be applied because it applies to all clients in general, instead of concerning Sebahizi Jules in particular because internal rules e-mail indemnity made on 07/04/2015 complement each other, and they are binding to both parties as provided for by article 64 of the Law governing contracts mentioned above.

[26] Based on above provisions and motivations, the Court finds that EQUITY BANK RWANDA Ltd is liable for 30,000USD withdrawn from Sebahizi Jules's account N°4003211159434 without his approval because of the following reasons:

[1] The fact that EQUITY BANK RWANDA Ltd withdrew 30,000USD from Sebahizi Jules's account N°4003211159434 twice in various intervals because on 30/06/2015, it withdrew 8,500USD and 21,500USD on 03/07/2015, and sent it immediately to Singapore before

calling him to confirm whether he is the one who authorised that transfer to that country, though EQUITY BANK RWANDA Ltd had the contractual obligation of calling him before the transfer of that money as stipulated in article 14 of Equity Bank Limited, Branch Operations Procedures Manual, governing procedures of transferring money from client's account to another.

- [2] - The fact that EQUITY BANK RWANDA Ltd failed to call Sebahizi Jules before transferring money to Singapore whereas it had enough informations to suspect that operations and would have called him before transferring those dollars to that country because comparing to previous operations it was clear that the request of the money was too high to buy papers in Hong Kong, and Sebahizi Jules is not a business man but an employee of USAID.
- [3] - The fact that EQUITY BANK RWANDA Ltd did not call Sebahizi Jules before sending such important amount of 30,000USD to Singapore while for previous operations it used to call him on phone when he requested a transfer of less money as 1,700USD, 1,500USD and 1,800USD, and transferred this money to Bikema Vanessa's account N°4003211287114 who was in Rwanda as an employee of that bank.
- [4] - The fact that EQUITY BANK RWANDA Ltd transferred 30.000USD to Singapore without calling Sebahizi Jules to confirm if he is the one who authorised this operation while the practice of banks in Rwanda requires them to call their clients who issued cheques before paying them. This is also provided in Equity Bank Limited, Branch Operations Procedures Manual

(p.82), where it requires cash officer to call clients before payment of cheques of five hundred thousand (500,000Frw) deposited by a third party.

[5] - The fact that in previous Courts EQUITY BANK RWANDA Ltd confessed that it did not call Sebahizi Jules before the transfer of 30,000USD in Singapore this confession must serve Sebahizi Jules's argument as provided by article 110 of the law on evidence N°15/2004 of 12/06/2004 which stipulates that a judicial admission refers to statements the accused or his or her representative makes before the court. Such statements shall serve as plaintiff arguments.

[27] Based on provisions and motivations given above, the Court finds that, Sebahizi Jules was not involved in the withdraw and the transfer of 30,000USD from his account N°4003211159434 to Singapore, this implies that EQUITY BANK RWANDA Ltd did this out of negligence thus, it has to refund him the whole amount.

Whether Sebahizi Jules is entitled to damages in this case

[28] Counsel Bizimana Shoshi states that Sebahizi Jules and his family were deprived the right to use their 30.000USD for a period of two years, from 29/06/2015 and 03/07/2015 when that money was withdrawn up to now due to aforementioned EQUITY BANK RWANDA Ltd's fault, this caused them to live in poor welfare while they had savings, thus, he requests EQUITY BANK RWANDA Ltd to pay interests for that loss due to its fault, calculated as follows :

$$\frac{30.000USD \times 18 \times 2years}{100} = 10,800USD$$

[29] He states also that EQUITY BANK RWANDA Ltd has to refund Sebahizi Jules 16,560USD for the loss he incurred when he travelled from his work place in Monrovia to Rwanda to follow up his case as it is evidenced by the documents in the file.

[30] He continues arguing that based on article 258 of civil code book three, EQUITY BANK RWANDA Ltd has to pay Sebahizi Jules and his family 10,000,000Frw as moral damages, 2,000,000Frw of procedural fee, 1,000,000Frw for lawyer's fee, for the first instance, 1,000,000Frw at first appeal and 1,000,000Frw in this Court.

[31] Counsel Karemera Frank representing EQUITY BANK RWANDA Ltd argues that Sebahizi Jules cannot be given damages he requests because he dragged himself in Court proceedings while the bank committed no fault as explained above.

VIEW OF THE COURT

[32] As regards to damages for economic loss requested by Sebahizi Jules, article 137 of the Law N°45/2011 of 25/11/2011 governing contracts, provides that the aggrieved party has right to damages from the party failing to perform his/her contractual obligations, unless the claim for damages has been suspended or withdrawn.

[33] The Court finds that, indeed Sebahizi Jules and his family suffered prejudice of not using their 30,000USD due to its transfer by EQUITY BANK RWANDA Ltd to Singapore without the approval of Sebahizi as explained above and he

could not use it in anyway neither for family needs nor for savings in bank so that it can generate interests.

[34] Based on the article aforementioned, the Court finds that EQUITY BANK RWANDA Ltd caused a loss to Sebahizi Jules and his family and consequently there are entitled to interest due to the loss they incurred calculated on the rate of 6.576% as it was regulated by NATIONAL BANK OF RWANDA in December 2017 (average rate of debt interest) because it is on that rate on which clients's savings for interests in banks are calculated, rather the rate of 18% per year because Sebahizi Jules is not a business man as he agreed before this Court. Thus, the fact that Sebahizi Jules spent 926 days without using that money due to the negligence of EQUITY BANK RWANDA Ltd as motivated above, this means that from 30/06/2015 the first day of withdrawing that money up to 26/01/2018 the date of pronouncement of the case, it must give interests calculated as follows:

$$\frac{30.000USD \times 6.576 \times 926 \text{days}}{360 \times 100} = 5.074USD$$

[35] As regards to procedural expenses incurred by Sebahizi Jules, the Court finds that the elements of evidence available in the case file indicate those expenses as follows: air return tickets paid for the flight from Liberia to Rwanda :182USD, 780USD and 592,500Frw as it is proved by the receipts of 24/08/2015 and 31/03/2017, 180USD for hotel fee and the visa paid while he was in Ghana – Accra as it is proved by the receipt of 23/08/2015, 50USD paid at the customs of that country, and 20USD paid to the driver who picked him from the Airport to the hotel in which he slept in that country as it is proved by the receipt of 22/08/2015, plus meals and local travel while he was

in Rwanda to follow up his case, he has been given 500,000Frw in Court's discretion, the total procedural expenses spent equal to 1,212USD and 1,092,500Frw.

[36] As regards to lawyer's fee, the Court finds that Sebahizi Jules hired Lawyer's services from the first instance to this Court, Thus, EQUITY BANK RWANDA Ltd must pay him 500,000Frw for the first instance, 500,000Frw for the Commercial High Court and 1,000,000Frw at this level, all totaling to 2,000,000Frw awarded in Court's discretion because the amount he requests is excessive.

[37] Concerning moral damages, article 258 of civil code book three provides that any act of a person, which causes damage to another obliges that person who committed that fault to repair it. Based on this article, the Court finds that, as Sebahizi Jules and his family were deprived the right to use 30,000USD during a period of more than 2 years due to the act of EQUITY BANK RWANDA Ltd of transferring it abroad without Sebahizi Jules's approval as motivated above, it is obvious, that act caused moral and psychological disorder, thus, EQUITY BANK RWANDA Ltd must pay for damages equal to 800,000Frw awarded in Court's discretion because the amount requested is excessive.

Whether the cross appeal of EQUITY BANK RWANDA Ltd has merit

[38] Counsel Karemera Frank, representing EQUITY BANK RWANDA Ltd, filed a cross appeal requesting the Supreme Court to overrule the decision of Commercial High Court which orders EQUITY BANK RWANDA Ltd to pay Sebahizi Jules half (1/2) of 30,000USD equivalent to 15,000USD because the

Bank was not involved in hacking Sebahizi's e-mail, and it operated according to their agreement, rather it request Sebahizi Jules to pay 2,000,000Frw of attorney's fees.

[39] Counsel Bizimana shoshi assisting Sebahizi Jules argues that the cross appeal filed by EQUITY BANK RWANDA Ltd has no merit because it carelessly transferred his client's money abroad without his approval. Also, as long as EQUITY BANK RWANDA Ltd did not file a case beforehand to office of Ombudsman for injustice, it cannot file a cross appeal requesting to overrule the decision which awarded Sebahizi Jules 15,000USD because to file a case at that office it is a special procedure, instead it can sue for procedural and attorney's fees only.

VIEW OF THE COURT

[40] The Court finds that the cross appeal filed by EQUITY BANK RWANDA Ltd has no merit due to motivations aforementioned, thus, it is not entitled to procedural and attorney's fees it requested, because it loses the case.

[41] The Court finds the arguments of Counsel Bizimana Shoshi that EQUITY BANK RWANDA Ltd has no capacity to file a cross appeal in this Court lacks merit because the claim is filed before the Court and not at Ombudsman office.

III.DECISION OF THE COURT

[42] It decides that the claim of Sebahizi Jules requesting the review due to injustice of the case RCOMA0032/16/HCC rendered by commercial high Court on 19/02/2016 has merit

[43] It decides that the cross appeal filed by EQUITY BANK RWANDA Ltd lacks merit.

[44] It orders EQUITY BANK RWANDA Ltd to give Sebahizi Jules 1,212USD and 1,092,500Frw of procedural fee.

[45] It orders EQUITY BANK RWANDA Ltd to give Sebahizi Jules 30,000USD withdrawn on his account without his approval and 5,074USD of economic damages that Sebahizi and his family incurred, the total is 35,074USD.

[46] It orders EQUITY BANK RWANDA Ltd to give Sebahizi Jules 800.000Frw of moral damages and 2,000,000Frw of attorney's fee.

[47] It declares that the ruling of the judgment RCOMA0032/16/HCC rendered by the Commercial High Court on 19/02/2016 is reversed in part.

[48] It orders EQUITY BANK RWANDA Ltd to deposit the Court fee equivalent to 100, 000Frw.