



Timothy Masembe

Managing Partner | ALN Uganda | MMAKS Advocates

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Background

Timothy is the Managing Partner of MMAKS Advocates | ALN Uganda and the head of the firm's Litigation team. His practice focuses mainly on commercial litigation and arbitration, as well as corporate and commercial law. He is an advocate of the High Court of Uganda, a Barrister-at-law and a Member of the Honourable Society of the Inner Temple, UK.

Masembe holds an LL. B (Hons.) degree and was called to the Bar of England and Wales in 1992. In addition, he obtained a Diploma in Legal Practice from the Law Development Centre in Uganda. He is one of the leading litigators in Uganda and has appeared in numerous ground-breaking cases involving banking and finance law, commercial arbitration, and public law. He was recently granted a special license to appear in the Tanzania Courts. Masembe is an external lead counsel for the Bank of Uganda and has thus been at the centre of the reconstruction and improvement of Uganda's entire banking sector. In addition, he has served as a member of the Capital Markets Authority Board.

Professional Membership

- Uganda Law Society
- East African Law Society
- Barrister-at-Law, England & Wales
- Member, Honourable Society of Inner Temple, England

Professional Qualifications

- Postgraduate Diploma in Legal Practice, Law Development Centre, Uganda
- LL.B (Hons.), University of London, England

Career Summary

2005 – Date: Partner, MMAKS Advocates

1993 – 2005: Advocate and Partner, Mugerwa & Masembe Advocates

Awards and Recognition

- *“Masembe is an extremely strong negotiator. He is a highly acclaimed lawyer. His expertise lies in litigation and arbitration, with strengths in the banking and energy sectors.”* – **Chambers Global 2024**
- *“He is one of the best litigators in Uganda and his courtroom skills, tenacity and work ethic are admirable.”* – **Chambers Global 2023**
- *“Masembe is an extremely strong negotiator. He articulates himself clearly and he is intelligent.”* – **Chambers Global 2022**

Top Matters

Litigation and Dispute Resolution

- Successfully acting for the Industrial Development Corporation of South Africa in resisting a challenge to the enforcement in Uganda of its USD 153 million foreign arbitral award against AYA Investments (U) Ltd, the proprietor of the Pearl of Africa Hotel. The resisted challenge involved questions of arbitrability of the dispute, alleged inability to participate in the arbitral proceedings, allegations of bias, and other issues all of which were resolved in favour of our client.
- Successfully acting for Rwenzori Hydro (PVT) Ltd, a special purpose vehicle incorporated in Uganda to develop, construct and operate a 15MW run-of-river hydro power plant, and Greenwus Energy Africa in litigation-based enforcement of payment on five USD 6.4m advance payment and performance bonds issued in the context of two hydro power projects, the Nyamagasani I Hydro Power Project and the Kakaka Hydro Power Project. The litigation was important for commercial confidence in the use of bonds in the construction industry.
- Successfully acting for the Uganda Bankers Association and thirty commercial banks in connection with a constitutional petition in which the constitutional court declared void and unconstitutional attempts by the Uganda Revenue Authority to compel all commercial banks to divulge to it en masse the private information of all their customers and those customers' personal and financial data contrary to the constitutional right to privacy.
- Acting in an arbitration dispute against a multi-national beverage company for one of its shareholders in connection with a claim to recover close to USD 4.8 million being an estimate of the lost value of the shareholding because of a failure to recognise the shareholder's pre-emption rights on various share transfers and discrimination in various share allotments contrary to the provisions of the allotting resolutions.
- Acting for the Bank of Uganda in connection with a suit involving a fraudulent acquisition and conveyance of securities encumbered by the plaintiffs to secure a debt facility of US\$ 20 million.
- Acting for Barclays Bank and ABSA in connection with the defense of a suit seeking nullification of a structured agricultural finance facility worth USD 29.4 million advanced by the defendants.
- Successfully acting for a Kenyan and Tanzanian company in connection with a complex arbitration dispute referred to the London Court of International Arbitration (LCIA) arising out of a consortium agreement.
- Acting for Google Uganda in connection with a suit seeking a declaration to the effect that the exclusive supply of marketing and sales support services to Google Ireland was an exported service and is, as such, zero-rated.
- Acting for the Bank of Uganda and Standard Chartered Bank in connection with the recovery of USD 34 million from guarantors of a company indebted to the latter under various facilities assigned to the Bank of Uganda.
- Successfully acting for Absa Uganda in connection with an appeal at the Supreme Court seeking to overturn the decision of the High Court and Court of Appeal, which dismissed an application to set aside a consent judgment where the appellant had consented to repayment of a loan debt sum. The Supreme

- Court dismissed the appeal and confirmed that the appellant was indebted to Barclays Bank of Uganda to the sum of about USD 20 million by the date of judgment.
- Successfully acting for the Bank of Uganda in connection with a constitutional petition where the main issue was whether the takeover, liquidation, revocation of licence, and sale of the National Bank of Commerce by the Bank of Uganda was unconstitutional. The court by majority decision of 4:1 found that the acts of the Bank of Uganda were constitutional and dismissed the petition with each party bearing its own costs. This decision vindicates the Bank of Uganda in its role as regulator when it comes to supervision, and the closing and selling of financial institutions where their decline poses a systemic risk to the industry and economy.

Tax

- Acting for Uganda Breweries Limited (UBL) in connection with a tax dispute against Uganda Revenue Authority (URA) where URA took the view that the export by UBL through a foreign related entity (which was a Ugandan resident for that purpose before export), amounted to a sale between UBL and the foreign related entity and these transactions attracted VAT of over USD 70 million. UBL contends that there was no sale between itself and the related entity and that the related entity was simply its agent for the export, which under the law is zero-rated for VAT
- Acting for Aggreko Uganda, a thermal power distributor, contesting a VAT assessment levied it by the Uganda Revenue Authority of approximately USD 58 million. The matter was successfully defended by a judgment dated 12 September 2012.