

IN THE HIGH COURT OF SIERRA LEONE  
COMMERCIAL AND ADMIRALTY DIVISION  
IN THE MATTER OF THE COMPANIES ACT 2009 (ACT NO. 5 OF 2009)  
INCLUDING SECTIONS 230-241 OF THE SAID ACT

**BETWEEN**

MOMOH ANSUMANA &amp; ORS

-PLAINTIFFS/APPLICANTS

BORIS FARFELL

OLEG TSUKANOV

AND

VOYTOVICH ROTISLAV

-DEFENDANTS/RESPONDENTS

EDWARD MYRONENKO

**RULING ON NOTICE OF MOTION DELIVERED BY THE HONORABLE**  
**JUSTICE LORNARD TAYLOR ON THE 1<sup>ST</sup> NOVEMBER 2022**

**M.P. FOFANAH -COUNSEL FOR THE PLAINTIFFS/APPLICANTS****Y.H. WILLIAMS -COUNSEL FOR THE DEFENDANTS/RESPONDENTS**

On the 21<sup>st</sup> December 2021, the Court of Appeal in deciding on this matter made 15 orders. For the purpose of this application, I will limit myself chiefly to the 6<sup>th</sup>, 8<sup>th</sup> and 13<sup>th</sup> orders which relate to the present application and shall from time to time as is necessary make reference to the other orders as I deem fit.

The 6<sup>th</sup> Order of the Court of Appeal reads thus;

"No later than the 30<sup>th</sup> January 2022, Eduardo Myrenko and Voytovich Rotislav must give an account of their management of the affairs of Lora Golden Wings Co. Ltd and its assets for the period March 2014 to date such account to include all dealings with the four LGW Co. Ltds. Companies, that is to say (Name Companies)."



The 8<sup>th</sup> Order of the Court of Appeal reads thus;

"Each party shall return and or give account of any assets of Lora Golden Wings Company or any other related company under their possession and control no later than the 30<sup>th</sup> January 2022."

The 13<sup>th</sup> Order of the Court of Appeal reads thus;

"Liberty to apply is granted and the court below shall have the supervision of the orders herein."

On the 15<sup>th</sup> July 2022, based on an application by the Plaintiffs, this court ordered for an inventory of all the assets of Lora Golden Wings Limited to be taken at the at their respective locations. To all intents and purposes, this was done and a report filed by the Undersheriff.

The Plaintiffs have approached this court on an application by Notice of Motion dated 6<sup>th</sup> October 2022 praying for the following orders;

1. That following the orders of this court dated 15<sup>th</sup> July 2022 and the inventory of assets obtained therefrom by the Undersheriff of Sierra Leone assisted by G4S security company this court further orders the defendants herein Voytovich Rotislav and Eduardo Myrenko to account for all missing assets of Lora Golden Wings Company in their possession and custody, including but not limited to the equipment, machinery, diamonds, and monies in their possession which were partly stated in their statement of account filed with the Court of Appeal registry dated 15<sup>th</sup> January 2022 but which assets were not found in the course of inventory taking.
2. That in the alternative, the said missing assets of the Company be costed and paid for by the defendants to Lora Golden Wings (SL) Limited Company.
3. That this honourable court additionally orders normal work in the said company to immediately resume following the board meetings and resolutions arrived at by the Company on the 22<sup>nd</sup> August 2022; and that the Company's current management as constituted fully manage its affairs free from any restrictions, restraints, injunctions or hindrance to the Company's operations and use of its assets in any shape or form.
4. That upon the granting of order 1 and/or order 2 above and should the defendants herein fail, refuse or neglect to account for and produce the said missing assets of the company, this court directs an





international arrest warrant to be issued against the defendants herein in order for them to appear before the court and answer to its order for an account to be stated of the missing assets of the said company.

Having gone through the application of the Plaintiff, I must state that I understand it to be that the Plaintiff is seeking orders from this court, consequential to those of the court of Appeal cited above.

The 6<sup>th</sup> Order of the Court of Appeal as cited above is for the defendants to give an account of their management of the affairs of the company Lora Golden Wings while the 8<sup>th</sup> Order is for both parties to return all assets of the company Lora Golden Wings Limited in their custody as well as provide an account for these assets while they were in the custody of the respective parties. Both Orders were to have been complied with within a period specified by the Court of Appeal ending on the 30<sup>th</sup> January 2022. The 13<sup>th</sup> Order on the other hand cloaks this court with supervisory jurisdiction to ensure that the orders of the court of appeal are implemented.

On the 15<sup>th</sup> and 17<sup>th</sup> January 2022 respectively, both the Defendants and the Plaintiffs in compliance with the orders of the Court of Appeal submitted a list of assets in their custody which were supposedly property of Lora Golden Wings Limited. However, it is observed that while the Plaintiffs submitted several list of properties confirmed as belonging to Lora Golden Wings Limited as stated in their statement of account, the defendants' list came with the caveat that all the items listed belonged to Lindon BVC and Voytovich Rotislav but that same were simply placed in the name of Lora Golden Wings Limited.

In the exercise of its supervisory authority as per the 13<sup>th</sup> order of the judgment of the Court of Appeal, this court on the 15<sup>th</sup> July 2022 gave orders for an inventory of all available assets of Lora Golden Wings Limited to be taken. This was done and the undersheriff submitted his report in this regard dated 28<sup>th</sup> July 2022.

It is on this basis that the Plaintiff has now approached this court with a complaint that based on the assertions of the defendants as contained their statement of account filed in the registry of the Court of Appeal on the 15<sup>th</sup> January 2022, when juxtaposed with the assets found to be available when the inventory was taken, certain property belonging to Lora Golden Wings Limited supposedly in the custody of the defendants remain unaccounted for.

The first prayer on the face of the Notice of Motion as I understand it is for such an account to be given. The second prayer is for this court to order an





assessment of the cost of the items unaccounted for. The third prayer is for this court to order the resumption of the operations of Lora Golden Wings Limited while the fourth order is praying for a warrant for the arrest of the defendants and for them to be brought before this court to account for items which remain to be accounted for when the inventory was taken by the undersheriff.

Counsel for the defendants in addressing this court laid emphasis on the point that this court lacks jurisdiction to hear and determine this application. His argument is that the issues raised in the application are issues that have been adjudicated upon by both the High Court and the Court of Appeal. Reference was made to the statement of claim and particulars of claim as contained in the writ of summons by which this action was commenced as well as the defence filed by the defendants. Counsel pointed out that this issue of accounting for management and property of Lora Golden Wings Limited formed the basis of the action and the arguments both in the High court and the Court of Appeal. As such to revisit them would be tantamount to a retrial of the matter and or a review of the judgment of the Court of Appeal, an adventure which this court lacks the necessary legal authority to undertake.

Do I agree with counsel for the defendants that this court has no authority to retry a matter already determined? The answer is yes. There are a plethora of both local and international authorities on this issue. Do I agree that this court has no authority to review the judgment of the Court of Appeal? The answer again is in the affirmative for quite obvious reasons which I see no point in dwelling on in this application.

However, is this a case of this court retrying this matter and or reviewing the judgment of the Court of Appeal? It is certainly not. The application before this court as stated above is a plea by the Plaintiff for this court to intervene and ensure that the orders of the Court of Appeal are complied with. This ruling, whatever its outcome may be would have extensively navigated these issues and shall to all intent and purposes strive to ensure that the outcome is not a retrial, nor will it be a review of the judgement of the Court of Appeal.

The 6<sup>th</sup> Order of the Court of Appeal reads thus;

"No later than the 30<sup>th</sup> January 2022, Eduardo Myrenko and Voytovich Rotislav must give an account of their management of the affairs of Lora Golden Wings Co. Ltd and its assets for the period March 2014 to date such account to include all dealings with the four LGW Co. Ltds. Companies, that is to say (Name Companies)."





On the 15<sup>th</sup> January 2022, VoytovichRotislav the first defendant filed his statement of account in compliance with the Judgement of the Court of Appeal dated 21<sup>st</sup> December 2021. It was quite brief and so I will take the opportunity to reproduce it verbatim. He stated;

**"I am VoytovichRotislav. I was a director of Lora Golden Wings Co. Ltd for the period under review. Throughout my stewardship, I served the company diligently. I do not have any financial resources of Lora Golden Wings in my possession. All the assets that were bought and shipped to Sierra Leone and placed in the name of Lora Golden belong to the rightful owners – Lindon BVC and myself.**

**See attached list of assets of the company for the relevant period".**

A 5 page list of assets was attached to the above statement of account. This document filed by the 1<sup>st</sup> Defendant I understand to be in compliance with the 6<sup>th</sup> and 8<sup>th</sup> Orders of the Court of Appeal.

The 8<sup>th</sup> Order of the Court of Appeal reads thus;

**"Each party shall return and or give account of any assets of Lora Golden Wings Company or any other related company under their possession and control no later than the 30<sup>th</sup> January 2022."**

As per the said order of the Court of Appeal, all assets in the custody and possession of the Parties were to have been returned to the company Lora Golden Wings Limited as well as an account given as at the 30<sup>th</sup> January 2022. The Plaintiffs allege in this application that this was not done by the defendants. In paragraph 10 of the affidavit in support of the application, the deponent stated;

**"That the company in its deliberations discovered that the defendants herein almost emptied the company of its valuable assets, including most of those listed out in their own statement of account. The defendants are yet to account for the said assets including equipment, machinery, vehicles, gadgets and diamonds, all of which assets the 1<sup>st</sup> Defendant had himself testified about in the court as belonging to the Company."**

The defendants in opposing the application did not deny this in any of the several affidavits relied upon which leaves this court with no alternative but to accept this as a statement of fact.





The orders of the Court of Appeal in this regard are quite clear. All parties must surrender possession of all properties of Lora Golden Wings Limited to the company as well as give and account of these properties while they were in their respective custodies before the 30<sup>th</sup> January 2022. The Plaintiffs allege that the defendants have not complied with this provision. The defendants have not denied this allegation. On the face of these facts, the defendants are in contempt of the orders of the Court of Appeal delivered on the 21<sup>st</sup> December 2021. It is therefore within the Plaintiffs' rights to demand that these orders be complied with and such a demand I hold cannot be said to amount to a retrial of the matter nor is it a review of the judgement of the Court of Appeal.

The applicant also seeks in this application an order by this court for Lora Golden Wings Limited to commence its operations immediately free from any restrictions. This court certainly cannot grant an order of this nature in this application as such an order would be ultra vires the mandate of this court as authorised by the Court of Appeal in its judgement dated 21<sup>st</sup> December 2021.

The applicant further seeks an order for the arrest of the defendants to account for assets in their custody not returned to Lora Golden Wings Limited pursuant to the orders in the judgment of the Court of Appeal dated 21<sup>st</sup> December 2021. This court considers that this order cannot be granted at this stage of the proceedings in view of the present circumstances. The court is yet to confirm if at all the defendants do have property still in their custody belonging to Lora Golden Wings Limited which said properties remain to be returned and accounted for by the defendants. It would therefore be most unfair for any type of warrant for the arrest for the defendants whatsoever to be granted at this stage of the proceedings.

In the circumstances, I make the following orders;

1. The Undersheriff shall within 7 days from the date of this order submit to this court and the parties herein a report on the status of the properties listed in the statement of account of Voytovich Rotislav dated 15<sup>th</sup> January 2022 filed in compliance with the orders of the Court of Appeal dated 21<sup>st</sup> December 2021 and referred to above based on the inventory of assets dated 28<sup>th</sup> July 2022.
2. Assets as contained in the statement of account of Voytovich Rotislav dated 15<sup>th</sup> January 2022 filed in compliance with the orders of the Court of Appeal dated 21<sup>st</sup> December 2021 and referred to above which cannot be accounted for by the Undersheriff based on his report dated 28<sup>th</sup> July 2022 shall be accounted for by the defendants



and such accounts filed in this court within 7 days after the date of the Report of the Undersheriff as ordered above.

3. The defendants shall also where applicable file a list of properties belonging to Lora Golden Wings Limited whether directly or otherwise which at any point referred to as being in their custody but which are not contained in their statement of account dated 15<sup>th</sup> January 2022 filed in compliance with the orders of the Court of Appeal dated 21<sup>st</sup> December 2021 and referred to above within 7 days from the date of this order in further compliance with the 6<sup>th</sup> and 8<sup>th</sup> orders of the Court of Appeal dated 21<sup>st</sup> December 2021.
4. Liberty to apply.
5. The cost of this application is assessed at Le 20,000 to be paid by the Defendants to solicitors for the Plaintiffs.

A handwritten signature in blue ink, consisting of a large, stylized 'L' and 'T' with a horizontal line extending from the top of the 'T'.

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HONORABLE JUSTICE LORNARD TAYLOR