ALTX East Africa Limited v. Capital Markets Authority (Misc. Cause No. 426 of 2019)

In 2014, ALTX East Africa Limited ("ALTX") was granted approval to operate as a securities exchange under the Capital Markets Authority Act, Cap 84, as amended (the "Act"). However, in November 2019, the Capital Markets Authority ("CMA") revoked this approval, citing ALTX's alleged failure to meet certain regulatory requirements. The process leading to the revocation began in March 2018 through ongoing engagements between ALTX and CMA.

In response, ALTX filed an application for judicial review, challenging CMA's decision on grounds of illegality, procedural impropriety, and irrationality. Specifically, ALTX sought the following reliefs from the Court:

1. An order quashing CMA's decision of 20th November 2019;
2. An order restraining CMA, its agents, and servants from publishing or taking any further action to enforce the cancellation;
3. A mandamus order compelling CMA to perform its statutory functions in accordance with the law;
4. An injunction prohibiting CMA or its representatives from interfering with ALTX's right to operate as a securities exchange;
5. General, punitive, and aggravated damages for financial loss incurred;
6. Costs of the application.

Issues for Determination:

The Court framed two key issues for determination:

1. Whether the decision to cancel ALTX's approval to operate as a securities exchange was lawful;
2. What remedies, if any, were available to the parties.

Court's Decision (Delivered on 28th February 2020):

The Court ruled in favour of ALTX and made the following findings:

- CMA acted unlawfully in cancelling ALTX's approval to operate a securities exchange.
- ALTX was not accorded a fair hearing. The claim that ALTX refused to attend the hearing was rejected, as ALTX had merely requested more time to prepare for the hearing.
- CMA breached ALTX's legitimate expectation of fair administrative treatment by failing to consider, respond to, or give reasons regarding ALTX's request to withdraw the notice to show cause.
- The Court declined to award damages.
- Costs of the application were also not awarded to ALTX as each party bore its own costs.

Compliance with Court Orders:

Following the Court's ruling, CMA complied by reinstating ALTX's approval to operate as a licensed securities exchange under the Act.