



Hiram & another (Suing as the legal representative, administrator of the Estate of Ramji Govind Hiram) v Jubilee Insurance Company Limited & another (Civil Case 761 of 1999) [2022] KEHC 16554 (KLR) (Commercial and Tax) (21 December 2022) (Judgment)

Neutral citation: [2022] KEHC 16554 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE 761 OF 1999
WA OKWANY, J
DECEMBER 21, 2022**

BETWEEN

**KISHOR RAMJI HIRAM 1ST PLAINTIFF
PRIYASH HIRANI 2ND PLAINTIFF
SUING AS THE LEGAL REPRESENTATIVE, ADMINISTRATOR OF THE
ESTATE OF RAMJI GOVIND HIRAM**

AND

**JUBILEE INSURANCE COMPANY LIMITED 1ST DEFENDANT
FOREFRONT AGENCIES 2ND DEFENDANT**

JUDGMENT

1. Pursuant to this court’s orders issued in the partial judgment delivered on December 8, 2022, parties were directed to file their respective statements of account specifying the amount due to the 1st defendant as at the time Kes 5.8. million was deposited by the plaintiffs in court as security.
2. As at the time of writing this final orders, only the plaintiffs had filed their statement of account.
3. Doing the best that I can with the available material and information, I make the following final orders/ observations.
4. I find that both the plaintiffs and the 1st defendant did not fully comply with the terms of their agreement. I note that while it was not disputed that the plaintiff did not repay the loan as agreed, the 1st defendant, on its part, delayed in disbursing the final bit of the loan thereby precipitating the Plaintiffs’ default and the sequence of events that culminated in the filing of this case.



5. I further note that parties did not also seize the opportunity to reconcile their accounts in time or at all, but opted to take the route of a protracted court case that ended up lasting for over two(2) decades. In the circumstances of this case, I find that none of the parties should benefit from the delay in finalizing the case as was suggested by the 1st defendant who claimed that its debt had accrued interest that ballooned to over Kes 200 million.
6. In conclusion, I find that the amount due and owing to the 1st Defendant as at the time of filing the suit was Kes 11,378,993.95.
7. Having regard to my finding that both sides were to blame for the breach of the loan contract, I direct/ order that the sum of Kes 11,378,993.95 out of the amount deposited as security be paid directly to the 1st defendant and that the remaining balance, after the payment of the aforesaid sum of Kes 11,378,993.95, be split equally between the plaintiffs and the 1st defendant. For clarity purposes, the plaintiffs will receive 50% of the balance while the other 50% shall be paid to the 1st defendant.
8. The plaintiffs' title held by the 1st defendant shall be discharged and released to the plaintiffs.
9. Each party shall bear its own costs of the suit.

Dated, signed and delivered virtually at Nairobi this 21st Day of December 2022.

W. A. OKWANY

JUDGE

In the presence of: -

Mr. Okoth for 1st defendant.

Mr. Osiemo for the plaintiff.

Court Assistant- Godfrey

