



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL DIVISION

HIGH COURT CIVIL APPEAL 274 OF 2008

CONSOLIDATED WITH

HIGH COURT CIVIL APPEAL 186 OF 2012

CONSOLIDATED WITH

HIGH COURT CIVIL APPEAL 208 OF 2008

NATIONAL BANK OF KENYA.....APPELLANT

VERSUS

PATRICK ANALO CHAVANGA.....RESPONDENT

RULING

1. On 16th December, 2019, this court delivered judgment in the following terms;

- a) That judgment is hereby entered for the Plaintiff against the 1st Defendant for the principal sum (less 20,000/= legal fees) at the Interest rate of 5% per month up to the date of filing suit on 20th November, 1998
- b). The principal sum to be assessed by way of mathematical calculations (based on the transactions reflected in the statements already produced in court) through written submissions on a date to be given by court.
- c) The Interest on the principal sum ascertained above (b) to accrue at court rates from the date of filing suit until payment in full.
- d). The Appeals having been partially successful, each party to bear own costs of the Appeal
- e) The costs in the lower court to remain with the Plaintiff.

2. Further directions were given by this court on the date of the judgment directing parties to file supplementary submissions.

3. The Appellant did file its submissions. There was no appearance nor submissions filed on the part of the Respondent though duly served with the mention notice and the supplementary submissions by the Appellant.

4. The Appellant submitted that as at 31st March, 1997, the Respondent had spent Kshs. 100,223.25 on the credit card as reflected on the statement at page 81 of the record of Appeal in Civil Appeal 186 of 2012. That for the period September 1997 until April 1998, bulletin fees of Kshs. 3,915 were incurred as reflected at pages 87 to 94 of the record of Appeal in Civil Appeal 186 of 2012. Further that legal fees of Kshs. 20,000 was charged in May 1998, as reflected at page 95 of the record of Appeal in Civil Appeal 186 of 2012.

5. In total, Kshs. 100,223.25 + Kshs. 3,915 + Kshs. 20,000 = Kshs. 124, 138.25. Less Kshs. 20,000, Kshs. 124.138.25-kshs. 20,000 = 104,138.25.

6. The Appellant prays that this court finds that Kshs. 104,138.25 is the principal sum. I have perused the record and confirmed that the calculations as tabulated herein by the Appellant reflect the true position. I therefore enter judgment for the Appellant against the Respondent

for the Principal Sum of Kshs. 104,138.25. Interests shall apply as per the judgment herein.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 23RD DAY OF SEPT., 2021

B. THURANIRA JADEN

JUDGE