

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL & ADMIRALTY DIVISION

HCCC. NO. 331 OF 2015

CFC STANBIC BANK LIMITED.....PLAINTIFF

VERSUS

JOHANA NGENO KIPYEGON.....DEFENDANT

RULING

1. By a motion dated 8.7.2015 the Applicant seeks 5 reliefs but during the hearing, the Advocate indicated that the Applicant seeks only prayers No.2 and 5 of the motion namely;-for the Respondent to be compelled to avail, cede possession and forthwith surrender the excavator No.KHMA903C and costs.

2. The Application is based on **Section 14 and 16 of Hire Purchase Act Cap 507, Section 3A of the Civil Procedure Act, Order 51 of the Civil Procedure Rules**. It is predicated on the grounds that the Excavator was financed by the Applicant in a hire purchase agreement. The amount financed was Kshs.12,742,400/= on 31.10.2013. The same was repayable by way of 47 monthly installments with effect from 15.12.2013 at rate of Kshs.353,443/= and in default repossession to take place.

3. The Respondent defaulted the agreement while the amount due was standing at Kshs.11,534,539.77 as at 15.6.2015 with interest rate applying at a rate of 33% per annum.

4. The application is supported by the Affidavit of ANN K. MULI sworn on 8.7.2015. The Respondent was served via advertisement authorized by the court but he has not filed any reply to the claim or the motion herein.

5. I have perused the motion, the Affidavit and the annexures and finds that the motion is merited. The court thus makes the following orders:

1. Prayer No.2 and 5 are granted as prayed in the motion dated 8.7.2015.

Dated, signed and delivered in court at Nairobi this 25th day of September, 2015.

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C.KARIUKI

JUDGE