

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL AND ADMIRALTY DIVISION

MISC NO. 131 OF 2014

C.M. ONGOTO & CO. ADVOCATES.....APPLICANT

VERSUS

HOMESBASE PROPERTIES LIMITED.....RESPONDENT

RULING

1. The Notice of Motion dated **30th September, 2015** seeks orders that judgment be entered in favour of the Applicant, C.M. Ongoto & Company Advocates in the sum of Ksh. 7,567,843.24/= being certified costs due to the Applicant along with interest at Court rates from the date of taxation.
2. The application has been brought pursuant to Section 51 (2) of the Advocates Act, Chapter 16 of the Laws of Kenya, Section 3A of the Civil Procedure Act, Chapter 21 of the Laws of Kenya and Order 51 of the Civil Procedure Rules 2010. The grounds relied upon by the Applicant are that:
 - a. The Applicants bill costs was taxed on the 17th July, 2015 and a Certificate of Taxation accordingly issued.
 - b. Todate the Respondent has not paid the aforesaid sum of any part thereof.
 - c. Despite request for payment made to the Respondent, they have refused/failed or neglected to pay the taxed costs.
3. The Applicant also relied on the Affidavit of Charles Mongare Ongoto attached thereto, to which was annexed the Certificate of Taxation dated 25th September, 2015 for the sum claimed.
4. The Court having satisfied itself that hearing notice in respect of application was duly served on Counsel for the Respondent, allowed Mr. Ongoto to urge the application exparte.
5. I have considered the Notice of Motion as well as the averments in the Supporting Affidavit in the light of the relevant provisions of the Law Section 51(2) of the Advocates Act provides that:

“The certificate of the Taxing Officer by whom any bill has been taxed shall unless it is set aside or altered by the Court, be final as to the amount of the costs covered thereby, and the Court may make such order in relation thereto as the retainer is not disputed, an order that judgment be entered for the sum certified to be due with costs.”

6. In the premises, a Certificate of Taxation having been issued herein in the sum of Ksh 7,567,843.24/= by the Taxing Officer, and there being no indication that the said Certificate has been set aside or altered, I would allow the application dated 30th September, 2015 and grant the prayers sought in Paragraph 1, 2 and 3 thereof. Accordingly judgment is hereby entered in favour of the Applicant in the sum of Ksh 7,567,843.24/= together with interest and costs of the application.

It is hereby ordered.

SIGNED, DATED and DELIVERED at NAIROBI this 18TH DAY OF NOVEMBER, 2015

OLGA A. SEWE

JUDGE