



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**  
**AT NAIROBI (NAIROBI LAW COURTS)**  
**Civil Suit 340 of 1995 (OS)**

**PETER WAWERU WAITITU ..... PLAINTIFF**

**versus**

**CYRUS J. KARANJA ..... DEFENDANT**

**RULING**

I delivered judgment in this cause in favour of **CYRUS J. KARANJA** on 24<sup>th</sup> May, 2001, and ordered that **PETER WAWERU WAITITU** who was the plaintiff, do pay the former interest at the rate of 20% p.a. from 20<sup>th</sup> May, 1985 till payment in full.

Seven years down the line, the parties are still arguing about the issue of the interest payable for while the judgment creditor seeks compounded interest, the judgment debtor is of the view that it ought to be simple interest. That is why the parties found their way back to me after seven years.

Unfortunately, though Waititu's Counsel was aware that the matter would proceed on 30<sup>th</sup> September, 2008, he did not appear in Court and Waititu was thus not represented. The applicant (Karanja) was however represented by Mr. Kimani, who urged me to order that he be paid compound interest.

I have considered the submission of able counsel and I have taken into account the fact that when Karanja decided to acquire the property in question from Waititu, what he must have had in mind would have been to earn a profit from the investment, and this would in my mind explain why he had to trade in his motor vehicle which he transferred to Waititu so that it's value be considered as part payment for the property which Waititu was supposed to sell to him. Had he invested the money elsewhere he would have earned not simple interest but compound interest. I cannot deny him that expectation and would in the circumstances order that the interest payable to him compounded with effect from 20<sup>th</sup> May, 1985, till payment in full.

Dated and delivered at Nairobi this 16<sup>th</sup> day of October 2008.

**JEANNE GACHECHE**

**Judge**

Delivered in the presence of: