

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Civil Case 3841 of 1991

MICHAEL JOSHUA NJUGUNA

BERNARD NJUGUNA T/A MIPROMA SERVICES LIMITED..... PLAINTIFFS

VERSUS

CONSOLIDATED BANK OF KENYA LIMITED.....1ST DEFENDANT

HOME SAVINGS AND MORTGAGES LTD.....2ND DEFENDANT

RULING

This matter is for settlement of decree. Judgment was on 10th May, 2007 entered for the Plaintiffs against the Defendants in terms of prayers (a) and (b) of the prayers in each of the plaints in HCCC Nos. 3838, 3839, 3840, 3841, 3842 and 3843 of 1991. In prayer (a), the Plaintiffs sought the principal sums and in prayer (b) they sought interest on the principal sums at the rate of 13% per annum from 14th December, 1989 until payment in full. The Plaintiffs were also awarded costs as against the Defendants.

The Plaintiff in 3844 of 1991 did not attend at the hearing. So his case remained unproven and I said as much in my judgment.

Under Rule 6(1) of Order XX of the Civil Procedure Rules a decree must agree with the judgment. I have perused the versions of the decree drawn by both counsels. Save for minor disagreements, the versions agree with my judgment. The version drawn by counsel for the Plaintiffs does not mention HCCC No. 3844 of 1991 in the order given and has interest calculated upto the date of judgment and is drawn as if interest will be charged on interest contrary to the judgment given.

The version drawn by counsel for the Defendants does not suffer from these defects.

The Deputy Registrar should therefore not have signed and sealed the version drawn by counsel for the Plaintiffs in view of the deficiencies stated above. The same is hereby cancelled. In its place the Deputy Registrar is directed to sign and seal the version drawn by counsel for the Defendants.

There will be no order as to costs.

It is so ordered.

DATED and DELIVERED at NAIROBI this 18TH day of July, 2007.

Read in the presence of Ms. Githui for the Plaintiffs and Ms. Kirimi for the Defendants.

F. AZANGALALA

JUDGE

18.7.2007