

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

CIVIL CASE NO. 328 OF 2001

JOHN WAWERU WANDAKAPLAINTIFF

VERSUS

CHACHA OMONTAGE OMORIMIDEFENDANT

JUDGMENT

This hearing proceeded ex parte as neither the Defendant nor his Advocate was present in court, although duly served with a hearing notice. The testimony of the only witness in the case was as follows:

On or about the 13th of February 2001, the Defendant sold to the Plaintiff hides and skins worth Kshs. 600,000/=. The payments were made as follows:

Through (i) Cheque No. 000010 for Kshs 400,000/= (PEx 3) dated June 29,2001

(ii) Cash vide Voucher No. 5941 for Kshs. 100,000 (PEx 2) dated March 29, 2001

(iii) Cash vide Voucher No. 6903 for Kshs. 100,000 (PEx 1) dated February 13, 2001

Having paid the aforesaid sum of money, the Plaintiff went to collect his goods on September 13, 2001, but the Defendant refused to deliver them to him. He later discovered that the goods were in Nairobi.

The Defendant was issued with a demand letter and Notice of Intention to sue but nevertheless, took no steps to either refund the aforesaid sum of Kshs. 600,000/= or to deliver the said hides and skins.

In the circumstances, the Plaintiff filed this case seeking Judgment for Kshs. 600,000/= with interest at Bank rates from time of filing upto payment in full. He sought to abandon his other prayers as set out in the Plaint. I am satisfied on a balance of probability that the Plaintiff is entitled to the Judgment sought and I enter the same in his favour as prayed. However, as there was no evidence before the Court about the claim for "interest at bank rates", nor is a specific rate being claimed, the court will order that interest be paid at Court rates from the date of filing suit, until full payment.

Dated and Delivered at Nakuru this 16th day of June, 2003.

ALNASHIR VISRAM

JUDGE