

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI
MILIMANI COMMERCIAL COURTS
CIVIL CASE NO.489 OF 1999

RAMCO INDUSTRIAL CREDIT LTD.....PLAINTIFF

VERSUS

CARGO RUNNERS LTD & 2 OTHERS..... DEFENDANT

JUDGEMENT

This claim arises out of a Hire Purchase Agreement entered into between the plaintiff and the 1st defendant on 23.2.96, in which the 1st defendant agreed to hire two motor vehicles namely, motor vehicle registration numbers KAE 090T and KAE 909 B. The defendants were served but did not appear to defend the suit and the hearing proceeded ex parte.

The plaintiff is a limited liability company incorporated and registered in Kenya and the 1st defendant is also a limited liability company also incorporated and registered in Kenya. While the 2nd and 3rd were guarantors of the 1st defendant in the Hire Purchase contract.

PW 1 in his evidence told the court that he is the Operation Manager of the plaintiff. On 23.2.96 the 1st defendant approached the plaintiff for Hire Purchase facilities and was granted the same. The Hire Purchase Agreement was executed on 1.4.96 and the 1st defendant was granted a loan facility of Shs.3.9 million for the two vehicles. The two vehicles were registered in joint names of the plaintiff and the 1st defendant before they were released to the 1st defendant. The repayment was to be made in 23 monthly installments of Shs.140,000/ each and the last installment of Shs142.000/= with effect from 25.4.96. It was one of the conditions of the Hire Purchase Agreement that in case the 1st defendant defaults, the 2nd and 3rd defendants as guarantors could be asked to make good the default and in breach thereof the plaintiff could be entitled to repossess the said motor vehicles and sell them to recover the loan and in the event that the amount recovered in not sufficient to cover the total loan, it could sue for the balance.

In breach of the express terms of the agreement afore said, the 1st defendant failed to remit the monthly installments as agreed. The plaintiff wrote the defendants on 11.9.96 and 15.4.98 reminding them of the breach but to no avail. The 1st defendant wrote back on 22.11.98 admitting the debt but asked for more time to enable him to make the payments but he never kept his promise.

The plaintiff in the exercise of its right of repossession as stipulated in the agreement did repossess the said motor vehicle and sold them at Shs.500,000/= which left the unpaid balance outstanding of Shs.588,698/= which is the subject matter of this suit. Statement of account were produced to support the claim.

The plaintiff has proved its case and accordingly I enter judgement in its favour for Shs.588,696/= as prayed in the plaint with costs and interest at court rates.

Dated and delivered at Nairobi this 18th day of January 2002

J L A OSIEMO

JUDGE