

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
CIVIL CASE 360 OF 98

NATIONAL BANK OF KENYA LTD.....PLAINTIFF

v

ALI MOHAMED ALI & ANOTHER.....DEFENDANT

RULING

This is an application for summary judgment under Order 35 rule 1 of the Civil Procedure Rules. It is supported by an affidavit sworn on May 5, 2000 by Mr William Lagat, the head of the applicant's legal department. No replying affidavit has been filed by or on behalf of any of the two defendants and accordingly, what Mr. Lagat states in his affidavit stands uncontroverted.

The plaintiff's claim against the defendants is for money due on a credit card. The affidavit of Mr Lagat reveals that the 1st defendant applied for a credit card which the 2nd defendant guaranteed. Both regular and penalty interest for late payment was reserved by clause 5 of the conditions of issue of the card. There is clear evidence that the 1st defendant did not pay the amounts due on the use of the card and that as at December 30, 1996, the sum of Kshs 517,666.30 was due in respect thereof. Further interest accrued thereon at the rate of 7% per month from December 31, 1996.

On the basis of the evidence summarised above, I am satisfied that the defendants are severally and jointly liable to the plaintiff in the sum claimed in the plaint. Accordingly, I allow the application and enter judgment in favour of the plaintiff against the defendants severally and jointly for Kshs 499,646.32 together with costs. Regarding interest, I consider the rate of 7% per month claimed to be unreasonably high and unjustifiable. I allow interest at the prevailing bank rates. The defendants will bear the plaintiff's costs of this application.