

REPUBLIC OF KENYA

Shield Hire Purchase Limited v Surgilinks Limited

High Court Of Kenya At Nairobi December 15, 2000.

Milimani Commercial Courts

Civil Case No 584 Of 2000

December 15, 2000 T Mbaluto, Judge

JUDGEMENT

The plaintiff has lodged this claim against the defendant to recover the sum of Kshs 512,923 plus interest thereon at 5% per month from July 15, 1999 until payment in full. The claim arises from a hire purchase facility provided to one Geoffrey Ogeto Osiemo by the plaintiff which said facility was guaranteed by the defendant.

Although the defendant has denied liability and has attempted to raise all sorts of defence including some which are plainly bogus, no witness came forward to testify on behalf of the defendant and what was said for the plaintiff stands unchallenged.

Evidence on behalf of the plaintiff was tendered on its behalf by its managing director Mr. Vishvesh Dhirajlal Shah. He said that the debt giving rise to the suit arises from a hire purchase facility provided to Mr Osiemo who was introduced to the plaintiff by the defendant. Upon the completion of documentation for the facility the sum of Kshs 350,000 was advanced to Mr. Osiemo. The defendant was the guarantor.

Mr Osiemo did not repay the facility as agreed and demand letters were written to him. Again he did not pay and an attempt was made to repossess the motor vehicle the subject matter of the hire purchase agreement. But neither Mr. Osiemo nor the motor vehicle could be traced and it therefore became necessary to file this suit. Interest on the facility was 5% per month from July 31, 2000. Although Mr. Vishvesh Dhirajlal Shah was closely cross-examined by Mr Muchiri for the defendant, his evidence was not shaken. On the basis of that evidence, I am satisfied that the plaintiff, Shield Hire Purchase Limited has proved its case against the defendant. Accordingly, judgment is entered in favour of the plaintiff against the defendant as prayed in the plaint. The defendant will bear the plaintiff's costs together with interest at court rates.