Momentum Credit Limited v Oduor (Civil Appeal E001 of 2023)
[2025] KEHC 5739 (KLR) (9 May 2025) (Judgment)

Neutral citation: [2025] KEHC 5739 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT SIAYA

CIVIL APPEAL E001 OF 2023

DK KEMEI, J

MAY 9, 2025

BETWEEN

MOMENTUM CREDIT LIMITED ..... APPELLANT

AND

WILLIAM EVANCE ODUOR ..... RESPONDENT

(Being an appeal from the Judgment of the Principal Magistrate's Court at Ukwala (Hon. I Ogutu SRM) delivered on 26th July 2022 in CMCC No. 154 of 2018)

JUDGMENT

1. The Appeal arises from the Judgment of the Principal Magistrate's Court at Ukwala Hon. I Ogutu SRM delivered on 26th July 2022 in CMCC No. 154 of 2018

2. Vide a Plaint dated 14th November 2018, the Respondent (Plaintiff) pleaded that he was given a loan facility in the sum of Kshs. 1,500,000.00 by the Appellant (Defendant) to inject into his business. As a condition of the agreement, the Appellant was to provide insurance and ensure that the motor vehicles KCJ 579K and KBQ453X had all the necessary documentation to enable the motor vehicles to operate as special hire vehicles. Instead, the Appellant refused to provide the necessary paperwork and secretly transferred motor vehicle KBQ 453X into its name yet it expects the Respondent to service the loan. The Respondent pleaded that motor vehicle KBQ 453X had been sold by way of public auction and it is desirous of selling motor vehicle KCJ 579K in the same way. According to the Respondent, the Appellant's sabotage has led to frustration with the loan contract. According to the Respondent, the loan was meant to dupe the Respondent and take away his motor vehicles.

3. The Respondent sought the following reliefs;

    1. Annulling of the contract agreed by the parties as a result of frustration by the Defendant.

2. Permanent injunction to restrain the Defendant and/or her agents from disposing of the subject motor vehicles.

3. General damages.

4. Costs of the suit.

4. In the trial, the Respondent told the court that he approached the Appellant to facilitate him with a loan whereby he bought two motor vehicles; KCJ 579K and KBQ 453X. He was given Kshs1.5 Million. The motor vehicles were commercial. He requested the logbook but was told it had a problem. He stated that the Appellant had agreed verbally to facilitate the insurance and later charge him through their agent. The insurance was provided but when he asked for the provisions of compliance licenses for the two vehicles, they told him that he had to do that by himself. He requested a grace period but they declined. After two months when he searched, he found out that ownership was only in the Appellant's name and not joint ownership with the Appellant as provided in the agreement. When he requested for Road Service Licence for motor vehicle KCJ 559K, he was told that it was the Appellant who was the principal owner. He was to use the Appellant's PIN for the Road Service Licence request but that the Appellant took time to revert. He realized that it was a sabotage by the Appellant. He approached another microfinance to buy off the loan but the Appellant's staff lied by writing a letter that they co-owned the motor vehicle. They said that they had repossessed the motor vehicle causing the potential microfinance to pull out. He stated that he was not given the logbook and the insurance policy documents.

5. On being cross-examined, the Respondent told the court that he got Kshs 1.5 Million and not Kshs1.7 Million. It was secured by the two motor vehicles which were not co-registered but only one. He stated that they agreed on a payment of Kshs. 238,905.00 monthly but he defaulted in paying the sum. His loan account ran into arrears. He told the court that it was not his duty to insure the motor vehicles and put on a tracking system. He signed two security agreements. He stated that he was in custody of one of the motor vehicles but did not have the logbooks.

6. In its Statement of Defence dated 31st January 2020, the Appellant pleaded that the motor vehicles were registered jointly in the names of the Respondent and Appellant. It was admitted that the Appellant repossessed motor vehicle registration number KCJ 579K as a result of the default by the Respondent to service the loan facility owed to the Appellant.

7. On behalf of the Appellant, the Appellant's Legal Officer Sheila Imali adopted her witness statement. On being cross-examined, she stated that no motor vehicle was exchanged between Anispa Tiki and the Appellant. The Appellant had the log book for KCJ 579Q and KBQ 453X.In re-examination, she stated that the client had to initiate the teams process. She stated that they co-own the motor vehicle. They keep custody of the logbook while the client keeps the motor vehicle.

8. In her statement dated 31st January 2020 she stated that the two motor vehicles were used as security for a loan facility in the sum of Kshs. 1,759,237.00 payable in 12 equal monthly installments of Kshs. 238,095.00. She stated before releasing the facilities to the Respondent and to also secure their interest, the Appellant required the Respondent to cause the co-registration of the subject motor vehicles with it. The joint registration was completed and the facilities were registered under the Movable Properties Security Rights Act. She stated that the Respondent defaulted on repayment of the loan. When Freeman auctioneers were issued with instructions to recover the arrears, the arrears stood at Kshs. 142,819.00. She urged the trial Court to dismiss the suit with costs and enter judgment in favor of the Appellant in terms of the counterclaim.

9. In his judgment, the learned trial magistrate found the Respondent had proved his case on a balance of probabilities that the Appellant had frustrated the contract by not co-opting the Respondent as a co-owner. The learned trial magistrate allowed all the reliefs sought in the Plaint.

10. Aggrieved, the Appellant lodged its Memorandum of appeal dated 5th October 2022 contending that:

    1. That the learned trial magistrate erred in fact and law in finding that the Appellant failed to facilitate the registration of the licenses when it was expressly the duty of the Respondent under Clause 3.6 and 4.1.2 of Log Book financing application from the Security Agreement executed on 25th July 2018.

    2. That the learned trial magistrate erred in fact and law in finding that the Appellant frustrated the performance of the contract.

    3. The learned trial magistrate erred in law and fact in totally failing to consider that annulling the loan contract agreed between the Appellant and Respondent would result in unjust enrichment of the Respondent since he had received the loan which has not been fully paid. Further, some of the orders have been overtaken by events, particularly the subject vehicles' registration numbers KBQ 453X and KCJ 579K and the Appellant's Security for the loan has since been sold but leaving a balance outstanding of Kshs. 428,331.00 and Kshs. 785,697.00 respectively.

    4. The learned trial magistrate erred in law and fact in totally failing to evaluate the Appellant's evidence by setting out and analyzing the Appellant's case in the pleadings, evidence, and submissions while only setting out and analyzing the Respondent's pleadings, evidence and submissions as to lead to a skewed, prejudicial and wrong conclusion in the judgment.

    5. The learned trial magistrate erred in law and fact in awarding general damages when in law general damages are not recoverable in cases of breach of contract.

    6. The learned trial magistrate erred in law and fact in failing to dismiss the suit against the Appellant given the totality of pleading, evidence, and the law.

11. The Appellant prays to the court that the judgment and decree be set aside and the primary suit be dismissed with costs.

12. The Appellant submits that the learned trial magistrate failed to consider its evidence in making the final determination of the matter as per the wording of the entire judgment. According to the Appellant, only the Respondent's pleadings, evidence and submissions were considered in the judgment. The Appellant asserts that Clause 3.3 was clear that it was the duty of the Respondent to pay for insurance while under Clause 3.6 the Respondent had the duty to pay all the licenses, duties, fees and registration charges as and when they fall due. It is submitted that despite the evidence, the learned trial magistrate went on erroneously to find that the Appellant had frustrated the contract by failing to pay for the insurance and licensing fees contrary to Article 50(1) of *the Constitution* on the right to fair hearing. Reliance is placed on the Supreme Court decision of Githiga & 5 Ohers vs Kiru Tea Factory Company Limited (Petition No. 13 of 2019) [2023]KESC 41 KLR where the Court stated that the Court of Appeal did not have the jurisdiction to deliberately ignore the defenses or responses by the 1st and 2nd Appellants. It is submitted that under Clause 3.3 of the Log book Financing Application Form, the Respondent agreed to keep the motor vehicle insured at all times while under 4.1.2 of the Security Agreement dated 25th July 2018, the Respondent was to ensure that at all times until the secured obligations are repaid to insure and keep insured the movable asset and unless the grantee otherwise agrees in writing the movable asset shall be insured. Reliance is placed on Clause

3.6 of the Logbook Financing Application Form where the Respondent is stated to have agreed to punctually pay all the licenses, duties, fees and registration charges as when they fall due. According to the Appellant, it was the Respondent who frustrated the process of insuring of the motor vehicles first by rejecting the comprehensive insurance cover offered b the Appellant's insurance partners and secondly, by not seeking an alternative insurance company to offer him the TLB cover. According to the Appellant, the learned trial magistrate erred in attempting to rewrite the terms of the contract as between the Appellant and Respondent by placing the obligation to insure the motor vehicles on the Appellant. Reliance is placed on National Bank of Kenya Ltd vs Pipe Plastics Samkolit (K) Ltd (2002) 2 EA (2011) eKLR on the proposition that a court of law cannot rewrite a contract between the parties. Further reliance is on Fina Bank Ltd vs Spares and Industrial Ltd [2000]1 EA 52 where Shah JA. held that courts should enforce what has actually been agreed between the parties. It is submitted that the Appellant performed its obligations as per the security agreements, and therefore it should not have been faulted for frustrating the contract but the Respondent who defaulted on payments. The Appellant asserts that by annulling the contract, the Respondent's obligations to fully repay the advanced amount was terminated, to the unjust loss of the Appellant which resulted in an unjust enrichment of the Respondent. Reliance is placed on the case of Chase International Investment Corporation and Another vs Laxman Keshra and 3 Others [1978] eKLR where the court expounded the principle of unjust enrichment. It is submitted that the learned trial magistrate erred in annulling the contract despite the Respondent admitting that he owed the Appellant outstanding payments for the loan advanced. Reliance is placed on Kyangavo vs Kenya Commercial Bank Ltd & Another [2004] KEHC 2658 (KLR) that he who comes to equity must fulfill all or substantially all his outstanding obligations before insisting on his rights. According to the Appellant, general damages are not awardable in a case of breach of contract but for the specific loss suffered as a result of the breach. Reliance is placed on Kenya Tourist Development Corporation vs Sundowner Lodge Limited [2018] eKLR where the Court of Appeal set aside an award of general damages by the High Court. The Court cited the decision of Dharamshi vs Karsan [1974] EA reiterating the same position. Further reliance was placed in the case of Kenya Women Microfinance Ltd vs Martha Wangari Kamau [2021] eKLR where the High Court held that general damages are not awardable in cases of breach of contract. The Appellant urges this Court to set aside the award.

13. The Respondent's submissions is a reiteration of the averments in the plaint and the evidence tendered before the trial court. It was submitted that the trial court considered all the issues and came to a good finding that it was the Appellant who breached the agreement. It was also submitted that the Respondent did not get any unjust enrichment as he lost both the vehicle and the purchase price. As regards the issue of damages for breach of contract, it was submitted that the same must be seen as a form of punitive damages as the Appellant breached the trust in that it duped the Respondent and has even sold the vehicles after delivery of the judgement in a bid to frustrate the Respondent. Reliance was placed in the case of Bank of Baroda (K) Ltd vs Timwood Products Ltd Civil Appeal No. 132 of 2001where the court cited the case of Obongo & Another Vs Municipal Council of Kisumu [1971]EA 91 where it was held:

> "..in Kenya punitive or exemplary damages are awardable only under two circumstances, namely (i) where there is oppressive, arbitrary or unconstitutional action by the servants of the government; and (ii) where the defendant's action was calculated to procure him some benefit, not necessarily financial, at the expense of the Plaintiff. The third scenario is, of course where such damages are authorized by statute."

The Respondent therefore urged this court to dismiss the appeal and order the Appellant to restore the two vehicles to the Respondent or in the alternative refund the purchase price with interest as well as loss of user.

14. I have considered the appeal in light of the evidence on record and submissions on behalf of the parties.

15. This being a first appeal, the role of this court is to re-evaluate and subject the evidence to afresh analysis so as to reach an independent conclusion as to whether or not to uphold the decision of the trial court. The court also takes note of the fact that it did not have the benefit of seeing or hearing the witnesses testify and therefore has to make an allowance for the same. (Selle vs Associated Motor Boat Co. [1968] EA 123).

16. Odunga J. (as he then was) China Wu Yi Company Limited vs Ronald Manthi David [2021] KEHC 1626 (KLR) stated that this Court is under a duty to delve at some length into factual details and revisit the facts as presented in the trial Court, analyze the same, evaluate it and arrive at its independent conclusions, but always remembering, and giving allowance for it, that the trial Court had the advantage of hearing the parties.

17. In Abok James Odera t/a A.J Odera & Associates vs John Patrick Machira t/a Machira & Co. Advocates [2013] e KLR, about the duty of the first appellate court;

> "This being a first appeal, we are reminded of our primary role as a first appellate court namely, to re-evaluate, re-assess, and reanalyze the extracts on the record and then determine whether the conclusions reached by the learned trial Judge are to stand or not and give reasons either way"

18. In Ephantus Mwangi and Another vs Duncan Mwangi Civil Appeal No. 77 of 1982 [1982-1988] 1KAR 278 the Court of Appeal held that:

> "A member of an appellate court is not bound to accept the learned Judge's findings of fact if it appears either that (a) he has clearly failed on some point to take account of particular circumstances or probabilities material to an estimate of the evidence, or (b) if the impression based on the demeanor of a witness is inconsistent with the evidence in the case generally."

19. I have analyzed the lower court record and the rival submissions. It is not in dispute that the Appellant and the Respondent entered into an agreement dated 25/7/2018 wherein the Appellant granted the Respondent the loan facility to enable the Respondent acquire two commercial vehicles (KBQ 453X and KCJ 579K) for use in his business of special hire vehicles and that the Respondent was to be making monthly repayments of Kshs238,000/=. It is also not in dispute that the Respondent fell into arrears over the loan repayment forcing the Appellant to seek to repossess the two vehicles leading to the institution of the suit before the trial court. I find the issue for determination is whether the Respondent's suit was proved on balance of probabilities.

20. In its evidence, the Appellant adduced copies of the two security agreements and the log book loan application forms which were signed and agreed upon as between the Appellant and the Respondent. These documents set out the terms and conditions that would govern the relationship as between the Appellant as the lender and the Respondent as the borrower.

Under the said terms and conditions, specifically Clause 3.3 of the Log book Financing Application Form, it reads that the Respondent agreed to:

> ...Keep the motor vehicle insured at all times.
>
> Clause 4.1.2 of the security Agreements dated 25/7/2018 on the other hand, provided that the Respondent was to, at all material times until the secured obligations are repaid in full.
>
> ..insure and keep insured the movable asset and unless the grantee otherwise agrees in writing the movable asset shall be insured.
>
> Further under Clause 3.6 of the Log Book Financing Application Form, the Respondent agreed to
>
> Punctually pay all the licenses, duties, fees and registration charges as and when they fall due"
>
> It is therefore clear from the above stated clauses that it was the Respondent's duty to insure the motor vehicles offered as collateral for the loan and to always punctually pay all the licenses, duties, fees and registration charges as and when they fall due.
>
> In any event, the Respondent actively frustrated the insuring of the motor vehicle by first rejecting the comprehensive insurance cover offered by the Appellant's insurance partners and secondly by not seeking an alternative insurance company to offer him the TLB cover that he so desired. This is evidenced by the email correspondence between the Respondent and the Appellant produced by the Respondent in the trial court (See page 82 – 85 of the Appellant's Record of Appeal.
>
> It is noted that the security agreement and logbook financing application form did not require the Respondent to insure the motor vehicle with the Appellant's approved insurers. The Respondent had the right to seek alternative insurers for the desired TLB cover but repeatedly chose not to, resulting in a breach of Clause 3.3 of the Log Book Financing Application Form.
>
> It is further noted that it was also the Respondent's duty to pay sums as they fell due in repayment of the loan, which obligation he continues to be in breach of, having admitted in the trial court to have defaulted in remitting the same, thus breaching terms of the contract.
>
> On the other hand, the Appellant's obligation as per the security agreement was to advance the financial facility to the Respondent which duty it performed. Having entered into the loan contract willingly, the Respondent was therefore bound to comply with the terms and perform his obligations as set out.

21. Flowing from the above, it is clear that it was in error for the trial court to attempt and rewrite the contract between the Appellant and the Respondent by placing the obligation to insure the motor vehicle on the Appellant yet the Respondent had the option to choose his own underwriter of choice. The finding by the trial court was in error as it waded into the arena of the conflict and sought to rewrite the contract between the parties. Indeed the agreements entered into by the parties were explicit on the obligations. It seems the trial court felt some sympathy for the Respondent yet the Respondent was deemed to have entered into the bargain with full knowledge of its consequences. The Court of Appeal in the case of National Bank of Kenya Ltd v Pipe Plastic Samkolit (K) Ltd (2002) 2 E.A 503 (2011) eKLR held that a court of law cannot rewrite a contract between parties. The parties are bound by the terms of their contract, unless coercion, fraud or undue influence are pleaded and proved. Indeed, the Respondent did not plead such matters of fraud and that it seems the Respondent rushed to court at the tail end of the transaction after realizing that he had entered into a bad bargain. It is instructive that

the Respondent received the finances and the two vehicles but failed to manage his care hire business appropriately. It was therefore erroneous for the trial court to arrive at the finding that it did as if the Respondent had offered his vehicles as security for the loan while the true position is that the Respondent actually had nothing in the beginning and was granted the loan monies and the vehicles to start his business. Technically speaking, it is the Appellant who stood to lose both the vehicles and the sums loaned. Further, in the case of Benjamin Kaburi Kamuruci v Stanbic Bank Limited [2014] eKLR the court stated that there is ample case of law that when parties enter in a contract, they are bound by its terms and that courts should only enforce such contracts rather than try and re-write them for the parties. The court ought not to enforce what it thinks should have been fairly agreed to in a contract, but rather, what has actually been agreed between the parties, as was held by Shah JA in Fina bank Ltd Spars and Industrial Ltd (supra).

22. A keen perusal of the agreements entered into by the parties herein leaves no doubt that all the terms and obligations were captured therein and that the parties were to perform the same. The Appellant duly performed its obligations as per the terms of the security agreements by providing the loan monies and the vehicles and that the Respondent was to sort out the aspect of insurances if he was not comfortable with the choice of the Appellant and to obtain the requisite TLB licenses. The Appellant, having performed its part of the bargain should not have been faulted on allegation of frustrating the contract yet it was the Respondent who was actually in breach. The Respondent, upon being supplied with the vehicles and the loan monies, was expected to carry out his car hire business and continue making the repayments as and when they fall due. It is evident that indeed, the Respondent fell into arrears leading to the repossession of the vehicles and therefore it was erroneous for the learned trial magistrate to find fault with the Appellant. The Respondent was expected to check the details of the agreements in minute detail before agreeing to enter into. Indeed, the caution out there in the market is that all persons and parties intending to get into some enticing transactions are advised to think twice before getting into them. The Respondent having fallen into arears on the repayments, the trial court could not come into his aid ostensibly over a bad bargain that he entered into.

23. It is noted that the learned trial magistrate made an order annulling the contract between the Appellant and the Respondent. The Appellant has contended the action has led to the unjust enrichment by the Respondent who was advanced the loan monies and had used the vehicles for his business. On the other hand, the Respondent maintains that the Appellant stands to enrich itself as it has taken away the vehicles plus the repayments made. It is not in dispute that the Appellant advanced a combined facility of Kshs1, 759,237 to the Respondent and that the two parties signed two security agreements both executed on 25/2/2018 to that effect. It is also not in dispute that the Respondent defaulted in paying the arrears owing as per the terms of the security agreement which the Appellant put it at Kshs438,331 and 785,697 as outstanding for the two agreements. It is clear that the annulment of the contract by the trial court has relieved the Respondent from any further obligations such as clearing the outstanding sums and hence an enrichment on the part of the Respondent. Even though the Respondent has claimed that the Appellant stand to benefit more, the court should have given the Appellant its right to pursue the balances from the Respondent pursuant to the agreements entered into. The trial court ought not to have rewritten the contract for the parties. Justice C. B. Madan, in the case of Chase International Investment Corporation and Another v Laxman Keshra and 3 others [1978] eKLR in the Court of Appeal at Nairobi restated the well settled principle of unjust enrichment as follows

> "According to Goff and Jones, Law of Restitution, the principle of unjust enrichment presupposes three things (1) that the Defendant has been enriched by the receipt of a benefit (2) that he has been so enriched at the expense of the Plaintiff and (3) that it would be unjust to allow him to retain the benefit. I think the circumstances of his case are such that the

principle would apply and would justify an order that Chase do pay for the benefit it received from the two lodges built or completed at the expense of Laxmanhai"

It is noted that the Appellant advanced the Respondent the agreed sum and that the Respondent was under obligation to repay it in full. To allow him to cite nullification of the contract in refusing to pay is to allow him to retain the benefit to the detriment of the Appellant, which is essentially an unjust enrichment. The Respondent entered into the deal and should not be allowed to back out of it. Indeed, the Respondent admitted that he still owed the Appellant outstanding payments for the loan advanced. In the case of Kyangavo v Kenya Commercial Bank Ltd & Another [2004] eKLR it was held ;

"He who comes to equity must fulfil all or substantially all his outstanding obligations before insisting on his rights. The Plaintiff has not done that. Consequently, he has not done equity. In the hands of the plaintiff, a permanent injunction would wreak havoc to the first defendant, and that would be inequitable. While charges are enjoined by law to follow the laid down procedures for the realization of their security the courts must not at the same time be converted into a haven of refuge by defaulters. Even lenders and charge have their own rights."

The Respondent had approached the trial court when he knew that he had entered into a bad bargain. He could not therefore be rescued from such a bargain since he had entered into conscientiously and was bound by the terms thereof. I find that the learned trial Magistrate misapprehended the facts and erred in annulling the contract which has resulted in an unjust enrichment by the Respondent. In that regard, the finding of the said trial magistrate must be reversed.

24. It is also noted that the learned magistrate in the impugned judgement awarded general damages on grounds of breach of contract. In his plaint dated 14/11/2018, the Respondent had sought, among other prayers, for an award of general damages for breach of contract. Vide the judgment delivered on 26/7/2022, the trial court ordered that the prayers sought in the plaint dated 14/11/2018 be allowed as prayed. It is trite law that general damages are not recoverable in a case of breach of contract. Rather, the compensation available in such a case is for the specific loss suffered as a result of the breach. The Respondent's counsel has submitted that the Respondent deserved an award in the form of exemplary damages so as to punish the Appellant for the breach of contract and frustrating the Respondent. However, from the agreement, the Respondent had an option to obtain insurance cover of his choice. It seems the Respondent did not organize his affairs adequately and thus ended up in problems. It would be unfair to punish the Appellant for the missteps of the Respondent. The position of the law regarding award of damages for breach of contract was echoed by the Court of Appeal Nairobi in the case of Kenya Tourism Development Corporation v Sundowner Lodge Limited [2018] eKLR where the court set aside general damages that had been awarded by the High Court as follows:

" with the greatest respect to the learned Judge, we think that the reasoning is quite flawed. We are not persuaded that the authorities cited by the learned Judge support the proposition that the cases of breach of contract there does exist a large and wide open discretion to the court to award any amount of damages. The opposite is in fact the case as a general rule general damages are not recoverable in cases of alleged breach of contract and that has been the settled position of law in our jurisdiction, and with good reason.

In Dharamshi Vs. Karsani [1974] EA 41, the former Court of Appeal held that general damages are not allowable in addition to quantified damages with Mustafa JA expressing the view that such an award would amount to duplication. And so it would be (See also Securicor (k) Vs Benson David Onyango & Anor [2008] eKLR.

... situation apply to the present matter in that the Respondent having quantified what it considered to have been the loss it suffered, and gone on to particularize the same, there would be absolutely no basis upon which the learned Judge would go ahead to award totally different, unrelated, unclaimed and unquantified sum of Kshs 30 million merely because he believed that the Respondent had suffered serious damages (sic), what was suffered or was believed to have been suffered, the damage that is to be compensated by way of damages, could only be known by the Respondent and it claimed it in specific terms which, in the event, it was unable to prove. To award it anything else would be to engage in sympathetic sentimentalism as opposed to proof-based judicial determination."

Again, in the case of Kenya Women Microfinance Ltd v Martha Wangari Kamau [2021] eKLR the Court held that

"a contract for performance of specific duties or obligations, if breached, would lead to compensation for the specific loss suffered as a result of the breach, but not general damages."

From the foregoing authorities, it is evident that the learned trial magistrate went into error in awarding general damages in a case of alleged breach of contract. The same should be set aside.

25. In view of the foregoing observations, it is my finding that the Appellant's appeal has merit. The same is allowed. The judgement of the trial court dated July 26, 2022 is hereby set aside and substituted with an order dismissing the Respondent's suit with costs to the Appellant. The costs of this appeal are awarded to the Appellant.

DATED AND DELIVERED AT SIAYA THIS 9TH DAY OF MAY 2025

D. KEMEI

JUDGE

In the presence of:

Waweru .....for Appellant

Onyango Odhiambo..... for Respondent

Okumu..... Court Assistant