



Lenora Company Limited v Straight Security Services Limited (Civil Appeal E119 of 2024) [2025] KEHC 10697 (KLR) (Commercial and Tax) (3 July 2025) (Ruling)

Neutral citation: [2025] KEHC 10697 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL APPEAL E119 OF 2024**

F GIKONYO, J

JULY 3, 2025

BETWEEN

LENORA COMPANY LIMITED APPELLANT

AND

STRAIGHT SECURITY SERVICES LIMITED RESPONDENT

RULING

Payment in instalments

1. The appellant applied through the notice of motion dated 6th February 2025, under Order 21 Rule 12, to pay the decretal amount in instalments of Kshs. 20,000/- commencing 5th March 2025. It also sought stay of execution of the decree.
2. The motion is supported by the annexed affidavit sworn by Kelvin Maina Thieya on 6th February 2025 and written submissions dated 30th April 2025.
3. The background to the application is that on 8th April 2024, the Small Claims Court delivered judgment in SCCOMM No. E884 of 2024; Straight Security Services Limited vs Lenora Company Limited. The court directed the appellant to pay the principal amount of Kenya Shillings Three Hundred and Fifty Six Thousand (Kshs. 356,000/=), interest at the rate of 5% per month from July 2023 until payment in full, and costs of the suit.
4. The core ground is that the appellant does not have the resources to make one lump sum payment, as his business has not been doing well, and he does not have the financial capacity to settle the decretal sum and/or make a lump sum payment.
5. The appellant relied on:-



1. *A. Rajabali Alidina v Remtulla Alidina & Anor* (1961) EA 565 Law JA

Response

6. In response, the respondent filed a replying affidavit sworn by its director, Francis Mwendwa Munene, on 26th February 2025 and written submissions dated 29th April 2025.
7. Its main contentions are that there has been delay due to non-payment since judgment was issued on 8th April 2024; that the proposal is prejudicial because it would take 2 years to recover the decretal sum now at Kshs. 400,000 and still accruing interest and that the appellant has not shown bona fides by paying by regular instalments.
8. The respondent relied on:-
 1. *KTK Advocates v Baringo County Government* [2018] eKLR

Analysis and Determination

9. The court should determine whether to allow the appellant to pay the decretal sum in instalments.
10. Under Order 21 Rule 12 of the *Civil Procedure Rules*:

“After passing of any such decree, the Court may on the application of the judgment-debtor and with the consent of the decree holder or without the consent of the decree holder for sufficient cause shown, order that the payment of the amount decreed be postponed or be made by installments on such terms as to the payment of interest, the attachment of the property of the judgment debtor or the taking of security from him, or otherwise as it thinks fit”
11. The court’s power to order payment of the decretal sum in instalments is discretionary; and exercised based on reason. The relevant considerations were aptly captured by the court in *Keshvaji Jethabhai & Bros Limited v Saleh Abdulla* [1959] EA 260, as follows: -

“The Court will consider the circumstances under which the debt was contracted, the conduct of the debtor, his financial position, and so forth, and installments should be directed where the defendant shows his bona fides by offering to pay anything like a fair proportion of his debt at once.”

...

“Whilst the courts must be zealous of the creditor’s rights, they must consider each case on its merits and exercise the discretion accordingly... Hardship to a debtor might in some circumstances be taken into consideration on an application for payment by instalments; it is a question in each case whether some indulgence can fairly be given to the debtor without unreasonably prejudicing the creditor.”
12. Applying the test, the appellant has pleaded that it is unable to settle the decretal sum in a lump sum due to financial hardship.
13. The respondent asserted its right to prompt payment so as to enjoy the fruits of its judgment. The respondent also argued that the appellant has shown no bona fide since it has not paid any amount since the judgment date.



14. Yet, the appellant confirmed its willingness to settle the decretal sum. It proposes to settle it in monthly instalments of Kshs. 20,000/-. In my view, this shows good will.
15. The respondent complained that the proposal is on the lower side and it would take a long period of approximately two years for the appellant to complete payment. Nonetheless, it indicated that it is amenable to the payment of the outstanding amount together with interest in instalments of Kshs. 100,000/-.
16. I find the appellant's proposal for payment in instalments of Kshs. 20,000/- to be on the lower side. In light of the acceptance by the plaintiff payment in instalments, and in the interests of justice, I allow the application on the following terms: -
 1. The appellant will pay the decretal sum together with interest and costs in monthly instalments of Kshs. 50,000/- until payment in full with effect from 3.8.25 and thereafter on the 3rd day of each succeeding month until payment in full.
 2. Interest will continue to accrue on any unpaid sum until payment is made in full.
 3. The respondents gets the costs of the application.
 4. In default of payment of any instalment, execution to issue.
 5. Appeal compromised. This file is closed.

**DATED, SIGNED AND DELIVERED AT NAIROBI THROUGH MICROSOFT TEAMS ONLINE
APPLICATION THIS 3RD DAY OF JULY, 2025**

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F. GIKONYO M.

JUDGE

In the presence of: -

Ms. Nyaga for Okatch for Applicant

Ms. Macharia for Respondent

Kinyua C/A

