



**Transmara Sugar Company Limited v Mogesi (Civil Appeal
26 of 2020) [2025] KEHC 10855 (KLR) (24 July 2025) (Judgment)**

Neutral citation: [2025] KEHC 10855 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MIGORI
CIVIL APPEAL 26 OF 2020
RPV WENDOH, J
JULY 24, 2025**

BETWEEN

TRANSMARA SUGAR COMPANY LIMITED APPELLANT

AND

RICHARD MAUTI MOGESI RESPONDENT

JUDGMENT

1. This is an appeal by Transmara Company Limited, the defendant in the trial court. The Respondent Richard Mauti Mogesi, the plaintiff in this trial court, had sued the appellant in CMC.678 of 2016 for damages for alleged breach of Sugar cane growing and supply contract entered into on 21/3/2011.
2. The Respondent alleged that he grew sugar cane on his plot No.121 field No. 07020041 measuring approximately 0.4HA and upon maturity, the appellant refused/failed to harvest and transport the sugarcane to its factory thus breaching the contract; that as a consequence, the development of the ratoon crops was compromised as a result of which he suffered loss.
3. Wachira Wekhomba Advocates represented the appellant while Mr. Jura Advocate appeared for the Respondent. Both Counsel have agreed that this matter was part of a series and that Judge Odera determined the issues raised in the series in HCCA.25/2020 Transmara Sugar Company Limited -V- James Omoge Ayiema.
4. Justice Odera delivered her Judgment on 23/3/2023. She did not find merit in the appeal and dismissed it with costs to the Respondent. The Judgment and decree of Hon. D.O Onyango (CM) dated and delivered on 26/6/2020 was upheld.
5. Mr. Jura Counsel for Respondent had filed submissions in this appeal and requested to highlight them. Counsel submitted that at page 83 of the Record of Appeal, there is an error on the award of the trial court which is indicated as Ksh.213,108/=; that the sum was amended on 13/7/2020 as per page 80 of Record of Appeal which brought the sum to Ksh.264,700/=; that when the decree was extracted, the



amendment to the decree was not considered. Counsel also raised issue with Paragraph (f) of the decree, where the court had ordered the interest to be calculated from the date of filing suit; that however, the decree at page 83 of the Record of Appeal, it was indicated that interest was to be calculated from the date of filing the Judgment.

6. Mr. Nam who appeared for Wachira Wekhombo Advocates, did not oppose the above submissions by Mr. Jura.
7. At page 83 of the record of appeal, on 13/7/2020, a consent was recorded to this effect; “Court by consent; the error in Judgment particularly on VAT of 16% be amended to read 6192 per circle making a total of Kshs.18,576. The Judgment be amended to reflect the said changes”.
8. Judgment had been entered for a total of Kshs.213,108/= and by the consent dated 13/7/2020, it meant that the sum of 18,576/= be added to the above figure which brings the total judgment sum to Kshs.231,684/=
9. As regards the issue of when the interest on the decretal sum was to be calculated, Counsel cited several authorities; In Kisumu CA 138/2017 South Nyanza Sugar Co., Ltd -v- Aromo Oreko, the court held “I have found that the damages due to the Respondent are special in nature and I see no reason to depart from what is almost conventional that interest on such damages ought to run from the date of filing suit as the money will have been due to the Respondent from that date.”
10. In Kisumu CA 278/2010 John Richard Okuku Oloo -V- South Nyanza Sugar Co., Ltd, in a similar matter, the court held that the interest was to run from the date of filing suit. Having considered all the cases cited, I am persuaded that the correct position is that interest should run from the date of filing suit.
11. In the end, this court makes the following orders Court –
 1. The court adopts the Judgment delivered by Justice Odera in HCA 25/2020 on 23/3/2023 “that the appeal was dismissed with costs to the Respondent”;
 2. That the decretal sum herein was amended to Kshs.231,684/=;
 3. That the interest will be calculated from the date of filing suit.

DATED, SIGNED AND DELIVERED AT KAPENGURIA ON 24TH DAY OF JULY, 2025

HON. R. WENDOH

JUDGE

Judgment delivered in open court at Kapenguria virtually in presence of; -

Appellant – Ms. Mbugua

Respondent

Juma/Hellen- Court Assistants

