



**Roxcel Trading GMBH v Kenya Stationers Limited (Civil Suit E538 of 2020)
[2023] KEHC 1883 (KLR) (Commercial and Tax) (10 March 2023) (Judgment)**

Neutral citation: [2023] KEHC 1883 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL SUIT E538 OF 2020
EC MWITA, J
MARCH 10, 2023**

BETWEEN

ROXCEL TRADING GMBH PLAINTIFF

AND

KENYA STATIONERS LIMITED DEFENDANT

JUDGMENT

1. The plaintiff, Roxcel Trading GMBH, a company registered in Austria, filed this suit against the defendant, Kenya Stationers Limited, a limited liability company registered in Kenya, through a plaint dated November 2, 2020 for breach of contract for supply of stationery goods.
2. The plaintiff entered into the contract with the defendant on August 16, 2018 for the supply of stationary products. The plaintiff issued profoma invoices which the defendant signed, accepting the terms of the contract and confirming the orders. The plaintiff dully delivered the goods in two consignments worth EUR 35,137.70 and USD 80,419.04 respectively.
3. The plaintiff paid USD 10,000 on July 28, 2020 for the USD consignment, leaving a balance of USD 77,768.59. No payment was made for the Euros consignment. The plaintiff therefore filed this suit seeking judgment for the outstanding amount for the goods supplied, calculated at the base rate of the Austrian National Bank, plus interest at 8% per annum from April 10, 2019 until payment in full.
4. The defendant was served with summons to enter appearance on March 17, 2021, but did not enter appearance or file a defence. The plaintiff applied for default judgment on April 22, 2021 which was entered on May 6, 2021 and the suit was set down for formal proof on November 11, 2022.
5. When the suit came up for formal proof on 11th November 2022, there was no attendance on behalf of Kenya Stationers. The plaintiff called one witness, Yannick Laffrat, its director, who adopted his



witness statement dated 13th August 2020 and produced the bundle of documents in the list of documents dated November 2, 2020 as exhibits.

6. In the witness statement the witness reiterated how the contract for the supply of goods was entered into, goods were shipped and received by the defendant but the defendant failed to pay. He urged the court to allow the suit as prayed.
7. I have considered the evidence on record and perused the documents. As already stated, there is a default judgment entered against the defendant for failure to enter appearance or file defence. The suit proceeded for formal proof.
8. The defendant has not denied the plaintiff's claim. According to the plaintiff, goods were supplied and received. The defendant only made part payment leaving the claimed amount unpaid. There is no defence and, therefore, denial that the goods were supplied or delivered. In any event, the defendant could not have paid part of the money, namely; USD 10,000, if the goods had not been supplied and delivered.
9. In the circumstances, the court is satisfied that the defendant ordered for the goods which it received but failed to fully pay for them. Consequently, final judgment is hereby entered for the plaintiff for Euros 35,137.70 and USD 77,768.59. The amount shall, however, attract interest at court rates from the date of filing suit until payment in full. The plaintiff shall also have costs of the suit.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 10TH DAY OF MARCH 2023.

E C MWITA

JUDGE

