



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA AT NAIROBI**

**COMMERCIAL AND TAX DIVISION**

**CIVIL SUIT NO. 212 OF 2015**

**STANLEY MWANGI GACHUGU**

**BILHA WARUGURU MWANGI**

**T/A VINCO FOOT WEAR..... PLAINTIFFS**

**- VERSUS -**

**BARCLAYS BANK OF KENYA LTD..... DEFENDANT**

**RULING**

1. A preliminary decree was entered in favour of the plaintiff on 4<sup>th</sup> October 2019. The terms of the preliminary decree, in that judgment were:

***“Judgment is hereby entered, and a preliminary decree shall issue in the following terms;***

***(a) The defendant shall compensate the plaintiff for their share certificates fraudulently sold by the defendant which compensation shall be at the prevailing current market value of those shares. The plaintiff shall provide evidence of the current prevailing market value of the shares at a date which shall be fixed by the court.”***

2. On 3<sup>rd</sup> December 2019, when the court was to receive the value of the shares, only the plaintiffs learned advocate attended court. The plaintiff's advocate gave to the court a detailed & report, prepared for the plaintiff, by a Certified Public Accountant. As I began to look at the report it occurred to me that if I act on that report without the same being served on the defendant the defendant will have been denied the right to be heard.

3. Accordingly at the reading of this Ruling, I will give the plaintiff opportunity to serve the report on the defendant and the defendant will be given an opportunity, if it so wishes, to present its own report before the court makes the final order on the judgment of 4<sup>th</sup> October 2019.

4. This matter shall be mentioned on 29<sup>th</sup> July, 2020 for the defendant to have an opportunity to respond to the plaintiff's accountant's report.

***Orders accordingly.***

**DATED, SIGNED and DELIVERED at NAIROBI this 14th day of APRIL, 2020.**

**MARY KASANGO**

**JUDGE**

**ORDER**

In view of the declaration of measures restricting court operations due to the **COVID-19 pandemic** and in light of the directions issued by **his Lordship, the Chief Justice on 15<sup>th</sup> March, 2020**, this decision has been delivered to the parties online with their consent. They have waived compliance with **Order 21 rule 1 of the Civil Procedure Rules** which requires that all judgments and rulings be pronounced in open court.

MARY KASANGO

JUDGE