

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL AND TAX DIVISION

BANKRUPTCY CAUSE NO. 15 OF 2014

IN THE MATTER OF THE BANKRUPTCY ACT (REPEALED)

IN THE MATTER OF PAUL KIMANI

R U L I N G

1. Before me is a Creditor's petition filed by Caleb Kapten seeking a Bankruptcy Order be made in respect of the Estate of Paul Kimani. The Petition was filed under the Bankruptcy Act, now repealed. The applicable law is now the Insolvency Act No. 18 of 2015.
2. At the time the Petition was filed on 21st May 2015 the Creditor was owed, by the Debtor, Kshs. 1,420,000. This was in respect to a decree in CMCC No. 4416 of 2011. On 8th September 2016 a consent was recorded before Court when the Debtor undertook to settle the principal sum then due by installments.
3. The Creditor, when this Petition came before me for hearing, stated that the Debtor had paid Kshs. 1,420,000. There was however a balance due and payable of Kshs. 511,660. The Debtor failed to attend the hearing even though he had been informed by his Learned Advocate who was present in Court.
4. The debt owed to the Creditor is within prescribed minimum value of bankruptcy set out in Regulation 19 of the Insolvency Regulation. The debt has been outstanding since Judgment was entered against the Debtor, in September 2014. The length of time it has taken and the Debtor has failed to clear the debt is a clear indication of inability to pay the debt.
5. In view of the forgoing, I do direct that a Bankruptcy Order do issue in respect of the Estate of Paul Kimani. The Official Receiver shall be notified by the Deputy Registrar for the purpose of appointing Bankruptcy Trustee.
6. **This bankruptcy order is issued on 9th May 2019 at 9.00 am.**

DATED, SIGNED and DELIVERED at NAIROBI this 9TH day of MAY, 2019.

MARY KASANGO

JUDGE

Ruling Read and Delivered in Open Court in the presence of:

Sophie..... **COURT ASSISTANT**

..... **FOR THE CREDITOR**

..... **FOR THE DEBTOR**