

- matter of the court, the court should be at liberty to admit the documents. The other issue to be considered is the alleged date of purchase. If the date covers the period under inquiry, then the receipts could be admitted.
7. On the basis of the items purchased and the dates upon which the same were done, I am satisfied, after perusing all the said receipts, that they bear semblance to the claim in court. I have also considered the amounts claimed under those receipts. They range from Kshs.1,000/= upwards. It is difficult to envisage a situation where the Plaintiff goes out of his way to manufacture the said receipts or to forge them. Lastly, most of the receipts were issued by established business enterprises which can come before this court and testify. However, in my view, that would not be an economical use of the court's time, and, considering the fact that most of the receipts were issued in 2003, some of those business concerns may not be existing today, and even if they do, they may not have the records, and may only come to this court to say they issued the receipts.
 8. Having considered all those receipts, none of them appears to me to be out of touch with the claim before the Court. I will allow the production of all those receipts subject to allowing the Defendant to raise any objection on any particular receipts, raising particular issues on that receipt, and why the particular receipt should not be admitted.
 9. I have also observed that a good part of the Plaintiff's claim is hinged on the production of those receipts. It is therefore not fair to exclude the production of those original receipts unless a serious allegation, say of fraud, is established in their procurement, or one or more or a series of them are established to have absolutely no bearing to the suit.
 10. Needless to add, the court will, in its discretion determine the prorative value of each such receipt if produced in evidence.
 11. In the upshot, the objection by the Defendant to the production of the original receipts whose copies are already in the Plaintiff's bundle of documents hereby fails.

DATED, READ AND DELIVERED AT NAIROBI

THIS 15TH DAY OF MAY 2014

E. K. O. OGOLA

JUDGE

PRESENT:

No appearance for Plaintiff

Cherono holding brief for Nyaribo for Defendant

Teresia – Court Clerk