

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)

Winding Up Cause 46 of 1986

In the Matter of Busia Fish Industries (K) Ltd and In The Matter of Companies Act

Ruling.

Kenya Bankers Co-operative Savings and Credit Society Limited has petitioned this court for an order winding-up Busia Fish Industries (Kenya) Limited on the ground that:-

“the company is indebted to your petitioner in the sum of Shs 30,000/- being the amount due for 3 unpaid cheques issued by the company to the petitioner.”

This sum of money was demanded from the company as far back as 8th of May, 1987. According to the demand letter the amount was to be received within three weeks. The amount was never received hence the filing of this petition against the company on the 16th day of September, 1987.

All the provisions of winding-up rules have been complied with by the petitioner. Despite being served the company never replied or in any way wished to be heard during the proceedings.

The Petitioner’s case merely being that the company had issued them with three post-dated cheques. Upon presenting the cheques on the due dates they were all returned to the petitioner unpaid and marked ‘Refer to drawer and Account closed.’ All the cheques had been issued in lieu of payment for rent for the premises occupied by the company. Despite the letter of demand the company has not made any effort to pay back the money. The obvious fact being that the company is unable to pay its debts. I am satisfied that this is the case.

I see no ground upon which to refuse the petitioner’s request. I hereby grant the petition and order that the Official Receiver do Wind-up the affairs of the company and that costs of this petition be paid out of the company assets if any in priority. Order accordingly.

February 2, 1990.

Owuor J.