



REPUBLIC OF KENYA



**Changalwa t/a Champion Radiators v Passing Clouds Kenya Limited
(Commercial Case 81 of 2021) [2021] SCC 2 (KLR) (4 June 2021) (Judgment)**

Francis Changalwa v Passing Clouds Kenya Limited [2021] eKLR

Neutral citation: [2021] SCC 2 (KLR)

**REPUBLIC OF KENYA
IN THE MILIMANI SMALL CLAIMS COURT**

COMMERCIAL CASE 81 OF 2021

JP OMOLLO, RM

JUNE 4, 2021

JUDGMENT FOR THE CLAIMANT AS AGAINST THE RESPONDENT AS FOLLOWS

1. KSH. 74,400/-

**2. INTEREST AT COURT RATES FROM THE DATE
OF FILING THIS SUIT UNTIL PAYMENT IN FULL**

3. COSTS

BETWEEN

FRANCIS CHANGALWA T/A CHAMPION RADIATORS CLAIMANT

AND

PASSING CLOUDS KENYA LIMITED RESPONDENT

JUDGMENT

1. The Claimant filed the suit herein seeking the following prayers:-
 1. The sum of Ksh. 74,000/=
 2. Interest at court rates from 23rd April, 2019 till payment in full
 3. Costs of the suit
2. The Respondent filed a defence dated 22nd July 2019 seeking the suit to be dismissed as there were no arrears and the Claimant was put to strict proof. The matter was transferred to the Small claim court on 4th May, 2021.



3. The Respondent was duly served with hearing notice and a certificate of service filed. The Respondent did not appear on the date of the hearing and the matter proceeded for hearing in the absence of the Respondent.
4. The Claimants case was that he provided radiator repair, maintenance and supply services on diverse dates to the Respondent for a cost of Ksh.74,400/= . The Claimant provided copies of cost estimate advices, delivery notes and invoices issued on diverse dates and as at 23rd April 2019, the Respondent has not paid despite the Claimant demanding for payment as per the statement of account produced.
5. I have considered the pleadings, the evidence adduced as well as the witness testimony. The issues for determination are whether the Claimant rendered the services Respondent and whether payments for the services were made.
6. The claimant produced delivery notes and cost estimate advices addressed to the Respondent, which bear stamp of the Respondent that they received the services. The said documents are reliable and credible and therefore admissible. The fact that they are uncontroverted, I find that the Claimant rendered repair services to the Respondent
7. On the second issue, the Claimant has demonstrated that said services were not paid for despite being served with invoices which the court has seen. The statement produced by the Respondent dated 23rd April, 2019 indicates that the Respondent was in arrears of Ksh. 74,400/= for diverse dates from January to April, 2017. The Respondent did not appear in court to tender evidence to dispute the evidence tendered by the Claimant and the same remain uncontroverted. I find that the Claimant has proved its case on a balance of probabilities and is entitled to the orders sought. The Claimant is also awarded costs being the successful party.
8. Consequently, I enter judgment for the Claimant as against the Respondent as follows
 1. Ksh. 74,400/-
 2. Interest at court rates from the date of filing this suit until payment in full
 3. Costs

DELIVERED AT NAIROBI THIS 4TH DAY OF JUNE 2021

JUDITH OMOLLO

RESIDENT MAGISTRATE/ADJUDICATOR, SMALL CLAIMS COURT

