



**Empress Trading Limited v Gulf African Bank Limited (Civil Case 82 of 2019)
[2025] KEHC 14965 (KLR) (Commercial and Tax) (21 October 2025) (Ruling)**

Neutral citation: [2025] KEHC 14965 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
CIVIL CASE 82 OF 2019
CJ KENDAGOR, J
OCTOBER 21, 2025**

BETWEEN

EMPRESS TRADING LIMITED PLAINTIFF

AND

GULF AFRICAN BANK LIMITED DEFENDANT

RULING

1. The Defendant, Gulf African Bank Limited, brought the instant application dated 22nd January, 2025, in which it sought the following orders;
 1. The Judgment of Honourable Lady Justice C. Kendagor delivered on 2nd December, 2024 whereby the Plaintiff was ordered to pay the Defendant the sum of Kshs.84,921,401.15 as at 14th September, 2020 together with profit and charges accruing thereon until payment in full, be reviewed and set aside.
 2. Consequently, the disposition at paragraph 32 of the said Judgment be hereby amended to read as follows;

“32. Judgment is hereby entered for the Defendant Bank against the Plaintiff and the 2nd Defendant in the counterclaim jointly and severally for Kshs.104,921,401.15 as at 14th September, 2020 together with profit and charges accruing thereon until payment in full.”
 3. The said judgment be hereby also amended to read:

“Dated, Delivered and Signed at Nairobi through the Microsoft Online Platform on this 2nd day of December, 2024.”



4. Costs of this application be provided for.
2. The grounds of the application are enlisted on its face. Essentially, the Applicant sought this Court to review the said judgment on the grounds that there are arithmetical mistakes/errors in computing the debt owed to the Bank. It claimed that there is a mathematical error in the calculation at paragraph 20 of the Judgment, leading to an increase in the proceeds of the auction sales by Kshs.20,000,000.00. It also claimed that there was an error apparent on the face of the record, which led to erroneous apportionment of liability.
3. The Application is unopposed. The Plaintiff was served with the application; an affidavit of service is on record, but no response has been filed. Determination
4. It is common ground that the High Court has a power of review, but such power must be exercised within the framework of Section 80 of the Civil Procedure Act and Order 45 Rule 1.
5. Section 80 of the Civil Procedure Act provides as follows:-
 80. Any person who considers himself aggrieved-
 - (a) by a decree or order from which an appeal is allowed by this Act, but from which no appeal has been preferred; or
 - (b) by a decree or order from which no appeal is allowed by this Act, May apply for a review of judgment to the court, which passed the decree or made the order, and the court may make such order thereon as it thinks fit.
6. Order 45 Rule 1 of the Civil Procedure Rules, 2010 provides as follows:-

45 Rule 1 (1) Any person considering himself aggrieved-

 - (a) By a decree or order from which an appeal is allowed, but from which no appeal has been preferred; or
 - (b) By a decree or order from which no appeal is hereby allowed, and who from the discovery of new and important matter or evidence which, after the exercise of due diligence, was not within his knowledge or could not be produced by him at the time when the decree was passed or the order made, or on account of some mistake or error apparent on the face of the record, or for any other sufficient reason, desires to obtain a review of the decree or order, may apply for review of judgment to the court which passed the decree or made the order without unreasonable delay.
7. I have re-examined the record. Firstly, the Judgment date incorrectly indicates the year as 2023 rather than 2024. The Court also notes a mathematical mistake in paragraph 20 of the Judgment, which caused an increase of Kshs.20,000,000.00 in the proceeds of the auction sale. This amount ought to have added to the balance to reflect the correct outstanding amount of Kshs.109,821,401.15. Further, there was an error apparent on the face of the record, which led to erroneous apportionment of liability; the judgment was entered as against the Plaintiff only. As a result, this Court rectifies this error and finds that the 2nd Defendant in the counterclaim is liable in his capacity as a Guarantor because he issued a personal Guarantee dated 17th December, 2018.
8. In view of the above conclusions, I find that the grounds cited qualify to be grounds for review to bring the Applicant's application within the scope of the grounds specified in Order 45 Rule 1.



Disposition

- 9. The application dated 22nd January, 2025 is allowed with no orders as costs.
- 10. The Judgment delivered on 2nd December, 2024 whereby the Plaintiff was ordered to pay the Defendant the sum of Kshs.84,921,401.15, is hereby reviewed.
- 11. Judgment is hereby entered for the Defendant Bank against the Plaintiff and the 2nd Defendant in the counterclaim jointly and severally for Kshs.104,921,401.15 as at 14th September, 2020 together with profit and charges accruing thereon until payment in full.
- 12. It is so ordered.

DATED, DELIVERED AND SIGNED AT NAIROBI THROUGH THE MICROSOFT TEAMS ONLINE PLATFORM ON THIS 21ST DAY OF OCTOBER, 2025.

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C. KENDAGOR

JUDGE

In the presence of:

Court Assistant: Beryl

Parties absent

