



**Medivet Products Limited v Shah (Civil Appeal E778 of 2024)
[2025] KEHC 15577 (KLR) (Civ) (24 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15577 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
CIVIL
CIVIL APPEAL E778 OF 2024
AN ONGERI, J
OCTOBER 24, 2025**

BETWEEN

MEDIVET PRODUCTS LIMITED APPELLANT

AND

BEJUL C SHAH RESPONDENT

*(Being an appeal from the Judgment of Hon. Mumassaba L. A. (PM)
in Milimani CMCC No. E727 of 2022 delivered on 26th June 2024)*

JUDGMENT

1. The Respondent in this appeal, Bejul C. Shah filed Milimani CMCC No. E727 of 2022 against the Appellant, Medivet Products Limited vide plaint dated 11th September 2022 seeking a sum of Kshs. 5,000,000/= together with costs and interest from the Appellant.
2. The sum was in respect of a friendly loan advanced to the Appellant to help it to improve its working capital and cash flow.
3. The Respondent's case was that the agreement was verbal and that the funds were deposited in the Appellant's account. This award is deemed to be fair and commensurate with the injuries sustained. Credit Bank Ltd and the RTGS slip was availed as an exhibit.
4. The Respondent failed to repay the loan and on 1st October 2015, the Respondent made a written Agreement to repay the loan by 12 monthly instalment but again defaulted.
5. The Appellant in his defence said the money was advanced to PW2 in his personal capacity.
6. The trial court found that there was an oral agreement between the Respondent and the Appellant to borrow Kshs. 5Million from the Respondent.



7. Further, that there was no legal requirement for such an agreement to be in writing.
8. The trial court also found that there was evidence that the money was deposited into the Appellant's bank account.
9. Further, the court found that although the Respondent was a shareholder of the Appellant company until March 2020, there is a difference between an individual and a limited company which is a separate legal entity.
10. The trial court entered judgment in favour of the Respondent against the Appellant in the sum of Kshs. 5 Million together with costs and interest at court rates from the date of filing suit until payment in full.
11. The Appellant has appealed against the said judgment on the following grounds:-
 - i. That the learned Magistrate erred in law and in fact in failing to find that the Defendant was a distinct legal entity not a party to the contract dated 1st day of October, 2015.
 - ii. That the learned Magistrate erred in law and in fact in finding that the evidence presented by the Plaintiff confirmed a breach of a contract.
 - iii. That the learned Magistrate erred in law and in fact in finding that the Defendant was liable to the Plaintiff for sum of Kshs. 5,000,000/=.
12. The parties filed written submissions as follows:- the appellant submitted that the debt if any is owed by Mukesh N. Shah and not by the appellant.
13. That the appellant through DW1 Testified that it only became aware of the subject loan agreement when the suit was filed and the agreement was attached.
14. That DW1 further indicated that he did not attend the meeting where Mukesh N Shah and the respondent met to discuss the subject loan. The appellant produced its memorandum and articles of association which indicated that borrowing powers were vested in both directors and not one.
15. The appellant argued that it is not denied that the money was paid to the appellant's account. However, DW1 explained that the agreement he had with PW2 was that each director would make their own arrangement to source money to inject into the company.
16. That loans were to be advance to individuals and paid by the individuals. The loan agreement was not validly signed by or on behalf of the appellant company and thus offends section 37 of the Companies Act.
17. The respondent alternatively submitted that the loan was advanced on 27/3/2015 as confirmed by the RTGS slip and the loan repayment agreement was a promise or commitment to pay made by the appellant on 1/10/2015 way after the appellant defaulted on the loan.
18. The respondent clarified that the loan repayment agreement was not the primary agreement as the primary loan agreement was oral and was made much earlier on 27/3/2015.
19. The respondent argued that it is now well established that the Indoor Management Rules shields the respondent from alleged failures by the company to follow its internal rules as enunciated in Royal Bristish V Turquand (1856) 6 EL & BL 327 where the court held

“...a person, on reading the deed of settlement, would find, ... not a prohibition against borrowing, but a permission to borrow on certain conditions, and, learning that the authority might be made complete by a resolution, he would have a right to infer the fact of



a resolution authorizing that which on the face of the document appeared to be legitimately done; and therefore, the company was liable whether or not a resolution had been passed.”

20. The respondent agreed with the trial court’s finding and rejected the argument that the respondent advanced the loan to Mukesh Shah in his personal capacity and in any case, nothing could have been easier than for the appellant to take-out Third-Party Notice proceedings against the respondent for contribution and indemnity.
21. This being a first appeal, the duty of the first appellate court is to re-evaluate the evidence adduced at the trial court and to come up with its own conclusion whether to support the findings of the trial court while bearing in mind that the trial court had the opportunity to see the witnesses.
22. Based on a thorough re-evaluation of the evidence and the submissions presented, the issues for determination in this appeal are as follows;
 - i. First, whether a valid loan agreement existed between the Respondent (Bejul C. Shah) and the Appellant company (Medivet Products Limited);
 - ii. Second, whether the Appellant company, as a separate legal entity, was the proper party to the loan contract and is thus liable for the debt; and
 - iii. Third, whether the learned Magistrate erred in applying the law to the facts of the case.
23. On the first issue, the evidence is clear and uncontroverted that a sum of Kshs. 5,000,000 was transferred from the Respondent directly into the bank account of the Appellant company.
24. This act of depositing funds into the company’s account for its benefit is a powerful objective fact that substantiates the Respondent’s claim of an advance.
25. The subsequent written “Agreement” dated 1st October 2015, while not the primary contract, serves as compelling contemporary evidence that the Appellant acknowledged the debt and committed to a structured repayment plan.
26. The trial Magistrate correctly found that the initial agreement was oral, and as rightly held, there is no legal requirement for a loan agreement of this nature to be in writing in order to be enforceable.
27. The defence that the money was a personal loan to Mr. Mukesh N. Shah, a director, is untenable in the face of this direct payment to the company’s Bank account.
28. If the intention was to lend to Mr. Shah personally, the logical course would have been to transfer the funds to his personal account.
29. Consequently, the finding that a valid contract for a loan existed between the Respondent and the Appellant is unassailable.
30. Regarding the second and most pivotal issue, the Appellant’s core defence rests on the doctrine of corporate personality, asserting that it is a legal entity distinct from its directors and shareholders.
31. While this principle, famously established in *Salomon v Salomon & Co. Ltd* [1897] AC 22, is a cornerstone of company law, it is not an impenetrable shield against liability.
32. The company received and utilized the funds. To allow it to disown the debt now would be to permit an unjust enrichment.



- 33. Furthermore, the Appellant's argument that the loan was invalid for non-compliance with its internal borrowing procedures, as per its Articles of Association, is defeated by the application of the "Indoor Management Rule" from *Royal British Bank v Turquand* (1856) 6 E & B 327.
- 34. As was correctly invoked by the Respondent, an outsider dealing with a company in good faith is entitled to assume that internal procedures have been duly followed.
- 35. Although the Respondent was a shareholder, the rule is applicable to him as he was a separate legal entity from the Appellant company.
- 36. The Respondent was not required to inquire whether the directors had passed a resolution to borrow; he was entitled to infer regularity from the fact that the company, through its director, accepted the funds and later formally acknowledged the debt.
- 37. A party transacting with a company is not affected by its internal irregularities. The separate legal personality of the Appellant does not, therefore, absolve it from a debt it legitimately incurred and for which it received value.
- 38. On the third issue, having found that a valid loan was advanced to the company and that the company is liable, the learned Magistrate cannot be said to have erred in law or fact in entering judgment for the Respondent.
- 39. The evidence on record comfortably met the standard of proof on a balance of probabilities.
- 40. The grounds of appeal, which essentially challenge the trial court's factual findings, must fail.
- 41. It is a settled principle that an appellate court will be slow to interfere with the findings of fact by a trial court which had the advantage of hearing and observing the witnesses, unless such findings are based on no evidence or on a misapprehension of the evidence.
- 42. This was aptly stated by the Court of Appeal in *Mbogo & Another v Shah* [1968] EA 93, where it was held that an appellate court will not disturb a finding of fact unless it is satisfied that the trial judge was clearly wrong.
- 43. In this instance, the trial court's conclusions were soundly based on the evidence.
- 44. For these reasons, the appeal is devoid of merit and is hereby dismissed.
- 45. The judgment of the trial court in *Milimani CMCC No. E727 of 2022* delivered on 26th June 2024 is affirmed.
- 46. The Respondent shall have the costs of this appeal.
- 47. Orders to issue accordingly.

Dated, signed and delivered this 24th day of October, 2025 virtually via Microsoft Teams at Voi.

ASENATH ONGERI

JUDGE

In the presence of:-

Court Assistant: Millicent/Mabishi

.....for Appellant

.....for Respondent

