



**Mbaya v Platinum Credit Limited (Civil Appeal E951 of 2023)
[2025] KEHC 15231 (KLR) (Civ) (23 October 2025) (Judgment)**

Neutral citation: [2025] KEHC 15231 (KLR)

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

CIVIL

CIVIL APPEAL E951 OF 2023

WM MUSYOKA, J

OCTOBER 23, 2025

BETWEEN

TIMOTHY MARTIN MBAYI APPELLANT

AND

PLATINUM CREDIT LIMITED RESPONDENT

(Appeal from the ruling and orders, of Hon. Hosea Mwangi Ng'ang'a, Principal Magistrate, of 14th September 2023, in Nairobi CMCCC No. E2166 of 2023)

JUDGMENT

1. The suit, at the primary court, was by the appellant against the respondent. It was in respect of a motor vehicle belonging to the appellant, that the respondent had taken possession of, in purported exercise of rights and powers accruing from a contract between them. He sought declarations that the taking of possession was unlawful, restoration of possession of the same back to him, and damages for the unlawful taking of possession by the respondent.
2. The matter has not proceeded to its logical conclusion. The appeal herein arises out of an interlocutory ruling, delivered on 14th September 2023, on an application dated 20th May 2023, which sought release of the subject motor vehicle and an order to restrain the sale of the motor vehicle. The application was disallowed, on account of material non-disclosure, failure to demonstrate irreparable harm which could not be compensated by damages, and that the appellant had admitted default on the subject loan, and had offered the vehicle as security.
3. The appellant was aggrieved, hence the appeal. The grounds are that he had satisfied all the conditions for grant of an injunction; the trial court failing to assess the possible loss to be suffered by him in failing to be granted an injunction; failing to see the grounds and argument advanced by him; failing



to exercise discretion in his favour; failing to consider the evidence adduced by him; and finding the taking of possession lawful.

4. The material, on record, points to the appellant having willingly entered into the money lending contract with the respondent, and offering his motor vehicle as security. The appellant conceded falling behind in his repayments, which he attributed to an accident involving the subject vehicle, which denied him income, from which he could settle the debt. Although he talked of an unreasonable invoice, he did not demonstrate that it did not fit into the terms of the contract.
5. It is trite that the courts do not re-write contracts between the parties, for the parties. The appellant willingly entered into a moneylending contract with the respondent, where he offered his vehicle as security, to secure the credit. He did not deny being in default. Instead, he blamed his circumstances, but he did not demonstrate that the alleged circumstances could legally shield him from liability, under the terms of his contract with the respondent. He did not demonstrate that the taking of possession of his vehicle, by the respondent, upon the default, was contrary to the terms of the contract.
6. I am not persuaded that the appeal herein has on merit. I, accordingly, dismiss it, with costs. Orders accordingly.

DELIVERED, VIA EMAIL, DATED AND SIGNED IN CHAMBERS, AT BUSIA, ON THIS 23RD DAY OF OCTOBER 2025.

WM MUSYOKA

JUDGE

Mr. Arthur Etyang, Court Assistant, Busia.

Ms. Carolyne Oyuse, Court Assistant, Milimani, Nairobi.

Ms. Azenga Alenga, Legal Researcher.

Advocates

Mr. Chisengo, instructed by Chisengo & Company, Advocates for the appellant.

Mrs. Njenga, instructed by CW Chege & Company, Advocates for the respondent.

