KENYA LAW
THE NATIONAL COUNCIL FOR LAW REPORTING
Where Legal Information is Public Knowledge

Kenya Revenue Authority v Bharat General Agency (Civil Appeal 73 of 2020) [2023] KECA 630 (KLR) (26 May 2023) (Judgment)

Neutral citation: [2023] KECA 630 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT MOMBASA

CIVIL APPEAL 73 OF 2020

P NYAMWEYA, JW LESSIT & GV ODUNGA, JJA

MAY 26, 2023

BETWEEN

KENYA REVENUE AUTHORITY .... APPELLANT

AND

BHARAT GENERAL AGENCY .... RESPONDENT

(An appeal from the Ruling of the High Court of Kenya at Mombasa (E.K. Ogola J.) dated 29th July 2020) in Mombasa Judicial Review Application No. 83 of 2012)

JUDGMENT

1. On July 29, 2020, the High Court of Kenya at Mombasa (E.K. Ogola J.) delivered a ruling in favour of Bharat General Agency (the respondent herein), in Judicial Review Case No 83 of 2012, wherein the following orders were granted:

    a. That an order of certiorari to remove into this court, for the purposes of quashing, the decision made by the respondent on September 24, 2012 stopping the release of the goods which were the subject of entry Number 2012/MSA/3701288 to the applicant, Bharat General Agency;

    b. That an order of prohibition to prohibit the Kenya Revenue Authority from continuing to wrongfully demand from the applicant any monies on account of the alleged underpayment of duty/taxes in respect of importation of mercedes benz station wagon E200 which was cleared by the Kenya Revenue Authority under entry No MSA 2005 56485;

    c. That costs of this motion shall be for the ex parte applicant.

2. Kenya Revenue Authority, which is the appellant herein, was aggrieved by the said judgment and proffered this appeal by way of a notice of appeal dated August 10, 2020 and lodged in the High Court at Mombasa on August 11, 2020. The main grounds of appeal as stated in the memorandum of appeal

dated September 23, 2020 are that the trial Judge erred in relying on article 47 of the Constitution retrospectively, and in exonerating the respondent from paying tax obligations that were due.

3. The facts giving rise to the appeal are as follows. The respondent had instituted a judicial review application dated October 15, 2012 in the High Court at Mombasa, with respect to a decision made on September 24, 2012 by the Kenya Revenue Authority stopping the release of goods it had imported on account of the alleged underpayment of duty/taxes in relation to a mercedes benz E200 station wagon it had imported in the year 2005. The respondent claimed that it paid all the relevant taxes, and that the appellant did not make any demand for alleged underpaid duty from the respondent until September 23, 2010 when for the first time, they received correspondence from the appellant demanding alleged duty arrears. On September 24, 2012, the appellant proceeded to withhold clearance and release of the respondent's cargo which was the subject of entry No 2012/MSA/3702188 on the grounds that the respondent had an alleged query on account of the said underpaid duty.

4. The respondent contended that the demand for the alleged underpaid duty was made more than 5 years after the importation of the subject motor vehicle, and was hence time barred pursuant to the provision of section 134 of the *East African Community Customs Management Act* 2004 (EACCMA). Additionally, the Current Retail Sale Price (CRSP) used to calculate the alleged underpayment had no basis in law, and in the year 2005, there was no electronic CRSP System implemented. Besides, and in any event, the use of C400 as a model basis for calculation of the CRSP was wholly misconceived and without any basis in law. Therefore, that the appellant was acting ultra vires and abusing its powers in attempting to wrongfully and illegally recover allegedly underpaid duty from the respondent and continued to conduct itself in a manner that infringed upon the respondent's right to fair administrative action under article 47 of the Constitution of Kenya 2010.

5. In reply, Jomo Nyakoe, a revenue officer in the customs service department of the appellant, deponed in an affidavit sworn on November 19, 2012 that the respondent imported one unit used mercedes benz E200, station wagon from Singapore on 26th August 2005, whose year of manufacture was declared as 1999. Further, that the respondent declared the value of the mercedes benz to be Kshs. 992,276.526/- and based on the respondent's self-declaration, paid taxes amounting to Kshs 761, 572.00/- being Import Duty, Excise Duty and VAT and Import Declaration Form. Upon payment of the said taxes, the said mercedes benz was released to the respondent on September 15, 2005 through a CFS release order No 027558.

6. That a post clearance audit unit thereafter appraised the value of the mercedes benz and established that the correct value had not been declared by the respondent and the declared value was understated, as the retail selling price at the time was Kshs 1,276,800/= after depreciating it by six years. Therefore, that the import duty on the mercedes benz had been short levied within the meaning of section 135 (1) of *EACCMA*. The appellant referred to the 4th schedule of *EACCMA* for the methods of determination of value of goods for the purposes of levying import duty and deponed that transaction value method was not applicable, as a used motor vehicle cannot be regarded to be in the same state on importation as when it was sold, nor could the transaction value of identical or similar used motor vehicles be used, as different drivers use cars differently. The appellant averred that the commonly used method of determining the value of used motor vehicles is the deductive value method which had been adopted under section 122 (6) of *EACCMA* and expressed in Kenya through 4th schedule of *EACCMA* and in which the value of a used motor vehicle is determined by allowing depreciation for the period of use from the price of a new car's current retail selling price of similar make, model and year of manufacture, while allowing for adjustments to be made for freight and insurance charges. That at the time of the post clearance audit, the current retail selling prices of the subject motor vehicle was Kshs 6,942,600.00/-, and having been manufactured in 1999 and imported in 2005, it had been used for 6

years and depreciated by 60%, giving a residue custom value of Kshs 1,276,800.00/-. Accordingly, that the tax arrears were Kshs 218,372.00/=

7. On the demand being time barred, the appellant averred that a demand letter dated August 31, 2006 was sent to the respondent via their last known postal address and through the email rajen@carsrus.co.ke, which was the email on a deposit banking slip for the IDF fees paid by the respondent which was within five years provided in section 135 of *EACCMA*, which was the provision of law invoked. The appellant contended that the respondent could not claim that they had not received the demand letter, yet they received the appellant's letter dated September 23, 2010 which was sent via the same email address. Further, the respondent received the copy of the agency notice dated August 24, 2011 which they forwarded to their lawyer on record. The appellant contended that since the demand notice was not complied with, it issued an agency notice under section 131 of *EACCMA*which was also not complied with, and consequently invoked the provisions of section 130(2) of *EACCMA* and targeted the respondent's subsequent imports for detention as lien for recovery of the debt of the short levied import duty, which had accrued interest and penalty to Kshs 436,744/-.

8. The trial in the High Court was canvassed by way of written submissions, and which were considered by the learned trial Judge (E K Ogola J) , who found that that it was fully within the legal mandate of the respondent to demand for extra tax, but that the there was no proof that the appellant sent the letter of demand to the respondent, who therefore never received it, either directly from the appellant or from the appellant's agent, and the appellant's process did not satisfy the requirements of fairness. Furthermore, that even though the appellant had a right to carry out the post clearance audit and to demand the short levied duty, the process still had to be fair and reasonable. Therefore, that there was no basis upon which to purport to punish the respondent when no notice was given to him about the tax alleged to be due, and the period between 2005 when the tax became due and 2011 when the appellant took action was in any event a long time. The trial judge then proceeded to grant the orders we reproduced at the commencement of this judgment.

9. We heard the appeal virtually on November 28, 2022, when learned counsel, Mr Gaya Ochieng', appeared for the appellant, while, learned counsel Mr Sanjeev Khagram, appeared for the respondent. The counsel highlighted their respective written submissions dated November 19, 2022, and November 25, 2022 in which two issues were identified for resolution namely, whether the High Court properly applied article 47 of the *Constitution* of Kenya 2010, and whether there were legal reasons to exonerate the respondent from paying the levied taxes.

10. This being a first appeal, the duty of this court is reiterated as was set out in the decision of *Selle & another v Associated Motor Boat Co. Ltd & others* (1968) EA 123 which is to reconsider the evidence, evaluate it and draw our own conclusion of facts and law, and we will only depart from the findings by the trial court if they were not based on evidence on record: where the court is shown to have acted on wrong principles of law as was held in *Jabane v Olenja* (1968) KLR 661, or where discretion was exercised injudiciously as held in *Mbogo & another v Shah* (1968) EA.

11. On the first issue of the application of article 47 by the trial court, Mr Ochieng submitted that the cause of action herein related to the importation of the subject motor vehicle and the post clearance audit and demand in 2005 and 2006, which all took part before the promulgation of the *Constitution* of Kenya, 2010, therefore article 47 of the *Constitution* of Kenya, 2010 could not be invoked to apply retrospectively. Reliance was made on various decisions that affirm the position that retrospective effect cannot be given to laws, and the counsel submitted that the retrospective application of the *Constitution* of Kenya, 2010 in the current case did not meet the criteria set out by the Supreme Court of Kenya in the case of *Samuel Kamau Macharia & another v Kenya Commercial Bank Ltd & 2*

others [2012] KLR. The counsel further contended that article 47 (3) provided that the right to fair administrative action was to be given effect through the enactment of legislation, which legislation was the *Fair Administrative Action Act*, which came into force on June 17, 2015, and the High Court could not therefore retrospectively apply the provisions of the Act.

12. Mr Khagram's response was that the allegation of retrospective application was misconceived and premised on misleading facts, and that while the subject motor vehicle was imported in August 2005, the infringement of the respondent's right occurred in August 2010 after the *Constitution* 2010 was promulgated. Further, that the Supreme Court clarified the position as regards retrospective application of the *Constitution* in *Kiluwa Limited & another v Business Liaison Company Limited & 3 others* (Petition No 14 of 2017) [2021] KESC 37 (KLR), and found that article 47 could be applied retrospectively. Therefore, that the provisions of article 47 of the *Constitution* 2010 were correctly applied by the trial court in its decision

13. The presumption that a statute does not have "retrospective" effect has its origins in common law, and is explained in *Maxwell on The Interpretation of Statutes, 12th ed (1969), p 215* as follows:

> " Upon the presumption that the legislature does not intend what is unjust rests the leaning against giving certain statutes a retrospective operation. They are construed as operating only in cases or on facts which come into existence after the statutes were passed unless a retrospective effect is clearly intended. It is a fundamental rule of English law that no statute shall be construed to have a retrospective operation unless such a construction appears very clearly in the terms of the Act, or arises by necessary and distinct implication."

14. The application of the presumption with respect to legislation was explained by the Supreme Court of Kenya in the case of *Samuel Kamau Macharia & another vs Kenya Commercial Bank Ltd & 2 others* [2012] KLR explained as follows:

(59) Before considering this question, it is necessary to revisit the issue of retrospective or retroactive legislation. *Black's Law Dictionary (6th Edition)* to which we have been referred, defines retrospective law as:

> " A law which looks backward or contemplates the past; one which is made to affect acts or facts occurring, or rights accruing, before it came into force. Every statute which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability in respect of transactions or considerations already past. One that relates back to a previous transaction and gives it a different legal effect from that which it had under the new law when it occurred."

(60) Most constitutions in common law jurisdictions almost invariably frown upon retroactive or retrospective criminal statutes. This general prohibition finds expression in article 50 (2) (n) of the *Constitution*. That article provides that:

> " Every accused person has a right not to be convicted for an act or omission that at the time it was committed or omitted was not an offence in Kenya; or a crime under international law".

(61) As for non-criminal legislation, the general rule is that all statutes other than those which are merely declaratory or which relate only to matters of procedure or evidence are prima facie prospective, and retrospective effect is not to be given to them unless, by express words or

necessary implication, it appears that this was the intention of the legislature. (Halsbury's Laws of England, 4th Edition Vol. 44 at p.570). A retroactive law is not unconstitutional unless it:

i. is in the nature of a bill of attainder;

ii. impairs the obligation under contracts;

iii. divests vested rights; or

iv. is constitutionally forbidden."

15. With respect to the application of the said presumption to constitutional provisions, the Supreme Court of Kenya further explained as follows:

(62) ..... At the outset, it is important to note that a *Constitution* is not necessarily subject to the same principles against retroactivity as ordinary legislation. A *Constitution* looks forward and backward, vertically and horizontally, as it seeks to re-engineer the social order, in quest of its legitimate object of rendering political goods. In this way, a *Constitution* may and does embody retrospective provisions, or provisions with retrospective ingredients. However, in interpreting the *Constitution* to determine whether it permits retrospective application of any of its provisions, a Court of law must pay due regard to the language of the *Constitution*. If the words used in a particular provision are forward-looking, and do not contain even a whiff of retrospectivity, the court ought not to import it into the language of the *Constitution*. Such caution is still more necessary if the importation of retrospectivity would have the effect of divesting an individual of their rights legitimately occurred before the commencement of the *Constitution*."

16. The Supreme Court reiterated this position in the case of *Karen Njeri Kandie v Alassane Ba & another* [2017] eKLR, and restated the position that the *Constitution* cannot be subjected to the principles of statutory interpretation that prohibit retrospective application of laws generally; and where need be, only the language of the *Constitution* should be a guide as to whether a provision applies retrospectively or not. The argument by the appellant that article 47 cannot operate retrospectively is therefore not an absolute position, and does not prevent Courts from applying provisions of the *Constitution* of 2010 when developing the law or interpreting statutes with respect to actions or omissions that occurred before the enactment of the *Constitution*.

17. Indeed, the Supreme Court of Kenya clarified the position with respect to the retrospective application of Article 47 vis-à-vis the retrospective application of the *Fair Administrative Action Act* which was enacted pursuant to the provisions of article 47(3) in *Kiluwa Limited & another v Business Liaison Company Limited & 3 others* (Petition No 14 of 2017 [2021] KESC 37) (KLR) (Judgment) as follows:

" 45 First and foremost, in agreement with the appellants, we note that article 47 is a Bill of Rights provision which is stated in deliberate and clear normative terms. Thus, sub-article 1 thereof provides that: "Every person has the right to administrative action that is expeditious,efficient, lawful, reasonable and procedurally fair" While sub-article 2 provides that: "If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action."

46. These provisions set out clear and un-ambiguous entitlements within the language of the Bill of rights. They are expressed in normative terms, as opposed to general principles that would require the further input of the

legislature so as to attain prescriptive force. In our view, contrary to the holding by the Court of Appeal, these are substantive entitlements whose enjoyment was not intended to be suspended by sub-article 3 thereof. The legislation contemplated was not meant to create any other norms apart from the ones provided for by the *Constitution*. The Supreme law thus required that such legislation provide for review of administrative action by either a court or independent tribunal. The legislation was also to provide for efficient administration. The basis for review of administrative action is already provided for in sub-article 1 (expedition, efficiency, lawfulness, reasonableness and procedural fairness). The effect of sub-article 3 was therefore to perfect the enjoyment of these rights, as opposed to suspending such entitlement by divesting the High Court of Jurisdiction to review administrative action.

47. In this regard, the absence of legislation does not render a court helpless given the interpretative refuge afforded by article 20(3) of the *Constitution*. It provides that: "In applying a provision of the Bill of Rights, a court shall- a. develop the law to the extent that it does not give effect to a right or fundamental freedom; and b. adopt the interpretation that most favours the enforcement of a right or fundamental freedom."

18. We can only add that article 47 entrenched existing rights of fairness and natural justice under common law that were applied before the enactment of the 2010 *Constitution* by the courts in various decisions. See in this respect the decisions in *Board of Education v Rice* [1911] AC 179; *Ridge v Baldwin* (1964) AC 40; *Lloyd v McMahon* (1987) AC 625; *Onyango Oloo v Attorney General* [1986-1989] EA 456; and *Msagha v Chief Justice & 7 Others Nairobi* [2006] 2 KLR 553. There was thus no error committed by the trial court applying article 47 and the principles of law provided therein.

19. On the second issue as to whether there were legal grounds to exonerate the respondent from paying the short levied taxes, Mr Ochieng's position was that the fact that the taxes were legally due was acknowledged in the impugned judgment, and that the trial Court invoke article 47 to find that the non-existence of evidence of service of the demand letter exonerated the respondent from tax liability. That the trial court in this respect failed to appreciate the capability of emails in 2005 and 2006 and placed responsibility on the appellant to provided evidence of emails that were sent to the respondent, when under *EACCMA,* the responsibility solely lay on the respondent not the appellant to prove that the demand was not proper.

20. Mr Khagram on his part submitted that the demand made in the appellant's letter dated August 31, 2010 was sent to it by Mr Rajen on September 23, 2010. They contend that the appellant was duty bound to conduct itself fairly and justly by serving all the documents and demands on the respondent through the email given on the import declaration form and neglected to use the official declared email address and only had themselves to blame. It was counsel's contention that the attempted enforcement of the alleged claim in September 2012 was barred, and infringed the respondent's rights under article 47 of the 2010 *Constitution*, and he placed reliance on the decisions in *Krish Commodities and Kenya Revenue Authority*, Civil Appeal No 67 of 2017; *Corrugated Sheets Ltd and Kenya Revenue Authority*, Civil Appeal 66 of 2017; and *Kenya Revenue Authority and Export Trading Company limited* [2002] KESC 31 [KLR] where the actions of the appellant were found to have been unfair, arbitrary, unreasonable, capricious and irrational, taking into account the provisions of article 47 of the *Constitution*, 2010. Therefore, that the learned trial Judge correctly refused to be drawn into the appellant's arguments as to the valid calculation of the taxes and restricted himself to making a finding that it was within the legal mandate of the appellant to demand short levied duty, but that this did not

amount to the court agreeing that the taxes were properly demanded and the respondent ought to have paid. It was also argued that the correctness or otherwise of the short levied taxes was not within the remit of the court in judicial review.

21. We have considered the submissions made by counsel for the appellant and respondent, and it is notable that the requirements of procedural fairness are flexible, and are dependent on the particular circumstances and context of a decision-making process. This having been noted, it is also the position that at the core of the duty to act fairly is the requirement that an effective opportunity is given to a person affected by a decision to make representations. In this respect, section 135 of the *EACCMA* provides as follows as regards the procedure for demand and payment of short levies:

135

(1) Where any duty has been short levied or erroneously refunded, then the person who should have paid the amount short levied or to whom the refund has erroneously been made shall, on demand by the proper officer, pay the amount short levied or repay the amount erroneously refunded, as the case may be; and any such amount may be recovered as if it were duty to which the goods in relation to which the amount was short levied or erroneously refunded, as the case may be, were liable.

(2) Where a demand is made for any amount pursuant to sub-section (1), the amount shall be deemed to be due from the person liable to pay it on the date on which the demand note is served upon him or her, and if payment is not made within thirty days of the date of such service, or such further period as the commissioner may allow, a further duty of a sum equal to five percent of the amount demanded shall be due and payable by that person by way of a penalty and a subsequent penalty of two percent for each month in which he or she defaults.

(3) The proper officer shall not make any demand after five years from the date of the short levy or erroneous refund, as the case may be, unless the short levy or erroneous refund had been caused by fraud on the part of the person who should have paid the amount short levied or to whom the refund was erroneously made, as the case may be.

22. It is evident that the process is time bound, with specific consequences attaching with respect to penalties and extinguishing of the right to demand for the levies in the event of delays. The section also requires the demand to be made on “the person who should have paid the amount short levied” and given the legal consequences once time starts to run, it was imperative that the Appellant demonstrates that this demand was not only made, but also brought to the notice of such person. It was established in the classical case of *Ridge vs Baldwin* (*supra*) that the duty to act fairly requires notification of the decision to be taken, so that a person affected by a decision has opportunity to make representations, and failure to do so at the necessary time will render decision making process unfair, particularly where there is an important right at stake. In this regard, the appellant contends that they sent the demand to the respondent by email and relied on an email address which the Respondent disputes was their email address, as their official email address was provided in the import declaration form for the subject motor vehicle.

23. The initial demand of August 31, 2006 and final demand of August 31, 2010 were both alleged to have been emailed to the disputed email address, and the respondent states that he only became aware of the demand in September 2010, when the demand of August 31, 2010 was forwarded to them by a third party, as evidenced by their letter of September 30, 2010. It is notable and not contested that the appellant did not avail evidence of the emails forwarding the letters of demand it alleges were emailed and received by the respondent. It is also notable that the respondent in its first response to the demand

on record, being the letter dated 30th September 2010, denies receipt of the said demands and being indebted for the short levies, and pointed out that the demand was time barred. The appellant then responded in a letter dated October 10, 2010 reiterating the demand, and proceeded to enforce the demand by issuing an agency notice in August 2011 and refusing to release goods imported by the Respondent in September 2012, which latter decision precipitated the judicial review proceedings in the trial court.

24. Arising from the lack of evidence that there was actual notification of the respondent of the demand made by the appellant in good time, and given the sequence of events and actions employed by the appellant upon receiving the respondent's concerns about the demand, we find that the respondent was not given adequate opportunity to make effective representations on the said demand for the short levies, taking into account the requirements set out in section 135 of the*EACCMA*. The trial Court therefore did not err in finding that it was not legal to pay the said levies in the circumstances.

25. The appellant's counsel also relied on section 223 of the *EACCMA* to submit that the onus was on the respondent to prove that the demand notice was not served. Quite apart from the fact that the legal burden of proof is placed by section 107 of the *Evidence Act* on the person alleging the existence of certain facts, section 223(a) of the *EACCMA*does not placing such onus on the respondent as claimed, since the subject matter of what requires to be proved by a person who is being prosecuted or claiming anything seized by the appellant is very specific and limited by the said sub-section to proving the place of origin of any goods or the payment of the proper duties, importation, landing, removal, or the lawful conveyance, exportation, carriage coast- wise, or transfer, of any goods. The demand for payment of duties and taxes and the notification thereof remains the legal preserve of the appellant, and is indeed the rationale for its very existence. Section 5(2) of *EACCMA*in this respect provides that the commissioner of customs shall be responsible for the management and control of the customs including the collection of, and accounting for, customs revenue in the respective partner states.

26. We therefore find that the trial Judge did not err in finding that the process employed by the appellant was vitiated on account of lack of evidence of timely service of the demand notice on the respondent, and that there was as a result non-compliance with the provisions of section 135 of *EACCMA*. In addition, the delay between the period of initial demand in August 2006 and enforcement of the demand in September 2012 also lends justification to the finding made by the trial court that the appellant acted unreasonably in the circumstances, and in light of the implications of the delay as set out in section 135 of*EACCMA*. As noted by this court in *Krish Commodities Limited v Kenya Revenue Authority* [2018] eKLR where a similar situation arose:

> " 27. To us, the fact that the respondent was empowered to carry out the post clearance audit and demand short levied duty did not excuse the respondent from exercising such power in a reasonable, fair, efficient and effective manner. As a public authority, the respondent's obligation to act in the aforementioned manner while rendering decisions is delineated under article 47 of the *Constitution*. sub- article (1) thereof reads: -
>
> > " Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair."
>
> 28. Did the respondent act fairly and reasonably? We think not. There was no explanation as to why the post clearance audit and the subsequent demand for the alleged short levied duty was made about 4 years after the initial assessment and payment of the duty so assessed. Even, Mr Nyaga was at loss of words

which could explain as to why it took such a long time. It is not in dispute that section 135(3) of the*EACCMA* allows the respondent to make such a demand within 5 years. However, that is not to say that the respondent should wait until the tail end of the said period before making such a demand. There ought to be sufficient reason(s) as to why such audit and demand is made at the tail end. In our minds, the respondent cannot simply stand behind the time limit given to justify its conduct of demanding the short levied duty in question about 4 years later."

27. Lastly, it is our view that the arguments that were made as regards the suitability and propriety of the method of valuation of the short levied taxes employed by the appellant fell outside the remit of judicial review by the trial court, as a determination thereof required evidence of, and an examination of the methodologies of the valuation methods provided under the *EACCMA* Act, and their merits and demerits with respect to determining the value of used motor vehicles. This was aptly demonstrated by the averments made in this regard by the appellant and respondents on the issue. It is enough for the purposes of this appeal that having found that the process of the demand for the short levies was not fair, the respondent was also thereby denied the opportunity to make representations on the method of valuation employed in arriving at the short levies, and the method of valuation used was also vitiated to this extent.

28. Our conclusion therefore is that this appeal is not merited, and is dismissed with costs to the respondent.

29. It is so ordered.

DATED AND DELIVERED AT MOMBASA THIS 26TH DAY OF MAY, 2023

P. NYAMWEYA

....

JUDGE OF APPEAL

J. LESIIT

....

JUDGE OF APPEAL

G. V. ODUNGA

....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR