Lubulellah & Associates v Gilbi Construction Company Limited (Miscellaneous Application E156 of 2023) [2024] KEELC 4243 (KLR) (16 May 2024) (Ruling)

Neutral citation: [2024] KEELC 4243 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

MISCELLANEOUS APPLICATION E156 OF 2023

JO MBOYA, J

MAY 16, 2024

BETWEEN

LUBULELLAH & ASSOCIATES ..... ADVOCATE

AND

GILBI CONSTRUCTION COMPANY LIMITED ..... CLIENT

RULING

Introduction And Background

1. The Ruling herein relates to the Application [Reference] dated the 2nd February 2024; and which has been filed by and on behalf of the Advocates/Applicant. For coherence, the Applicant [Advocate] herein has sought for the following reliefs;

    i. This Court be pleased to set aside the decision of the Taxing Officer made vide Ruling delivered herein on the 19th January 2024.

    ii. That this Honourable court be pleased to remit the Advocate/Client Bill of Costs herein dated the 6th June 2023; for taxation before a different taxing officer other than Hon. Judith Omollo [DR].

    iii. That the costs of this Application be provided for.

2. The subject application is premised and anchored on various grounds which have been enumerated in the body thereof. Furthermore, the application is supported by the supporting affidavit sworn by Eugene Lubale Lubulellah, [Advocate] on even date.

3. Upon being served with the application under reference, the Respondent herein responded vide a Replying affidavit sworn on the 16th February 2024; and in respect of which the Respondent contended that the sale agreement which was crafted/prepared by the Applicant [Advocate] herein and which

was thereafter executed by the contracting parties contained a clause pertaining to the quantum of fees payable to and in favor of the Applicant/Advocate.

4. Furthermore, the Respondent has also adverted to and contended that the total fees that was due and payable to the Applicant herein as pertains to the sale agreement amounted to Kes.100, 000/= only plus VAT; and hence the Applicant herein cannot proceed to file an Advocate/Client Bill of Costs for taxation.

5. Be that as it may, the Application beforehand came up for hearing on the 7th March 2024, whereupon the advocates for the respective parties covenanted to canvass and dispose of the application by way of written submissions. Consequently, the court proceeded to and circumscribed by timelines for the filing and exchange of the written submissions.

6. Pursuant to and in line with the directions of the court [details in terms of the preceding paragraph], the Applicant proceeded to and filed two [2] sets of written submissions dated the 21st March 2024 and the 8th May 2024; whereas the Respondent filed written submissions dated the 3rd April 2024.

7. Suffice it to point out that the written submissions [details in terms of the preceding paragraph] forms part of the record of the court.

Applicant's Submissions:

8. The Applicant herein filed two [2] sets of written submissions dated the 21st March 2024 and the 8th May 2024; and in respect of which same [Applicant] has adopted the grounds contained at the foot of the Application as well as the averments in the supporting affidavit. Furthermore, the Applicant has thereafter raised, highlighted and canvassed two [2] pertinent issues for consideration and determination by the court.

9. Firstly, learned counsel for the Applicant has submitted that even though the Applicant herein crafted the sale agreement between the Respondent [who was the vendor] and a third party namely, Five Zero Zero Investment Ltd; who was the purchaser, however, the Applicant herein did not became a party to the said sale agreement or at all.

10. In any event, learned counsel for the Applicant has submitted that the contract which was crafted/prepared by the Applicant herein was only binding on the parties thereto and not otherwise. In this regard, learned counsel for the Applicant has adverted to and highlighted the Doctrine of privity of contract which denotes that a contract is only binding on the parties thereto and not otherwise.

11. In support of the foregoing submissions, learned counsel for the Applicant has cited and relied on inter-alia, the holding in the case of Agricultural Finance Corporation Ltd vs Lengetia Ltd [1985]eKLR; Savings & Loans Kenya Ltd vs Kanyenje Karangaita Gakombe & Another [2015]eKLR; Kenya Women Finance Trust vs Bernard Oyugi Jaoko & 2 Others [2018]eKLR; Kennindia Assurance Company Ltd vs New Nyanza Wholesalers Ltd [2017]eKLR and Aineah Lukuyani Njirah vs Aga khan Health Service [2013]eKLR, respectively.

12. Secondly, learned counsel for the Applicant has submitted that there was no retainer agreement between the Applicant and the Respondent herein as pertains to the professional fees due and payable to the Applicant for the professional services rendered at the foot of the transaction which was handled by and on behalf of the Respondent.

13. Additionally, learned counsel has submitted that a retainer agreement, if any, must be entered into and executed between the advocates and the client and not otherwise. For good measure, learned counsel

cited the provisions of Section 45 of the *Advocates Act*, Chapter 16 Laws of Kenya which underpins the requisite ingredients attendant to a retainer agreement.

14. Notwithstanding the foregoing, learned counsel for the Applicant has also contended that the sale agreement which was entered into between the Respondent and the 3rd Party clearly stipulated and provided that each party shall meet and/or settle own advocates fees. Consequently and in this regard, learned counsel for the Applicant has contended that the Applicant herein is thus chargeable with the professional fees due and payable to the Applicant.

15. Furthermore, learned counsel for the Applicant has invited the court to take cognizance of the provisions of clause 15 of the sale agreement which indeed highlighted the position that each party to the sale agreement was to bear their own advocates legal costs in respect of the sale transaction.

16. Based on the foregoing, learned counsel for the Applicant has therefore submitted that the learned taxing officer was therefore in error in finding and holding that there exists a fee/retainer agreement between the Applicant and the Respondent and thus depriving her [taxing officer] of the requisite jurisdiction to tax the advocate client bill of costs.

17. Arising from the foregoing, learned counsel for the Applicant has thus invited the court to find and hold that the ruling by the learned taxing officer, which was rendered and delivered on the 19th January 2024; is therefore erroneous, misconceived and legally untenable.

18. In view of the foregoing submissions, learned counsel for the Applicant has thereafter invited the court to rescind and set aside the impugned ruling and thereafter to remit the advocate client bill of costs dated the 6th June 2023; for taxation before a taxing officer other than Hon. Judith Omollo [DR], who rendered the impugned ruling.

Respondent's Submissions

19. The Respondent herein filed written submissions dated the 3rd April 2024; and in respect of which same [Respondent] has reiterated the contents of the Replying affidavit sworn on the 16th February 2024 and thereafter highlighted three [3] salient issues for due consideration and determination by the court.

20. First and foremost, learned counsel for the Respondent has submitted that it is the Applicant herein who crafted and drew the sale agreement dated the 2ND May 2018 between the Respondent herein and a third party, namely, Five Zero Zero Investment Ltd [purchaser].

21. Furthermore, learned counsel for the Respondent has submitted that vide clause 15 of the said sale agreement, it was indicated that each party [namely, the Vendor and the Purchaser], was to bear their own advocates legal costs in respect of the sale transaction. However, learned counsel for the Respondent ventured forward and contended that a further clause was indicated at the foot of the schedule wherein the vendors advocates fees was indicated as Kes.100, 000/= only plus VAT.

22. Based on the foregoing, learned counsel for the Respondent has thus submitted that the fees that was due and payable to and in favor of the Applicant was indeed stipulated and provided for under the sale agreement [Schedule thereto] which was crafted and prepared by the Applicant himself.

23. On the other hand, learned counsel for the Respondent has also submitted that insofar as the fess due and payable to the Applicant was adverted to and contained in the body of the sale agreement, the Applicant herein is therefore bound by the terms of the sale agreement dated the 2ND May 2018.

24. In any event, learned counsel for the Respondent has contended that insofar as the Applicant herein is the one who crafted the sale agreement same [Applicant] cannot now seek to have the terms of the said agreement altered and/or re-written with a view to enabling same to file an advocate client bill of costs.

25. In support of the submissions that parties to an agreement are bound by the terms thereof, learned counsel for the Respondent has cited and relied on the holding in the case of National Bank of Kenya Ltd vs Pipe Plastic Samkolit Kenya Ltd & Another [2001]eKLR.

26. Secondly, learned counsel for the Respondent has submitted that the sale agreement dated the 2ND May 2018 and which contained a clause pertaining to the fees payable to and in favor of the Applicant herein constitutes a retainer agreement and hence the Applicant cannot now be heard to file an advocate client bill of costs.

27. In support of the contention that there exists a retainer agreement between the Applicant and the client as pertains to the quantum of fess payable, learned counsel for the Respondent has cited the holding in the case of Omulele & Tolo Advocates vs Mount Holdings Ltd [2015]eKLR and Sheetal Kapila vs Narriman Khan Brunlehner [2021]eKLR, respectively.

28. Finally, learned counsel for the Respondent has submitted that even though the Applicant herein was not a party to the sale agreement, however, there were clauses of the sale agreement that made provisions touching on and concerning the Applicant. In this regard, learned counsel for the Respondent has therefore submitted that the Applicant is bound by the terms of the sale agreement and more particularly, on account of the exception[s] to the Doctrine of privity of contract.

29. To this end, learned counsel for the Respondent has invited the court to take cognizance of the holding in the case of Mark Otanga Otiende vs Dennis Odiwuor Aduol [2021]eKLR, Helga Crista Ohany vs IECEA Lion General Issurance Co Ltd [2022]eKLR and Aineah Likuyani Njira vs Agakhan Health Services [2013]eKLR, respectively.

30. In view of the foregoing, learned counsel for the Respondent has contended that the decision by the taxing officer which found and held that there was a retainer agreement is sound and thus ought to upheld.

Issues For Determination

31. Having reviewed the application beforehand and the Response thereto and having taken into consideration, the written submissions filed by and on behalf of the respective parties, the following issues do crystalize [emerge] and are thus worthy of determination;

    i. Whether the Sale Agreement dated the 2ND May 2018; constitutes a contract which is binding on the Applicant [Advocate] herein, either as contended or otherwise.

    ii. Whether there exists a retainer agreement as between the Applicant and the Respondent herein in accordance with the provisions of Section 45 of the *Advocates Act*; or otherwise.

Analysis And Determination

Issue Number 1 Whether the sale agreement dated the 2ND May 2018 constitutes a contract which is binding on the Applicant [Advocate] herein, either as contended or otherwise.

32. It is common ground that the Applicant herein as an advocate was retained and/or instructed by the Respondent herein to craft and or prepare a sale agreement between the Respondent on one hand and Five Zero Zero Investment Ltd [purchase], on the other hand.

33. Pursuant to and in accordance with the instructions, received from the Respondent herein [details which are well within the knowledge] the Applicant proceeded to and crafted the sale agreement dated the 2nd May 2018, and which agreement was thereafter executed and engrossed by the respective parties thereto.

34. Suffice it to point out that in the body of the sale agreement [contract] it was stipulated that each party to the sale transaction shall pay/bear their own advocates legal costs in respect of the sale transaction. For ease of reference, it is appropriate to reproduce clause 15 thereof.

35. Same states as hereunder;

> " Each party shall bear their own advocates legal costs in respect of the sale transaction, but the purchaser shall pay the stamp duty and registration fees on the transfer of the property and the vendor shall pay the capital gains taxed [if any]".

36. Other than the foregoing clause, [which clearly stipulates that either party shall bear their own advocates fees], the sale agreement also contains a schedule of costs which proceeds to and highlights inter-alia the vendors advocates fees, which is thereafter stipulated to be Kes.100, 000/= only plus VAT.

37. Arising from the contents of the schedule at the foot of the sale agreement, learned counsel for the Respondent has therefore contended that the sale agreement [contract] adverts to and highlights the quantum of professional fees due and payable to the Applicant herein.

38. Furthermore, learned counsel for the Respondent has submitted that the sale agreement [contract] which relates to the sale of the designated property by extension impacts upon the Applicant herein and thus the Applicant is duly bound by the terms of the said sale agreement.

39. To this end, learned counsel for the Respondent has invoked and applied the doctrine of privity of contact and more particularly the exceptions thereto, which are contended to bind a third party including the Applicant herein, insofar as same [such party] is mentioned in the contract.

40. On the other hand, learned counsel for the Applicant has submitted that the sale agreement [contract] is only binding on the parties thereto. In this regard, learned counsel has amplified that the said sale agreement was between the Respondent herein [vendor] on one hand and Five Zero Zero Investment Ltd [purchaser], on the other hand.

41. Additionally, learned counsel for the Applicant has submitted that the Applicant herein was only retained and engaged as an advocate for the vendor and thus same [Applicant] does not become a party to the sale agreement, either in the manner contended by the Respondent or at all.

42. Having considered the rival submissions by and on behalf of the respective parties, my position on the issue is as hereunder.

43. Firstly, there is no gainsaying that the sale agreement [contract], which has been alluded to by the respective parties herein was entered into between the Respondent [vendor] on one hand and Five Zero Zero Investment Ltd [purchaser] on the other hand.

44. To the extent that the sale agreement was entered into and executed by the named parties, the said agreement [contract] is only binding on the designated parties and not otherwise. In this regard, it is instructive to highlight and underscore the import and tenor of the doctrine of privity of contract.

45. Notably, the doctrine of privity of contract highlights the legal position that a contract is only binding on the principle party thereto and not otherwise unless there is a clear provision of the contract that

alludes to and seeks to provide a clear benefit to and in favor of a third party. However, in respect of the instant matter, it is evident that the Applicant herein was not intended to be a beneficiary of the contract and thus same cannot invoke and/or agitate any rights pursuant to the sale contract.

46. To my mind, the contention that the Applicant herein, who is an advocate can be deemed to be bound by the doctrine of privity of contract on the basis of the Sale Agreement under reference, is misconceived and legally untenable.

47. Instructively, the meaning scope and tenor of the doctrine of privity of contract was highlighted and elaborated upon in the case of Savings & Loan (K) Limited vs. Kanyenje Karangaita Gakombe & Another (2015) eKLR.

48. The Court rendered itself as under: -

> " In its classical rendering, the doctrine of privity of contract postulates that a contract cannot confer rights or impose obligations on any person other than the parties to the contract. Accordingly a contract cannot be enforced either by or against a third party. In Dunlop Pneumatic Tyre Co Ltd V Selfridge & Co Ltd [1915] Ac 847, Lord Haldane, LC rendered the principles thus:
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> "My Lords, in the law of England certain principles are fundamental. One is that only a person who is a party to a contract can sue on it."
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> In this jurisdiction that proposition has been affirmed in a line of decisions of this Court, among them AGricultural Finance Corporation V Lendetia Ltd (supra), Kenya National Capitalcorporation Ltd V Albert Mario Cordeiro & Another (supra) And William Muthee Muthami V Bank Of Baroda, (supra).
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> Thus in Agricultural Finance Corporation V Lendetia Ltd (supra), quoting with approval from Halsbury's Laws of England, 3rd Edition, Volume 8, paragraph 110, Hancox, JA, as he then was reiterated:
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> "As a general rule a contract affects only the parties to it, it cannot be enforced by or against a person who is not a party, even if the contract is made for his benefit and purports to give him the right to sue or to make him liable upon it. The fact that a person who is a stranger to the consideration of a contract stands in such near relationship to the party from whom the consideration proceeds that he may be considered a party to the consideration does not entitle him to sue upon the contract."
>
> Over time some exceptions to the doctrine of privity of contract have been recognized and accepted. Among these exceptions is where a contract between two parties is accompanied by a collateral contract between one of them and a third party relating to the same subject matter. Thus in Shanklin Pier V Detel Products Ltd (1951) 2 KB 854, for example, the plaintiff owned a pier, which it wished to be repainted. After the defendant represented to the plaintiff that some particular paint was fit for purpose, the plaintiff directed its contract to use that paint. The contractor purchased the paint from the defendant, which proved unfit for purpose.
>
> Upon a suit by the plaintiff against the defendant, the court found for the plaintiff notwithstanding the fact that there was no privity of contract between the plaintiff and the defendant, as far as the contract for the sale of the paint was concerned.
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> While the proposition that a contract cannot impose liabilities on a non-party has been widely embraced and accepted as rational and well founded, the proposition that a contract

cannot confer a benefit other than to a party to it has not been readily accepted and has in fact been the subject of much criticism. In Darlington Bourough Council V Witshire Northen Ltd [1995] 1 WLR 68 Lord Steyn eloquently demonstrated the flaw in the proposition in the following terms.

"The case for recognizing a contract for the benefit of a third party is simple and straightforward. The autonomy of the will of the parties should be respected. The law of contract should give effect to the reasonable expectations of contracting parties. Principle certainly requires that a burden should not be imposed on a third party without his consent. But there is no doctrinal, logical or policy reason why the law should deny effectiveness to a contract for the benefit of a third party where that is the expressed intention of the parties.. Moreover, often the parties, and particularly third parties, organize their affairs on the faith of the contract. They rely on the contract. It is therefore unjust to deny effectiveness to such a contract."

Some jurisdictions have, accordingly and in a bid to introduce reforms and ameliorate the harshness of the rule, resorted to legislative intervention. The best examples are the United Kingdom and Singapore where the Contracts (Rights of Third Parties) Act, 1999 and the Contract (Rights of Third Parties Act, 2001 have respectively been enacted.'

49. Taking cognizance of the ingredients attendant to the doctrine of privity of contract and having appraised the exception[s] to the Doctrine, there is no gainsaying that the Applicant herein cannot be said to have been party to the sale agreement under reference or at all.

50. In any event, it is worth stating that an advocate who is retained and engaged by a vendor to prepare a sale agreement [like the Applicant herein] does not become a party to the sale agreement [contract], merely because same [advocate] has crafted the sale agreement or attested same.

51. Simply put, the advocate [the Applicant herein] remains independent of the parties entering into the contract and thus cannot be said to be bound by the terms of the contract merely because same [advocate] crafted the contract.

52. Arising from the foregoing, my answer to issue number one [1] is to the effect that there was no contract which was entered into between the Applicant herein and the Respondent, which can birth the application of the doctrine of privity of contract or at all.

53. Put differently, it is my finding and holding that the doctrine of privity of contract does not impact upon and/or bind the Applicant herein as pertains to the recovery of his [Applicants] professional fees from the Respondent herein.

ISSUE NUMBER 2 Whether there exists a Retainer agreement as between the Applicant and the Respondent herein in accordance with the provisions of Section 45 of the *Advocates Act*; or otherwise.

54. Other than the contention that the Applicant herein was bound by the doctrine of privity of contract and more particularly the exception[s] attendant to the doctrine; the Respondent has also contended that there exists a retainer/fee agreement between the Applicant and the Respondent.

55. To amplify the foregoing submissions, learned counsel for the Respondent has submitted that it is the Applicant who crafted the sale agreement and proceeded to include thereunder a provisions wherein it was stated that the vendor's advocates fees is Kes.100, 000/= only plus VAT.

56. To the extent that the sale agreement was thereafter signed by the representatives of the Respondent, learned counsel for the Respondent has ventured forward and contended that the said sale agreement thus constitute[s] or better still, suffices as a retainer agreement. Furthermore, Learned Counsel has submitted that if there be any ambiguity in the terms of the Sale Agreement [Contract] then same ought to be construed against the Applicant herein, who was the drafter of same.

57. Additionally and i support of the foregoing arguments, learned counsel for the Respondent has cited and highlighted the holding of the court in the case of Omulele & Tolo Advocates vs Mount Holdings Ltd [2016]eKLR, wherein the Court of Appeal elaborated upon what constitutes a retainer agreement.

58. Despite the contention by and on behalf of the Respondent herein that there existed a retainer/fee agreement on the basis of the sale Agreement, it is worth noting that a retainer agreement is well provided for and elaborated upon under the provisions of Section 45 of the *Advocates Act*, Chapter 16 Laws of Kenya.

59. For ease of reference, it suffices to reproduce the provisions of Section 45 [supra], which sates as hereunder;

> 45. Agreements with respect to remuneration:
>
> 1. Subject to section 46 and whether or not an order is in force under section 44, an advocate and his client may—
>
> a. before, after or in the course of any contentious business, make an agreement fixing the amount of the advocate's remuneration in respect thereof;
>
> b. before, after or in the course of any contentious business in a civil court, make an agreement fixing the amount of the advocate's instruction fee in respect thereof or his fees for appearing in court or both;
>
> (c) before, after or in the course of any proceedings in a criminal court or a court martial, make an agreement fixing the amount of the advocate's fee for the conduct thereof, and such agreement shall be valid and binding on the parties provided it is in writing and signed by the client or his agent duly authorized in that behalf.

60. My understanding of the said provisions [supra] drives me to the conclusion that a retainer agreement between an advocate and a client denotes an agreement between the said parties and not otherwise. Notably, the agreement must be one that speaks to the retention of the designated advocate and thereafter highlights the agreed professional fees.

61. Furthermore, the agreement under reference [whose terms must correspond with the cited provisions] must thereafter be executed by the client or the clients authorized agent.

62. Be that as it may, the sale agreement which is the document being alluded to by the Respondent herein does not by any stretch of imagination constitutes and/or amounts to a retainer agreement.

63. Simply put, the sale agreement is a contract between the Respondent herein [vendor] on one hand and Five Zero Zero Investment Ltd [purchaser] on the other hand. Consequently, it is only the said parties, who are contracting at arms-length, who can enforce rights thereunder or accrue liabilities arising therefrom.

64. In short, I am unable to find and hold that there does exists any retainer agreement, either in the manner that was contended by learned counsel for the Respondent or at all. In any event, such a finding will be contrary to and in violation of the clear provision[s] of the *Advocates Act* [supra].

65. To this end, it suffices to adopt and reiterate the holding in the case of Omulele & Tolo Advocates vs Mount Holdings Ltd [2016]eKLR, where the court of appeal elaborated on what constitute and amounts to a retainer agreement.

66. For coherence, the court stated and held thus;

> An agreement entered into pursuant to the above section is what can be termed as a 'retainer agreement.' As the section indicates, under such agreement, the parties 'fix' or put a cap on the advocate's instruction fee, meaning that both parties are beholden to the amount so fixed. From the foregoing it should thus be clear that the presence of a retainer is what in turn gives rise to the retainer agreement. In other words, only when the engagement and the terms thereof have been agreed upon, can the same be reduced into writing. It also follows that for the retainer agreement to be valid and binding, the same must have been put in writing and signed by the client and or his agent. It is therefore erroneous as submitted by counsel for the respondent that retainer and retainer agreement mean one and the same thing. The learned Judge also seem to have fallen in the same error in equating a retainer with a retainer agreement when she held that there was a retainer agreement in this case in line with Section 45 of the Act. We would also agree with counsel for the appellant that what was before her for determination was whether there was a retainer between the parties and not whether there was a retainer agreement. In introducing the issue of retainer agreement in the mix, the Judge chartered an unpleaded path which was an error.
>
> As with any other agreement, the onus of proving the existence of the retainer agreement lies with he that wishes to enforce it. This is in line with the ordinary rules of contracts and evidence. (See Kenya National Capital Corporation Limited v. Albert Mario Cordeiro & Another [2014] eKLR and Section 107 of the *Evidence Act* Cap 80). Under the proviso to Section 45 (5) of the Act, an advocate who is a party to a retainer agreement and who has acted diligently for the client is entitled to sue and recover for the whole retainer fee should his client default in payment thereof. Infact, as long as the advocate has been diligent, his entitlement to the fixed sum is so outright that he need not tax his costs nor give statutory notice to the client prior to his pursuit of the said fee. Consequently, it behooves such advocate to ensure that the retainer agreement once made, is reduced into writing.

67. From the foregoing exposition of the law, which is succinct and apt, there is no gainsaying that what constitutes a retainer agreement must be an agreement between the designated advocate and the client and the terms thereunder must bespeak what has been agreed upon between the parties, namely, the Advocate and the Client.

68. Consequently and in view of the foregoing, my answer to issue number two [2] is that there was no retainer agreement as between the Applicant herein and the Respondent, either as envisaged under the provision of Section 45 of the *Advocates Act*, Chapter 16, Laws of Kenya; or at all.

Final Disposition:

69. Having analyzed the two thematic issues [details highlighted in the body of the ruling] it must have become crystal clear that there was no retainer agreement between the Applicant herein and the Respondent as pertains to the quantum of fees that was due and payable to the Applicant for the legal services rendered at the foot of the sale transaction.

70. Conversely, it is worth recalling that the parties to the sale agreement covenanted that either party shall bear her own advocates fees for the sale transaction. [See clause 15 of the sale agreement dated the 2nd May 2018].

71. Consequently and in view of the foregoing, it was erroneous on the part of the learned taxing officer [Hon. J Omollo [DR], to find and hold that there was a retainer agreement, which was/is not the case.

72. In a nutshell, I find and hold that the reference dated the 2nd February 2024; is meritorious and same be and is hereby allowed with costs to the Applicant.

73. Furthermore, the Advocate client Bill of Costs dated the 6th June 2023 [which was the subject of the Reference] be and is hereby referred to another taxing officer, other than Hon J Omollo [DR], for purposes of taxation in accordance with the relevant [applicable] Advocates remuneration Order.

74. It is so ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 16TH DAY OF MAY, 2024.

OGUTTU MBOYA,

JUDGE.

In the presence of:

Benson – Court Assistant

Mr. Eugene Lubulellah for the Applicant.

Mr Lungwe h/b for Ms. Lily Ngeresa for the Respondent.