



**Mulama & 2 others v Wells Fargo Limited (Cause E743 of 2021)
[2025] KEELRC 1190 (KLR) (28 April 2025) (Judgment)**

Neutral citation: [2025] KEELRC 1190 (KLR)

**REPUBLIC OF KENYA
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI
CAUSE E743 OF 2021**

J RIKA, J

APRIL 28, 2025

BETWEEN

THOMAS KASITI MULAMA 1ST CLAIMANT

ANDREW MAINA KIMANI 2ND CLAIMANT

JOHN MUTHUA GITAHU 3RD CLAIMANT

AND

WELLS FARGO LIMITED RESPONDENT

JUDGMENT

1. The Claimants filed a joint Statement of Claim, dated 1st September 2021.
2. They aver that they were employed by the Respondent, on diverse dates and in diverse positions.
3. The 1st Claimant was an accountant, and his colleagues, accounts clerks.
4. The 1st Claimant was employed on 7th April 2010; the 2nd on 15th July 1994; and the 3rd, on 24th April 1999.
5. Their respective contracts were terminated by the Respondent on account of redundancy, effective 31st July 2021.
6. Their last monthly salaries, were Kshs. 211,000, Kshs. 81,500 and Kshs. 88,000 respectively.
7. The salaries did not include house allowance.
8. They were called by the Human Resource Director, on 30th June 2021, and told that the Respondent's Board, had decided to declare their positions redundant, with immediate effect.
9. They were required to sign some document forcefully, signifying that they had consented to leave on redundancy, while they had not.



10. There was no notice, or consultation of any form.
11. The Respondent went ahead and advertised vacancies in management and administration department, positions, which the Claimants held.
12. The Respondent intended to outsource their roles.
13. They aver that redundancy did not conform with Section 40 of the *Employment Act*.
14. They pay for: -
 - a. Declaration that termination was unfair and unlawful.
 - b. 1-month salary in lieu of notice.
 - c. Unpaid house allowance.
 - d. Equivalent of 12 months' salary in compensation for unfair termination.
 - e. Costs.
15. The Respondent relies on its Statement of Response, dated 8th November 2021. It is conceded that the Claimants were employed by the Respondent.
16. As at the time of termination, the 1st Claimant was a senior accountant; the 2nd a billing accountant; and, the 3rd a group payroll accountant.
17. They received, and were aware about this, a gross monthly salary, inclusive of the housing element.
18. Alternatively, the Respondent states that the claim for house allowance is time-barred.
19. The Respondent reviewed its structure, and decided to reorganize its finance/ accounts department, by outsourcing a majority of functions to Grant Thornton Kenya Limited.
20. Notices of redundancy were issued to the Claimants and also to the Labour Office, dated 30th June 2021.
21. The effective date was 31st July 2021.
22. The Respondent convened a meeting on 30th June 2021, involving all the affected 9 Employees. They were advised on the decision to declare redundancies.
23. They were advised to start clearing. They were not forced to sign any documents.
24. They were issued notices of intention to declare redundancies, dated 30th June 2021. They were advised that employment would come to an end, on 31st July 2021.
25. They were advised that they would receive redundancy packages including salaries for days worked, notices, severance and accrued annual leave.
26. Termination was not abrupt, unfair or unlawful. It was within the Respondent's managerial prerogative, to restructure. The Respondent did not recruit afresh, after termination. The advertisement exhibited by the Claimants, is for the role of Group Chief Finance Officer, published on 9th February 2021, long before the redundancy exercise.
27. The Respondent urges the Court to dismiss the Claim with costs to the Respondent.



28. The 1st Claimant gave evidence on 9th December 2022; the 2nd on 22nd September 2023 and 31st January 2024; while the 3rd Claimant did so on 31st January 2024, closing the Claimants' case.
29. Group Human Resource Director, Willis Onyango, gave evidence for the Respondent on 5th July 2024, closing the hearing.
30. The Claim was last mentioned on 10th December 2024, when the Parties confirmed filing and exchange of their submissions, and the file thereafter transmitted to the Trial Judge, on transfer.
31. The 1st Claimant adopted his witness statement on record, in his evidence-in-chief, as well as documents 1-3. He restated his employment history with the Respondent, and his terms and conditions of service. He explained that his contract was terminated on redundancy, explaining why he felt that redundancy was unfair and unlawful. He was called by the Human Resource Director. He was shown a new organizational structure, and informed that his role had been outsourced. His salary did not include house allowance. He was shown minutes of a meeting already prepared. He was required to sign the minutes. He left and returned on the following day, only to find new staff already assigned to his office. He took his belongings and left as advised.
32. He was shocked. The minutes alleged that Employees were taken through detailed explanation, which was false. The notice addressed to the Labour Office referred to staff reduction, while that issued to the Claimants, referred to outsourcing.
33. The 1st Claimant told the Court that he was an accountant and familiar with the Respondent's financial position. The affected Employees earned about Kshs. 800,000 monthly salaries in total. Their replacements, earned over Kshs. 1,500,000. It was a reorganization that did not make economic sense. The decision was predetermined, with no consultation at all. The 1st Claimant told the Court that he has since secured alternative employment as a Finance Officer, at Mombasa.
34. Cross-examined, the 1st Claimant stated that the meeting with the Human Resource Director was held on 30th June 2021. He signed the minutes. His witness statement does not state that the minutes were drawn in advance. He was coerced to sign. He was told that the effective date was 31st July 2021, and that terminal benefits would be paid. He was a senior accountant. He did not have evidence to show that the role was outsourced. He did not have evidence to establish that staff employed in the Claimants' positions, were paid salaries of about Kshs. 1.5 million. He did not agree that his job was rendered superfluous.
35. He received a cheque for redundancy benefits in the sum of Kshs. 1,614,511. He signed discharge certificate, stating that no further sum was due to him. The advertisement for the position he alleged was for his replacement, was made on 9th February 2021, way before the redundancy exercise.
36. Redirected, he told the Court that the minutes were prepared in advance.
37. The 2nd Claimant similarly adopted his witness statement, which is a rehash of the Claimants' pleadings. He adopted his documents as exhibits. He restated his employment history and the terms and conditions of employment, culminating with his departure via the redundancy exercise. For similar reasons advanced by the 1st Claimant, the 2nd Claimant asked the Court to find that termination was unfair and unlawful.
38. On cross-examination, the 2nd Claimant told the Court that he was advised that his salary included house allowance. He was paid terminal benefits and signed discharge certificate, stating that he had no further claims.



39. Redirected, the 2nd Claimant told the Court that his pay slips indicated the amount paid to him was basic salary. His contract did not mention house allowance. He signed discharge because of financial constraints. He had a loan with NCBA Bank.
40. The 3rd and last Claimant relied on his witness statement and documents [1-5] in his evidence in chief. Termination of his contract took the same route as that taken in the termination of his colleagues' contracts.
41. Cross-examined, he told the Court that he used to raise queries about house allowance. He would be told that it was included in his monthly salary. There was no meaningful consultation on redundancy. His name was included in the list contained in the notice forwarded to the Labour Office. Like his colleagues, he was paid redundancy benefits. He received Kshs. 1,091,951. He signed discharge certificate, because he had financial needs.
42. Redirected, he told the Court that his pay slip did not show house allowance paid. His contract was silent on house allowance.
43. The Human Resource Director, Willis Onyango, relied on his witness statement dated 8th November 2021, and documents filed by the Respondent [1-13]. He underlined the contents of the Statement of Response, as summarized above.
44. Cross-examined, he agreed that the Claimant's pay slips did not capture house allowance. The contracts showed salary was consolidated. The Claimants were consulted on redundancy. Notices issued on 30th June 2021, the same day the Claimants were consulted. The minutes were generated after the meeting, not after the meeting. Redirected, the Human Resource Director told the Court that the Claimants did not complain at any one time, about non-payment of house allowance.
45. The issues are whether the Claimants executed discharge upon payment of their redundancy dues, and if so, whether their respective Claims are valid; if termination was unfair and unlawful; and if the prayers sought by the Claimants are merited.

The Court Finds: -

46. There is no dispute that the Claimants were employed by the Respondent, in the positions and on dates indicated in their Statement of Claim. Their last monthly salaries are not in dispute, and it is common ground that their respective contracts were terminated by the Respondent, on account of redundancy. There is no dispute that the Claimants were paid redundancy benefits.
47. Discharge. The 1st Claimant received cheque number 3658/9 from the Respondent, in the sum of Kshs. 1,614,511. He acknowledged receipt on 3rd August 2021. He stated, " I confirm there are no further dues or payments, due to me." Payment was indicated to be, " full payment for all dues payable under your employment contract that ended."
48. The 2nd Claimant collected a cheque number 3652/52, in the sum of Kshs. 1,075,640. He discharged the Respondent, acknowledging that payment was in full settlement of his redundancy benefits, after his contract of employment was ended. He confirmed that he did not have further claims.
49. The 3rd Claimant signed a similar discharge. He collected his cheque number 3655/ 3656, in the sum of Kshs. 1,019,951 on 31st July 2021.
50. The claims for more money from the Respondent, by way of notice, house allowance and compensation have no foundation.



51. The Claimants were accountants with many years on the job. They were not ignorant about the payments they received, and the legal effect of executing discharge certificates. A discharge certificate is a form of an accounting document, like other documents at the heart of the Claimants' routine work. It defines where the financial obligations of an Employer, to a departing Employee, begin and end. It is an accounting document. They would be expected to know that once they received payment from the Respondent, acknowledging it to be full payment, there would be no foundation in coming to Court in pursuit of more.
52. Discharge vouchers, executed voluntarily and with the benefit of full information and knowledge of the signatories, have been held to be valid and binding contracts.
53. The decisions include E&LRC in Corrugated Sheets Limited v. Oganyo [2024] KEELRC 1775 [KLR] [Judgment 4th July 2024]; Jane Vuligwa v. Earth Group Limited [2021] e-KLR; Vincent Kebari v. Stephen Gikera & Punit Vadgama t/a Gikera & Vadgama Advocates [2020] KEELRC 426; Ileri v. Cobra Security Company Limited [2025] KEELRC 154 [KLR] [31st January 2025] [Judgment] and Court of Appeal in Thomas De La Rue v. David Opondo Omutelema [2013] e-KLR and Coastal Bottlers Limited v. Kimathi Mithika [2018] e-KLR.
54. The Claimants herein, like most of the Claimants in the above decisions were professionals, well-educated and trained as accountants, no less, who executed discharge from a position of knowledge. They have no reason to claim more from the Court, while they acknowledged payments in full.
55. The Court has no reason in going further, to examine whether there was a genuine redundancy situation; whether redundancy procedure under Section 40 of the *Employment Act* was complied with; and whether, the Claimants' salaries were basic or consolidated. Nothing remains to be paid, in addition to what the Claimants were paid, and an enquiry on such issues as whether redundancy was fair and lawful, and compensation merited, would be itself, a most redundant judicial exercise.

It is ordered: -

- a. The Claim is declined.
- b. No order on the costs.

DATED, SIGNED AND DELIVERED ELECTRONICALLY AT NAIROBI, THIS 28TH DAY OF APRIL, 2025.

JAMES RIKA

JUDGE

