

REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT

AT MALINDI

CAUSE NUMBER 6 OF 2017

BETWEEN

KAZUNGU DADU SIRYA.....CLAIMANT

VERSUS

WELLS FARGO LTD.....RESPONDENT

RULING

1. The Claimant initiated the proceedings herein, against his former Employer, Wells Fargo Limited. The Statement of Claim was filed on **19th April 2017**. He alleges he was employed by the Respondent as a Controller attached to the Alarms Department, on 1st October 2004, on a monthly salary of Kshs. 7,500. His contract was terminated by the Respondent on **10th October 2011**. There was no notice. No valid reason was given by the Respondent in justifying termination. The Claimant prays the Court to find termination was unfair, and grant terminal benefits, computed at Kshs. 3,310,810.

2. The Respondent filed a Notice of Preliminary Objection on 21st February 2018, stating that the Claim is time-barred, under Section 90 of the Employment Act 2007.

3. It was agreed in Court by the Parties, on 17th July 2018, that the Objection is considered and determined through written Submissions. The record indicates the Respondent filed its Submissions on 10th August 2018, while none have been filed by the Claimant.

The Court Finds:-

4. It is clear from the Statement of Claim, that the Claimant was dismissed on **10th October 2011**. He filed his Statement of Claim on **19th April 2017**, 5 ½ years, after the cause of action arose. The Claim was filed out of the 3-year period, prescribed under Section 90 of the Employment Act. The Court lacks *jurisdiction racione temporis*. The Claimant's right to litigate expired in October 2014.

IT IS ORDERED:-

a) The Claim is hereby struck out under Section 90 of the Employment Act 2007.

b) No order on the costs.

c) The file is closed.

Dated and delivered at Malindi this 28th day of February 2019.

James Rika

Judge