



REPUBLIC OF KENYA

IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI

CAUSE NO. 719 OF 2011

(Before Hon. Justice Mathews N. Nduma)

1. MOSES KUNGU NDUNGU
2. FLORENCE WAMBUI MUKAMI
3. STANLEY NGUGI KAMAU
4. PAUL KIGAA NDUGU.....CLAIMANTS

VERSUS

SOCFINAF CO. LTD T/A TATU ESTATE.....RESPONDENT

R U L I N G

1. The Respondent filed a Preliminary Objection to the suit on grounds that the suit is time barred by dint of section 90 of the Employment Act, 2007.

2. The Memorandum of Claim was filed on 12th May, 2011. From the face of the Claim, the Claimants employment were terminated on 10th and 11th May, 2005 respectively. That is when the cause of action arose. It is clear from the pleadings that the suit was filed exactly six (6) years from the date the cause of action arose.

3. The Cause of Action arose before the enactment of the Employment Act, 2007 in 2005 and the law on limitation applicable to the suit is section 4(1) of Limitation of Actions Act Cap 22 Laws of Kenya which provides that suits based on contract must be filed within six (6) years from the date the cause of action arose.

4. The present suit was filed within the limitation period.

5. The Preliminary Objection is misconceived and is dismissed. The suit to proceed on the merits.

Dated and Signed in Kisumu this 7th day of March, 2018

MATHEWS N. NDUMA

Judge

Delivered and signed in Nairobi this 6th day of April, 2018

MAUREEN ONYANGO

Judge

Appearances

Mr. Otieno for Respondent/Applicant

Mr. Lutta for Claimant/Respondent

