



**REPUBLIC OF KENYA**

**IN THE EMPLOYMENT AND LABOUR RELATIONS COURT OF KENYA AT NYERI**

**CAUSE NO. 136 OF 2016 CONSOLIDATED WITH CAUSES 137, 138 AND 139 ALL OF 2016**

**JOSEPH N. KARIUKI JOSPHAT.....1<sup>ST</sup> CLAIMANT**

**FRANCIS WANYOIKE MUNGAI.....2<sup>ND</sup> CLAIMANT**

**WINNIE WAIRIMU WAINAINA.....3<sup>RD</sup> CLAIMANT**

**EPHRAIM KAMAU A. KAROGO.....4<sup>TH</sup> CLAIMANT**

**-VERSUS-**

**MURANG'A FARMERS CO-OPERATIVE UNION  
LIMITED.....RESPONDENT**

(Before Hon. Justice Byram Ongaya on Friday 5<sup>th</sup> May, 2017)

**JUDGMENT**

The claimants filed their respective statements of claims against the respondent on 14.06.2016 through Waiganjo Gichuki & Company Advocates. The claimants pray for payment of retirement benefits following their retirement being Kshs. 4, 852,771.76 for 1<sup>st</sup> claimant; Kshs.93, 158.33 for 2<sup>nd</sup> claimant; Kshs.2, 863,839.77 for 3<sup>rd</sup> claimant; and Kshs.1, 024, and 031.08 for 4<sup>th</sup> claimant. The claimants further prayed for costs, interest and such further or other reliefs as are just. The respondent filed a statement of response in each of the cases on 14.07.2016 through Macharia Gakaria & Associates Advocates. The respondent prayed that the suits be dismissed with costs.

The claimants' cases are that they were employed by the respondent and subsequently retired from the employment but were not paid the retirement dues as claimed and prayed for. The respondent's case is that the final dues owed to the claimants were fully settled and denies owing the claimants as alleged in their respective statements of claims. The respondent's further case is that the documents the claimants are relying upon were confidential and were illegally acquired and should not therefore aid their respective cases.

Each claimant testified to support the case and the respondent did not call a witness but opted to rely upon the pleadings and final written submissions. It was submitted for the claimants that since the respondent failed to offer evidence, the facts are as per the claimants' respective testimonies and accounts and judgment should be entered as prayed for.

The court has considered the pleadings, the evidence and the final submissions on record and makes findings as follows:

1) The 1<sup>st</sup> claimant served the respondent from 01.05.1978 to 30.06.2012 when he retired. By the letter dated 21.04.2016, the respondent computed the claimant's dues at **Kshs. 4, 825, 771.76**. There was no evidence that the computation was obtained illegally and there was no evidence that the respondent had paid the dues. The claimant's evidence was that the computation was prepared by the respondent's Chief Accountant one Stanley Evan Irungu and that testimony was not rebutted. The claimant stated that the computation was given to him by the said Stanley Evan Irungu on 21.04.2016 and the respondent is thereby deemed to have acknowledged owing the claimant as prayed for. The claimant is awarded as prayed for.

2) The 2<sup>nd</sup> claimant was employed by the respondent on 16.09.1991 and resigned from employment on 31.12.2003. On 14.04.2016 the respondent's Chief Accountant one Stanley Evan Irungu wrote computing the claimant's terminal dues at **Kshs.78, 158.33**. The computation was given to the claimant and the respondent is deemed to have acknowledged owing as claimed. The claimant is awarded as prayed for.

3) The 3<sup>rd</sup> claimant worked for the respondent from 25.08.1978 to 13.02.2013 when the respondent retired her from employment. The respondent's Chief Accountant one Stanley Evan Irungu wrote on 20.04.2016 computing the claimant's terminal dues at **Kshs.2, 858, 839.77**. The computation was given to the claimant and the respondent is deemed to have acknowledged owing as prayed for.

4) The 4<sup>th</sup> claimant was employed by the respondent on 24.07.1989 to 01.01.2006 when he retired. Between the date of retirement and March 2015 he was paid part of his retirement dues. On 10.03.2016 the respondent's Chief Accountant one Stanley Evan Irungu computed the claimant's outstanding dues at **Kshs.979, 031.08** (net), the gross being Kshs.1, 182, 260.21, and the claimant is awarded accordingly. The claimant was given the computation and the respondent is deemed to have acknowledged owing the claimant accordingly.

In conclusion judgment is hereby entered for the claimants against the respondent for:

1) The respondent to pay the 1<sup>st</sup> claimant **Kshs. 4, 825, 771.76**, the 2<sup>nd</sup> claimant **Kshs.78, 158.33**, the 3<sup>rd</sup> claimant **Kshs.2, 858, 839.77**, and the 4<sup>th</sup> claimant **Kshs.979, 031.08** by 01.08.2017 failing interest to be payable at court rates from the date of the suit till full payment.

2) The respondent to pay the claimants' costs of the suit.

**Signed, dated and delivered in court at Nyeri this Friday, 5<sup>th</sup> May, 2017.**

**BYRAM ONGAYA**

**JUDGE**