

REPUBLIC OF KENYA

IN THE INDUSTRIAL COURT OF KENYA

AT NAIROBI

PETITION NO. 28 OF 2012

ALEX DANIEL NGERE CLAIMANT

VERSUS

HARAMBEE SACCO SOCIETY LTDRESPONDENT

M/S Susan Nyang for Claimant

Mr. Ouma for Respondent

RULING

1. It is common cause that the employment of the Claimant was terminated sometimes in September 2007 and the suit was filed on 18th March 2014.
2. The cause of action arose before the *Employment Act, 2007* become operational in June 2008.
3. The law applicable to the limitation of this suit is *Cap 22* of the laws of Kenya which provides under *Section 4(1)* for 6 years limitation period for all matters founded on contract.
4. On 17th February 2014, the Court erroneously made an exparte order to the effect that this claim was filed within 6 years which appears to be erroneous on the face of the record.
5. The issue of Limitation touches on the jurisdiction of the Court to entertain this matter and therefore the Court is obliged to re-look the matter once it was raised again by the Respondent.
6. The Court has considered the written submissions by both parties and is satisfied that the claim was filed outside the six (6) years limitation period.
7. Accordingly the Court reviews its earlier order dated 17th February 2014 in terms of *rule 32(1)b* “on account of some mistake or error apparent on the face of the record”

and rules that the claim is time barred and same is dismissed with no order as to costs.

Dated and Delivered at Nairobi this 1st day of October, 2014.

MATHEWS N. NDUMA

PRINCIPAL JUDGE