THE REPUBLIC OF UGANDA IN THE HIGH COURT OF UGANDA AT GULU

HCT - 02 - CV - CS - 0037 - 2006

- 1. LUBANG BENEDICT
- 2. OLAL OBONG ANDREW<

VERSUS

KOMAKECH RICHARD OGABA<<<<<<<CDEFENDANT

BEFORE: HON. JUSTICE REMMY K. KASULE

JUDGMENT

Both plaintiffs sued the defendant for shs 7,500,000/= principal sum and general damages for breach of contract.

In a written statement of defence filed in court on 29.12.2006, the defendant admitted owing money to one of the plaintiffs, but not in the amount the plaintiffs claim in the plaint.

The defendant, though served with court process for the hearing date, never appeared in court and gave no reason for being absent and so the hearing proceeded in his absence.

The second plaintiff testified and was the only witness for plaintiff's case.

His testimony was to the effect that the defendant was their personal friend and in September, 2005, they both paid shs.13,500,000/= in cash to defendant being the cost of a tractor to be supplied to them from United Kingdom by the defendant through some other third party contacts of the defendant. Defendant undertook to supply the tractor by December, 2005.

The defendant never supplied the tractor and plaintiffs demanded for refund of the money. Defendant only refunded shs 5,500,000/= to first plaintiff. A balance of shs 8,000,000/= remained unpaid.

Plaintiffs denied that the defendant had refunded any further sums of money.

Defence did not appear at the hearing and adduced no evidence to controvert the

evidence of the second plaintiff. Court accepts the said evidence

However the sum claimed in the plaint is shs 7,500,000/= and not shs 8,000,000/=

testified to by the second plaintiff. It is the claim of shs 7,500,000/= that was served upon

the defendant and not shs 8,000,000/=. The Plaint was never amended. The plaintiffs are

bound by their pleadings.

No evidence was given as to the claim for general damages. None are thus

awarded.

Judgment is therefore entered for both plaintiffs against the defendant for shs

7,500,000/= being the unrefunded balance of the purchase price money paid by the plaintiffs

to the defendant for a tractor that was never supplied.

As the tractor, if supplied, was going to be used for commercial agriculture

purposes, according to the evidence of the second plaintiff, it is only fair that the plaintiffs

are awarded interest at the commercial rate of 22% p.a. on the sum of shs 7,500,000/=. It is

so ordered. The said interest is to run from 1st December, 2005, when the tractor was to be

supplied, till payment in full.

The plaintiffs are awarded the costs of the suit.

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Remmy K. Kasule

Judge

28th November, 2008

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