

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
(COMMERCIAL COURT DIVISION)

HCT-00-CC-CS-0456-2005

PICA PRINTERY & STATIONERY LTD
PLAINTIFF

VERSUS

PALLISA DISTRICT LOCAL GOVERNMENT
DEFENDANT

BEFORE: THE HONOURABLE MR. JUSTICE YOROKAMU
BAMWINE

J U D G M E N T (EX - PARTE):

The plaintiff engages in the business of printing stationery. It filed a suit against the defendant claiming a sum of Shs.13,388,875- being the outstanding balance on the cost of graduated tax tickets supplied to the defendant in the financial year 2001/2002, general damages for breach of contract, interest and costs.

There is evidence of service of summons to file a defence upon the defendant through its Chief Administrative Officer (C.A.O) on 22/6/2005. For reasons best known to it, the defendant did not file a defence. On the basis

of that default, an interlocutory judgment was entered for the plaintiff by the Registrar on 22/8/2005. The case has therefore been put before me for formal proof only. It is trite that where an interlocutory judgment has been entered in favour of a plaintiff, the question of the defendant's liability is no longer in issue. That was determined upon the interlocutory judgment being entered against it. What is in issue is the quantum of damages. Indeed I see the only issue as whether the plaintiff is entitled to the reliefs sought.

First, the outstanding balance and/or special damages of Shs.13,388,875-. The plaintiff's sole witness, PW1 Mutenga, told Court that during the 2000/2001 financial year, the plaintiff was awarded a tender to print and supply graduated tax tickets to the defendant local government. That following the award of the tender and meeting with the defendant's C.A.O. and Chief Finance Officer (C.F.O), the plaintiff was issued with Local Purchase Orders (L.P.O's) said by the said CAO and CFO. These LPOs are on record as P. Exh. 1. They are 6 in number. They are evidence of the order to the plaintiff to supply graduated tax tickets worth Shs.33,388,875- at a cost of Shs.500 per ticket. It is the plaintiff's evidence that the tickets were duly delivered. The delivery notes are on record as P. Exh.11. The plaintiff demanded for payment. It is Mr. Mutenga's evidence that the defendant made a part payment in the sum of Shs.20,000,000- and hence the plaintiff's claim of Shs.13,388,875- as the balance on that deal. I have considered the plaintiff's claim in the pleadings; its evidence through the General Manager

Mr. Mutenga; and the documentary evidence exhibited in this case. It is evidence which has not been challenged and/or contradicted. I have seen no reason to doubt it. The law is that an unpaid seller is entitled to recover the price of the goods supplied. In these circumstances, the plaintiff is entitled to special damages of Shs.13,388,875- being the unpaid balance on the purchase price of the supplied tax tickets. I order so.

The plaintiff has also prayed for general damages for the breach of contract and interest from the date of default.

The law is that when a party fails to do what he/she agreed to do or does not do it properly, he is said to be in breach of the contract. He/she will be liable to pay damages to the aggrieved party to compensate him for any loss occasioned. The damages which the other party ought to receive in respect of such a breach should be such as may fairly and reasonably be considered as either arising naturally, that is, according to the usual course of things, from such a breach itself or such as may reasonably be supposed to have been in contemplation of the parties at the time they made the contract as the probable result of its breach.

Counsel has invited me to consider the loss of profits which could have been earned by investing the outstanding balance in business if the same had been promptly paid. He has also invited me to consider the loss of the

plaintiff's house at Makerere in order to pay off debts which would not have occurred if the plaintiff's money had been paid by the defendant in time. He has suggested a sum of Shs.10,000,000- as reasonable compensation or general damages for the defendant's breach of contract which has caused the plaintiff substantial financial loss and damage. This Court is of course aware that damages are intended as compensation for the plaintiff's loss. They are not intended as punishment for the defendant. Bearing in mind that through this suit the plaintiff will recover its balance on the contract price and that the amount could not reasonably have been expected to cause the financial loss and damage allegedly caused to the plaintiff, I deem a sum of Shs.2,000,000- (two million only) adequate compensation for the said breach. I award it. The amount of Shs.10m proposed by counsel is certainly on the high side.

As regards interest, its award is discretionary in the absence of any evidence that the parties agreed on it during the tender process. The basis of any award of interest is that the defendant has kept the plaintiff out of his money and ought, accordingly, to compensate him. Court is satisfied that the plaintiff has been unjustifiably deprived of the payment. It ought to be paid interest as prayed. However, its prayer is that the interest be ordered to run from 20/4/2004, the alleged date of default. The suit was filed on 11/06/2005. It is not known why the filing was not on the due date. In these circumstances, interest of 20% p.a. on the special damages shall be

computed from the date of filing (11/6/2005) till payment in full. Interest on the general damages, at the same rate, shall be from the date of judgment till payment in full. The plaintiff shall also have the costs of the suit.

In summary, judgment is entered for the plaintiff against the defendant in the following terms:

- i. Special damages: Shs.13,388,875-.
- ii. General damages: Shs.2,000,000-.
- iii. Interest on (i) and (ii) at the rate of 20% p.a. from the date of filing the suit and date of judgment, respectively, till payment in full.
- iv. Costs of the suit.

Yorokamu Bamwine

J U D G E

15/5/2006

15/5/2006

Plaintiff absent.

Court: Judgment released to Civil Registry.

Yorokamu Bamwine

J U D G E

15/5/2006