

000,000= was false. Be that as it may, the only issue herein is whether the plaintiff upon being paid the admitted sum of Shs.1, 525,000= would have any further claim on the defendant.

The defendants took part in the scheduling conference and thereafter disappeared. The hearing of the residue of the plaintiff's claim therefore proceeded ex-parte. I have considered the evidence of PW2 Senabulya Frank, the Marketing Manager for the plaintiff company. His evidence is that they supplied to the defendants 353 Girls' Dresses (Light Green) worth Shs.3,530,000; 350 Girls' Dresses (Light Grey) worth Shs.3,500,000; 429 Boys' shirts (Light green) worth Shs.2,145,000=; and 350 Boys' shorts (Dark Green) worth Shs.1,750,000=. This adds up to Shs.10, 925,000= the amount admitted by the defendants. In view of that admission in the defendant's own Written Statement of Defence, I make a finding that the goods supplied by the plaintiff to the defendants were worth Shs.10,925,000=.

I now turn to payments.

In the Written Statement of Defence, the defendants aver that the total amount paid for the uniforms was Shs.9, 400,000=. They give the following breakdown:

a)	31/1/2005	Shs.1, 000,000=
b)	12/5/2005	Shs.1, 000,000=
c)	30/6/2005	Shs.200, 000=
d)	1/7/2005	Shs.1, 000,000=
e)	8/7/2005	Shs.4, 000,000=
f)	30/12/2005	Shs.200, 000=
g)	24/4/2006	Shs.1, 000,000=
h)	11/5/2006	Shs.1, 000,000=
Total:		Shs.9, 400,000=

They attached receipts of payments in photocopy form. They did not appear at the hearing to tender in evidence as exhibits originals of those receipts.

In his evidence, PW2 Ssenabulya stated that the money paid directly to them amounted to Shs.5, 000,000=: Shs.1, 000,000= on 31/1/2005 and Shs.4, 000,000= on 8/7/2005. I have assumed that since the payment of 8/7/2005 was made to Senabulya, the signature of the person indicated on that payment voucher as that of the person who received the payment is his. A similar signature appears on the Petty cash voucher of 30/6/2005. The payment is said to have been made to the plaintiff through the said Senabulya. The amount indicated on it is Shs.200, 000=. I find on a balance of probabilities that he received that sum of money as well. This makes the amount directly received from the defendants Shs.5, 200,000=.

He (Senabulya) stated further that the plaintiff received Shs.2, 000,000= from M/S Kawanga & Kasule Advocates to make it a total of Shs.7, 000,000=. Hence the plaintiff's claim of Shs.3, 925,000= less the Shs.1, 525,000= admitted by the defendants. As stated above, if he had taken the Shs.200, 000= into account, his correct figure should have been Shs.7, 200,000= (not Shs.7, 000,000=).

The plaintiff's other witness; PW1 Mohamed Kajubi is a lawyer. He was attached to M/S Kawanga & Kasule Advocates. According to this witness, the law firm recovered a total of Shs.3, 200,000= from the defendants. They deducted a sum of Shs.1, 200,000= from it as their costs and passed on to their client the balance in the sum of Shs.2, 000,000=. This figure agrees with the one given by PW2 Senabulya.

The lawyers were acting for the plaintiff. They were the agents of the plaintiff. He who does something through another does it himself. In view of PW1 Kajubi's evidence that they recovered Shs.3, 200,000= from the plaintiff, Court makes a finding to that effect. In these circumstances, the amount stated by the plaintiff as having been received from the defendants is Shs.5, 200,000= plus Shs.3, 200,000= which adds up to Shs.8, 400,000=. I have looked at the other copy of purported payment voucher dated 24/4/2006 for Shs.1, 000,000=. It lacks the signature of any person said to have received it. On a balance of probabilities, this amount of Shs.1, 000,000= said to have been paid by the defendants to the plaintiff on 24/4/2006, was not paid. Accordingly, I'm unable to accept the defence case as per their WSD that the amount paid was Shs.9, 400,000=. It was in my view Shs.8, 400,000=. I so find.

I have already made a finding that the uniforms supplied by the plaintiff to the defendants were worth Shs.10, 925,000=. Out of this amount, Shs.8, 400,000= has been proved to have been paid by the time the suit was filed on 30/5/2006. The amount which the plaintiff was entitled to at the time of filing of the suit was therefore Shs.2, 525,000=. A sum of Shs.1, 525,000= was admitted by the defendants and decreed to the plaintiff. This leaves a balance of Shs.1, 000,000= as the outstanding debt on the contract. The same is also decreed to the plaintiff.

Court had ordered that the admitted amount of Shs.1, 525,000= be paid to the plaintiff on or before 13/11/2006. It is not clear from the record whether the order was complied with. In the event that it was complied with, the balance recoverable from the defendants shall be Shs.1, 000,000=. In the event that the plaintiff has not enforced the order relating to the admitted claim, the plaintiff shall recover the whole balance in the sum of Shs.2,525,000= at once with interest at the rate of 25% per annum from the date of judgment till payment in full.

As regards costs, the usual result is that the loser pays the winner's costs. This practice is subject to the Court's discretion, so that a winning party may not necessarily be awarded his costs. In the instant case, the plaintiff knew that the materials supplied to the defendant were worth Shs.10, 925,000=. The defendants had effected payments to them. However, the plaintiff filed this suit claiming Shs.14, 000,000=, the full contract price, as if they had supplied all the materials contracted for and nothing had been paid to them at all. They earn no credit for that level of dishonesty. He who comes to equity must come with clean hands. In other words, equity will not help a litigant if his own past conduct towards his adversary has been unconscionable.

For the reasons above, save the order for payment of the decretal sum and interest, I would order that each party bears its own costs. I so order.

Yorokamu Bamwine

J U D G E

17/05/2007

Order: This ex-parte judgment shall be delivered on my behalf by the Registrar of the Court on the due date.

Yorokamu Bamwine

J U D G E

17/05/2007