

THE REPUBLIC OF UGANDA

IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

CIVIL DIVISION

CIVIL SUIT NO. 263 OF 2012

CIRCUIT POWER (U) LTD :::::::::::::::::::: PLAINTIFF

VERSUS

P N N TECHNOLOGY SOLUTIONS LTD :::::::::::::::::::: RESPONDENT

BEFORE: HON. JUSTICE STEPHEN MUSOTA

JUDGMENT

The plaintiffs Circuit Power (U) Limited through its lawyers M/s Ocheng and Harimwomugasho & Co. Advocates filed a summary suit on a specially endorsed plaint under Order 36 of the Civil Procedure Rules against P N N Technology Solutions Ltd claiming recovery of UGX 174, 593, 471/- (one hundred seventy four million, five hundred seventy one shillings) being the sum for goods sold to the defendant by the plaintiff and costs of the suit.

The facts constituting the plaintiffs cause of action arose as follows:

That between 20th December 2010 and 21st December the plaintiff and the defendant engaged in several transactions where the plaintiff supplied the defendants various items. Respective invoices, local purchase orders and delivery notes were issued and duly communicated to the defendant as per annexure "A". As of May 2012, the defendant's account revealed that the defendant was truly indebted to the plaintiff to the tune of UGX. 174,593,474/- as per the annexure "B". That up to date the defendant has ignored, neglected and/or refused to fulfill his obligations to the plaintiff inspite of the plaintiff's communication reminding it of the same.

Upon service of summons onto the defendant, the defendant sought for leave to defend the suit which was allowed by consent of parties on 19th August 2013. By the time of the hearing of this suit, neither defendant nor its counsel appeared and upon application by counsel for the plaintiff to proceed *ex parte* under Order 9 rule 20 Civil Procedure Rules, the suit proceeded for hearing after court was satisfied that a return of service was made and filed on 1st April 2014 indicating effective service.

The plaintiff produced one witness in support of its case.

PW1 Steven Ragui a Director of the plaintiff testified that he is in court seeking for money not paid by PNN Technology Solutions Limited amounting to UGX 174,593,471/-. That the amount accrued after the defendant did not pay on account of generators and various items and parts the plaintiff supplied to the defendant. PW1 further stated that the generators were ordered by phone, mail and then the LPO orders would follow and that upon issuance of the LPO they would proceed to invoice before and after delivery. He further testified that he issued the invoices to the defendant but up to date the plaintiff has not been paid and their statement of account they were receiving on their behalf shows the amount of invoices. The statement of account was admitted in evidence as P2.

I have considered the claim and reviewed the evidence of Steven Ragui (PW1) the director of the plaintiff. It is trite that even if the case is heard *ex parte* the burden on the part of the plaintiff to prove his or case to the required standard still remains. From the evidence adduced by the plaintiff, it has on a balance of probabilities been proved that an arrangement existed between the plaintiff and the defendant. It has been proved that the goods were supplied to the defendant but the same have not been paid for. Exhibit P1 shows that indeed the goods were supplied and were received by the defendant and Exhibit P2 the statement of account shows that the defendant owes the plaintiff a sum of UGX 174,593,471/- as claimed in the plaint. In the absence of evidence to the contrary, I am inclined to find that the plaintiff has proved its case to the required standard and he is entitled to judgment as prayed for in the claim.

Consequently judgment is entered for the plaintiff in the sum of UGX 174, 593,471/- with costs of this suit. I so order

Stephen Musota

J U D G E

27.08.2015.