

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT KAMPALA
CIVIL APPEAL NO. 53 OF 1999
(Arising from Civil Suit No. 906/98 at Mengo)

FLORENCE NEEZA APPELLANT

VERSUS

HIGHLAND AGRICULTURE EXPORT LTD RESPONDENT

BEFORE: THE HON. MR. JUSTICE R.O. OKUMU WENGI

JUDGMENT:

This is an appeal against the ruling of the Chief Magistrate Mengo whereby he ruled that a suit filed to claim Shs 3.7 million plus interest at 30% was within his jurisdiction to try. In his ruling the learned chief Magistrate was of the view that since interest under S.26 CPA was applicable he was not bound to consider the claim as being larger than what was stated in the plaint. I have read the written submissions of both counsel on the matter. I have also considered the decision in **Allan Waligo Vs Arvind Patel** Civil Revision No. 6 of 2002, where a decree of principal sum of Shs 4.6 million plus interest of Shs 29 million was regarded to be without jurisdiction. I agree with counsel for the Respondent that the question of interest prior to the filing of the suit is part of the substantive law of contract and that section 26 of the CPA whereby interest is stated to be discretionary refers to interest after filing and or after judgment. However I am of the view that

the issue in the case is whether or not the Plaintiff could recover Shs 3.7 million from the Chief Magistrates court. This is so. Secondly another issue is whether the Chief Magistrate can deal with the question of the 30% interest on that sum. See also **UCB Vs Yolamu Twaha** No. 16/98. It is my considered view that a percentage is clearly a percentage. It is not a figure of quantum but of percentage. In other words there is nothing wrong with the Chief Magistrate dealing with the claim and determining whether it is made out and he decrees the principal sum. I would even say he will be able to express the percentage of interest in his decree but without mentioning the figure. In short, while the Chief Magistrate would not decree the large sum he is perfectly able to adjudicate this claim and desist from exceeding his jurisdiction. My view is that claims of this nature should be dealt with expeditiously by the lowest possible court. When the question of the decree arises and execution comes that is another matter. In the result this appeal is dismissed and the file is sent back to the trial Magistrate to deal with the claim for Shs 3.7 million as it is well within his power to decree the principal sum claimed. The costs of this appeal will be paid by the appellant.

R.O. Okumu Wengi

JUDGE

28/11/2005.

30/11/2005

Arvind Patel in person for Respondent

None for Appellant

Senabulya Court Clerk.

Judgment read in open court in presence of the Respondent.

R.O. Okumu Wengi

JUDGE

30/11/2005.