

RWANDA / JUDGMENT

UWIMANA v. LIN HAI QIAO LIN

RCA 0076/14/HC/KIG

COURT

High Court

DECIDED

16 January 2015

CASE / FILE NUMBER

RCA 0076/14/HC/KIG

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Text

Page 1

UWIMANA v. LIN HAI QIAO LIN [Rwanda HIGH COURT – RCA 0076/14/HC/KIG (Gatwaza, P.J.) January 16, 2015] Law determining the jurisdiction of the courts – jurisdiction of the Intermediate Court – value of subject matter – the fact that the principal debt itself does not fall into the jurisdiction of the Court filed for, moral damages, counsel and procedural fees if they are not included into the contract should not add the value of the subject matter – Organic Law No 02/2013/OL of 16/06/2013 modifying and complementing Organic Law n° 51/2008 of 09/09/2008 determining the organisation, functioning and jurisdiction of courts, article 18, 22. Facts : Uwimana was sued by Lin Hai Qiao Lin at the Intermediate Court of Nyarugenge the debt of 1,340,000Frw, moral damages of 1,200,000Frw and 700,000Frw of the Counsel fees, and the Court held that he lost the case. Uwimana appealed to the High Court in stating that the judge of the previous Court of this has no jurisdiction over the subject matter of examining that application, then he disregarded it and held that he has it and rendering the judgment. LIN HAI QIAO LIN defends in stating that the judge did not commit any fault because the principle debt was added on the other amount which was filed for, the led the Intermediate Court to have the jurisdiction of hearing the claim basing on the value of the subject matter. Held : the fact that the principal

debt itself does not fall into the jurisdiction of the Court filed for, moral damages, counsel and procedural fees if they are not included into the contract should not add the value of the subject matter, therefore the decided judgment was removed, and the application be submitted to the Primary Court of Kagarama which is competent because the document filed for was drafted at LIN Kicukiro. Appeal has merit.

Statutes and statutory instruments referred to: Organic Law No 02/2013/OL of 16/06/2013 modifying and complementing Organic Law n° 51/2008 of 09/09/2008 determining the organisation, functioning and jurisdiction of courts, article 18, 22 No cases referred to.

Judgment

BRIEF BACKGROUND OF THE CASE

Page 2

- [1] At the Intermediate Court of Nyarugenge, the appealed judgment mentioned above, UWIMANA Bernard was sued by LIN HAI QIAO LIN, it was intervened BIGIRIMANA Pascal, the debt of 1,340,000Frw, moral damages of 1,200,000Frw and 700,000Frw of the Counsel fees. He was lost what he sued for, but he did not satisfy with the ruling of the judgment because he demonstrated to the judge that he does not have the competency over the subject matter to examine that claim, but he disregarded it he confirmed that he had; which the principal ground of the appeal, his appeal was recorded on RCA 0076/14/HC/KIG, it was heard in public on 16 December 2014, all parties appear apart from BIGIRIMANA Pascal who would not be charged anything; [2] UWIMANA Bernard appeals in explaining that he demonstrated to the Court that it has no competency over the subject matter because the main application is 1,340,000Frw which equal to 2,000,000USD it has the value which is not exceeding 3,000,000Frw required so that the application begins at that instance, also 1,200,000Frw of the moral damages and 700,000Frw of the Counsel fees are not including into the contract so that they can be added on the subject matter, therefore he wrongly interpreted article 18 and 22 of COFCJ/2013.
- [3] The Counsel for LIN HAI QIAO LIN replies that the judge did not commit any fault because the principle debt was added on the other amount which was filed for, the led the Intermediate Court to have the jurisdiction of hearing the claim.
- [4] The main legal issue to be examined in this judgment is to determine whether the claim he was submitted for was in his competency;

ANALYSIS OF THE LEGAL ISSUE

- [5] UWIMANA Bernard explains that he demonstrated to the Court that it has no competency over the subject matter because the main application is 1,340,000Frw which equal to 2,000,000USD it has the value which is not exceeding 3,000,000Frw required so that the application begins at that instance, also 1,200,000Frw of the moral damages and 700,000Frw

of the Counsel fees, those should not be added on the principal debt because they were not agreed on into the contract both parties concluded as it is provided for by article 18 and 22 of COFCJ/2013. [6] The Counsel for LIN HAI QIAO LIN replies that the judge did not commit any fault because the principle debt was added on the other amount which was filed for, the led the Intermediate Court to have the jurisdiction of hearing the claim

- [7] Article 18COFCJ/2013 stipulates that “in civil cases, the jurisdiction of courts shall be determined by the nature and value of the claim. The monetary value of the claim shall be determined by considering the principal amount and the interests agreed upon in the contract. In case of claim evaluated in foreign currency, the jurisdiction of the court shall be established after conversion into the national currency at the exchange rate of the day on which the lawsuit was

Page 3

lodged before court”. Article 22COFCJ/2013 stipulates that All cases introduced at the first instance before ordinary courts and not yet decided on and for which such courts have no longer jurisdiction to adjudicate shall be tried by competent courts, in accordance with the provisions that govern jurisdiction of courts provided by this Organic Law and other relevant organic laws as follows: cases introduced at the first instance before Intermediate Courts but which are no longer in their jurisdiction shall be referred to Primary Courts or Intermediate Courts with relevant jurisdiction. [8] This judgment is in conformity of what is provided for by the provisions of the law mentioned above and the subject matter, it finds that the fact that the appellant declared that he filed for 2,000\$ which is equaling to 1,300,000Frw, and the fact he requests for the moral damages of 1,200,000Frw and 700,000Frw of the Counsel fees, it is understandable that the principle debt is not fall into the jurisdiction of the court which was filed for. The other thing which is clear to the Court is the moral damages of 1,200,000Frw and 700,000Frw of the Counsel fees are not in the contract of the debt they concluded. Therefore even if they were added on that debt and did not agreed on loan contract which the parties concluded as it is provided for the provisions of the law relates to the competency over the subject matter, it was misleading made by the previous judge of not respecting the provisions of jurisdiction of the Court over the subject matter; therefore that ground of the appeal has no merit, thus the decided judgment was removed, and the application be submitted to the Primary Court of Kagarama which is competent because the document filed for was drafted at LIN Kicukiro.

DECISION OF THE COURT

- [9] It admits the appeal of UWIMANA Bernard but it has no merit;
- [10] It rules that the appealed judgment is removed, and it begins at the competent Court mentioned above;

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