

TANZANIA / JUDGMENT

ON AFRICA V CATA MINING TANZLII

COURT
TANZLIIDECIDED
31 May 2024

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA MUSOMA SUB-REGISTRY AT
MUSOMA CIVIL CASE NO. 02 OF 2023 ON AFRICA CONSTRUCTION LIMITED

..... PLAINTIFF Versus CATA MINING COMPANY LIMITED

.....DEFENDANT CONSENT JUDGEMENT 03/06/2024 & 06/06/2024 Kafanabo,

J.: This consent judgment emanates from a deed of settlement duly signed and filed by the parties in this Court on 31st May 2024. The said deed of settlement arises from a suit instituted the Plaintiff against the Defendant claiming the following orders:

- i. A declaration that the Defendant has breached the rental contracts for several equipment(sic) rented. ii. An order for payment of the rental arrears of TZS 445,945,950/= (Tanzania shillings four hundred and forty-five million, nine hundred and forty-five thousand, nine hundred and fifty shillings only) by the Defendant to the Plaintiff. iii. An order for the Defendant to pay general damages as to(sic) be assessed and deemed fit by this honourable court. 1 iv. An order for the Defendant to pay Interest on item (ii) above at the court's rate per annum from when the claim arose till the date of

judgment.

- v. An order for the Defendant to pay interest at the court's rate on the decretal sum from the date of judgement to the date of actual payment. vi. An order for the Defendant to pay for costs of the suit incurred by the plaintiff in this suit. vii. Any other relief that this Honourable court may deem fit and just to grant. The Defendant filed a written statement of defence denying all claims and prayed for the dismissal of the case with costs. However, after the 1st Pre Trial and Scheduling Conference, the matter was referred to mediation, and in the mediation parties, for their best interests, resorted to an amicable settlement and resolved to settle their dispute in the most civilized manner the business would prefer. It is also the interest of the Court that parties to a dispute resolve their differences amicably and expeditiously. Hence, in implementing their desire to resolve the dispute amicably, on 31st May 2024, the parties herein filed a deed of settlement duly signed by the representatives of both parties. Moreover, on the 3rd day of June, Mr. Daudi Mahemba, learned Advocate holding brief for Mr. Alfred Mtawa, learned Advocate for the Plaintiff, and Ms. Mary Joachim, learned Advocate for the Defendant (accompanied by Mr. Kelvin Skews (Project Finance Manager of the Defendant) and Mr. Ockra Maheke (the Defendant's Human 2

Resources Officer) entered appearance before this court and prayed that the deed of settlement filed on 31st May 2024 be adopted and recorded as a decision of this court. The court after review of the said deed of settlement filed by the parties, and upon satisfying itself that the deed of settlement meets the legal requirements of being recorded as a decision of this court under Order XXIII of the Civil Procedure Code, Cap. 33 R.E. 2019, this court hereby adopts and records that the said deed of settlement is part of this consent judgment. Therefore, this suit is hereby marked settled amicably and voluntarily by the parties based on the following orders:

- a) The Defendant shall pay a total of Tanzania Shillings (hereinafter TZS) Four Hundred Forty-Five Million, Nine Hundred Forty-Five Thousand Nine Hundred Fifty Only (TZS 445,945,950/=), (hereinafter referred to as the settlement amount) to the Plaintiff herein as complete and full settlement of the entire claim and other costs as raised by the Plaintiff.
- b) The settlement amount shall be paid in the following installments:
 - i. Upfront payment of TZS One Hundred Forty-Five Million, Nine Hundred Forty-Five Thousand Nine Hundred Fifty Only (TZS 145,945,950/=) should be paid before or on 10th July 2024.
 - ii. The second payment of TZS One Hundred Million (TZS 100,000,000/=) should be paid on or before 10th August 2024.
 - iii. The third payment of TZS One Hundred Million (TZS 100,000,000/=) should be paid on or before 10th September 2024.

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