

UGANDA / JUDGMENT

Central Electrical International Ltd v Eastern Builders & Engineers Ltd (HCT-00-CC-MA 176 of 2008) [2008] UGCommC 47 (21 August 2008)

[2008] UGCommC 47

COURT

Commercial Court of Uganda

CASE / FILE NUMBER

HCT-00-CC-MA 176 of 2008

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Civil Procedure Rules and section}{\f1\fs28\insrsid817223 s}

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16- 29 of the Evidence Act whereby the Applicant, Central }

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national Ltd, who is the plaintiff in Civil Suit No 43 of 2008, is seeking for order}

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{\f1\fs28\insrsid2776180\charrsid2776180 A judgment on admission be entered against the
Respondent/Defendant in favour of the Applicant/Plaintiff for US\$48,598.79.

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The grounds of the application are that:-

(a) That the admission of indebtedness to the Applicant/Plaintiff has been made by the Defendant/Respondent in its pleadings in another case vide their complaint in H. C. C. S. No. 856 of 2005.

(b) That it is just and equitable and in the interest of Justice that a judgment on admission be entered against the Respondent/Defendant.

Representation was made by Mr. Tendo Kabenge for the Applicant and Mr. Richard Obonyo for the Respondent.

The Application is supported by an affidavit deposed to by Zaheerji, the Operations Manager of the Applicant. He therein avers that the Respondent/Defendant made an admission of indebtedness to the Applicant/Plaintiff in its pleadings in another case vide their complaint in paragraph 4 of the affidavit in H. C. C. S. No. 586 of 2005. That the said plaintiff is Annexure A to the affidavit and in paragraph 4 of the affidavit it states:-

Under the sub-contract agreement referred to in paragraph 4(g) above, the Plaintiff agreed to pay consideration of USD79,086.13 (Seventy nine thousand eighty six United States Dollars and no cents)

ates Dollars thirteen cents) to M/S Central Electrical International. M/S Central Electrical International Ltd executed the works in accordance with its sub-contract with the plaintiff and a sum of USD48,589.76 (Forty eight thousand five hindered eight

y nine United States Dollars seventy cents) remains outstanding to it which }
 {\f1\fs28\insrsid817223 the plaintiff claims from }{\f1\fs28\insrsid12285088 the Defendant by way
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\par Order 13 rule 6 provides:-

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\par }{\f1\fs28\insrsid12285088 \936. }{\f1\fs28\insrsid817223 Any party may at any sta}
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of a suit, where an admission of facts has been made, either on the pleadings or otherwise, apply
 to the court for such judgment or order a}{\f1\fs28\insrsid817223 s}{\f1\fs28\insrsid12285088 upon
 the admission he or she }{\f1\fs28\insrsid3622168

may be entitled }{\f1\fs28\insrsid12285088 to, without waiting for the determination of any other
 question between the parties, and the court may upon the application make such order o}
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give such judgement, as the court may think just.\94

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 \pararsid16524550 {\f1\fs28\insrsid12285088 The rule enables either party at any stage }
 {\f1\fs28\insrsid3622168 o}{\f1\fs28\insrsid12285088

f the suit to apply for judgment on the admission which have been made by the other }
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party. However, a judgment on admission is not a matter of right but at the discretion of the
 Court. If a case involves questions which cannot be conveniently disposed of on a motion under
 this

rule, the Court may in the exercise of its discretion, refuse the motion.}{\f1\fs28\insrsid12285088

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\par In }{\i\fs28\ul\insrsid14033247\charrsid3622168 Wright Kirke Vs North (1895) Ch 747}
{\f1\fs28\insrsid14033247 it was stated at page 50:-

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\f1\fs28\insrsid14033247 er for the exercise of a judicial discretion regard being had to all the circumstances of the case\94

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\par The admission can be in pleadings or otherwise. But such admission must be clear and unequivocal. See }{\i\fs28\ul\insrsid14033247\charrsid14033247 Eriaza Magala Vs Rev. Kefa Sempangi (1994) I KJAR 93}{\i\fs28\ul\insrsid14033247

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\par }{\f1\fs28\insrsid14033247 The applicant contends, in paragraph}{\f1\fs28\insrsid3622168 s}
{\f1\fs28\insrsid14033247 4- 6 of }{\f1\fs28\insrsid4410090 the affidavit}{\f1\fs28\insrsid14033247 in support that the Respondent}{\f1\fs28\insrsid3622168

\rquote s}{\f1\fs28\insrsid14033247 pleading }{\f1\fs28\insrsid6902969 above is an admission which }{\f1\fs28\insrsid3622168 is }{\f1\fs28\insrsid6902969 unequivocal as a statement, docu}
{\f1\fs28\insrsid3622168 mentary which proves that the A}{

\f1\fs28\insrsid6902969 pplicant executed the works to completion in accordance with its sub-contract with the Respon

dent, the fact that the Respondent agreed to pay a consideration of USD 79,086.13 to the Applicant for works to be executed and the fact that the Respondent remains indebted to the Applicant in }
{\f1\fs28\insrsid3622168 the sum of USD 48,589.79}{

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\par }{\f1\fs28\insrsid6902969

\par }{\f1\fs28\insrsid7545766 The Respondent filed an affidavit i

n reply deponed to by its Managing Director Gurdial Sigh. The Respondent therein contends that it is not true that it admits the indebtedness. That in its Written Statement of defence the Respondent unequivocally stated that its liability to pay the App

licant was subject to prescribed terms and conditions which have not been satisfied, and further that the Applicant's claim against it is premature and improper.

\par

\par The admissions which are claimed to have been made by the Respondent are contained in the Respondent's claim against it

s plaint filed in H. C. C. S. No. 856 of 2005 where the parties were Eastern Builders and Engineers Ltd (Plaintiff) and Attorney General of Uganda (defendant). The instant suit was filed in February 2005

8. The Applicant is not a party to the suit wherein the alleged admission was made. My considered view is that the admission is

upon which judgment can be based should be made either on the pleading or otherwise in the suit before court. I am strengthened in my view by the holding in

Justice in *CK Byamugisha in Sietco Vs Impregic* of 16083285 of 2005

Salim J. V. HCCS No 980 of 1999 where she stated that in the instant case

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n the instant case the admissions which the defendant made are at an interlocutory stage and therefore satisfied the requirement of 'quote at any stage for the suit'94

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\par In the instant case the admissions upon which the Applicant based its application were not made at any stage of this suit but made in 2005 before the filing of this suit and in another suit.

\par

\par In paragraph 4 (iii) of the plaint in this suit the Applicant states that it executed the works and procured certificates of completion for it in accordance with its sub-contract with the Respondent and that the sum of USD 48,589.79 remains outst

and to the Applicant which it is seeking to recover. In its Written Statement of

Defence the Respondent denies paragraph 4(iii) of the plaint and contends that the Respondent's liability was subject to prescribed terms and conditions which have not been

satisfied. Further that the Applicant's claims is premature

and improper. The relationship between the Applicant and the Respondent was governed by a sub contract annexure B to the Respondent's

affidavit. That agreement spells out the terms and conditions upon which payment would become due to the Applicant. Judgment can only be entered

in favour of the Applicant in respect of payment claimed if such payment was payable and due from the Respondent.

Neither the pleadings or any of the documents filed by any of the parties in this suit shows an admission of the Applicant's claim by the Respondent. The defence raises the issue whether payment was due to the Applicant. Even if it is found that the Respondent is liable to pay the Applicant, the Court was to consider paragraph 4(h) of the Respondent's pleadings in HCCS No.856 of 2005, that pleading does not unequivocally answer this issue.

The application therefore fails and is dismissed with costs to the Respondent.

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{\f1\fs28\insrsid5968376 Hon. Mr. Justice Lameck N. Mukasa

\par }{\b\f1\fs28\insrsid5968376\charrsid5968376 Judge

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Prepared on 14 October 2026 · Esheria