

UGANDA / JUDGMENT

Kenfreight (U) Ltd v Ken Enterprises (U) Ltd & Anor (HCT-00-CC-CS 464 of 2003)

[2006] UGCommC 34 (26 July 2006)

[2006] UGCommC 34

COURT

Commercial Court of Uganda

CASE / FILE NUMBER

HCT-00-CC-CS 464 of 2003

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REPUBLIC OF UGANDA}{\b\insrsid15861250\charrsid9524222

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\par IN THE HIGH COURT OF UGANDA HOLDEN AT KAMPALA

\par

\par COMMERCIAL COURT DIVISION

\par

\par HCT-00-CC-CS-0464-2003

\par }{\insrsid2560174

\par KENFREIGHT (U) LTD PLAINTIFF

\par

\par VERSUS

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\par KEN ENTERPRISES (1998) LTD DEFENDANTS

\par

\par KEN ESTABLISHMENTS LTD

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\par {\b\insrsid2560174\charrsid9524222 BEFORE: THE HONOURABLE MR. JUSTICE FMS
EGONDA-NTENDE

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\par JUDGMENT

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid2560174
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aspalpha\aspnum\faaauto\ls1\adjustright\rin0\lin720\itap0\pararsid9524222 {

\insrsid2560174 Kenfreight (U) Ltd, hereinafter referred to as the plaintiff {\insrsid7688584 filed
this action}{\insrsid2560174 seeking to recover from {\insrsid7688584 Ken Enterprises (1998)

Ltd, and Ken Establishments Ltd, hereinafter referred to as {\insrsid2560174 the defendants,}
{\insrsid7688584 a sum of United States Dollars, US\$14,354.00. In the course of the trial this claim
was reduced to US\$9,}{\insrsid7682659 884}{\insrsid7688584

.00 after abandoning invoices worth US\$4,}{\insrsid7682659 47}{\insrsid7688584 0.00 either
because no supporting documents were available or that the sums were not due.}{\insrsid2560174

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The plaintiff is a clearing and forwarding firm that was retained by the defendants to clear their
imports from the Kenyan Port of Mombasa. The plaintiff contends that the defendants did not
pay t

he sums claimed in spite of demands to do so. The defendants contend that {\insrsid9524222 are }
{\insrsid7688584 no sums outstanding to the plaintiff as they paid all sums due to the plaintiff,
except \lquote

where the plaintiff was not entitled to payment due to non-performance and/or where the
plaintiff\rqute s conduct}{\insrsid9456611 was responsible for the denial of payment to him.
\rqute }{\insrsid7688584

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\hich\af0\dbch\af0\loch\f0 3.\tab}}{\insrsid9456611

In its written statement of defence the defendants set out 12 general particulars as to why the
plaintiff would not be entitled to payment without indicating in respect of which the invo
ices such particulars applied. This was an evasive manner of pleading.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9456611
\hich\af0\dbch\af0\loch\f0 4.\tab}At the scheduling conference the parties agreed on one issue,
and that is whether the plaintiff was entitled to the sum of US\$14,325.00 as claimed.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9456611
\hich\af0\dbch\af0\loch\f0 5.\tab}The plaintiff called {\insrsid14111227 3}{\insrsid9456611
witnesses.}{\insrsid7682659 The defendant called 1 witness. In issue there }

\insrsid3635714 were }{\insrsid7682659 about }{\insrsid1258013 30}{\insrsid7682659 invoices. I will
proceed to look at the evidence of all the parties in respect of each invoice in issue. Three}
{\insrsid2695351 key documents are exhibits P1 }

\insrsid7682659 and P3. Exhibit P3 is the statement of account submitted by the plainti
\insrsid9524222 ff to the defendants. Exhibit P}{\insrsid7682659 1 }{\insrsid2695351 is }
{\insrsid7682659

the response of the defendants to P3 setting out what the defendants objected to with regard to
each disputed invoice.}{\insrsid1006819

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid14834532
\hich\af0\dbch\af0\loch\f0 6.\tab}}{\insrsid14834532 Invoices 2805, 2838, and 3423 }
{\insrsid10436899 for US\$ 300.00, }{\insrsid3635714 US\$}{\insrsid10436899 150.00 and }

\insrsid3635714 US\$}{\insrsid10436899 1,039.06 respectively }{\insrsid14834532 were for
demurrage in respect of }{\insrsid6563239 container no. INBU 46566-8}{\insrsid14834532 .}
{\insrsid6563239 PW1 tendered into evidence a refund voucher}{

\insrsid1065138 ,}{\insrsid6563239 exhibit P8}{\insrsid1065138 ,}{\insrsid6563239 showing that
demurrage was charged by the shipping line for 44 days totalling to US\$1,480.00. The plaintiffs
paid the said sum of money thro

ugh their parent company in Mombasa. The defendant has not adduced any evidence with regard
to these invoices. I shall allow the sum of US\$1,480.00 in respect of these three invoices.}
{\insrsid14834532

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid2763419
\hich\af0\dbch\af0\loch\f0 7.\tab}}{\insrsid2763419 Invoice 2862 dated 22}
{\super\insrsid2763419\charrsid2763419 nd}{\insrsid2763419 May 1998 was for US\$75.00 for
demurrage in respe

ct of container no. TPHU 608276-3. PW1 adduced exhibit P15 showing that US\$52.00 was charged
by the shipping line.}{\insrsid16137940 Defence has not adduced any evidence with regard to this
invoice. It is allowed to the extent of US\$52.00.}{

\insrsid2763419

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid2695351
\hich\af0\dbch\af0\loch\f0 8.\tab}}{\insrsid2695351 Invoi}{\insrsid16137940 ce}{\insrsid2695351
2833 dated 15}{\super\insrsid2695351\charrsid2695351 th}{\insrsid2695351 May 1998,

(exhibit P11), was for US\$400.00 in respect of demurrage. It had no supporting documents. This was disputed by exhibit P1. It is disallowed on account of no supporting documents.}

{\insrsid16137940

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid12008238

\hich\af0\dbch\af0\loch\f0 9.\tab}}{\insrsid12008238 Invoice 2863 of 22}

{\super\insrsid12008238\charrsid12008238 nd}}{\insrsid12008238 May 1998}{\insrsid9786412 , (exhibit P16),}{

\insrsid12008238 was in respect of container no. MLCU-208178/8 for demurrage for 16 days totalling to US\$400.00 for the period 22}{\super\insrsid12008238\charrsid12008238 nd}

{\insrsid12008238 April 1998 to 7}{\super\insrsid12008238\charrsid12008238 th}{

\insrsid12008238 May 1998.}{\insrsid9786412 PW1 produced supporting documents for this invoice including a refund voucher in respect of demurrage from the shipping company, Star East Africa Co., for US\$410.00. Why the plaintiff\quote

s invoice is less than what the shipping company is explained by PW1 that the invoice was an estimate. The defence did not adduce any evidence with regard to this invoice. This invoice is allowed.}{\insrsid2695351

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9786412

\hich\af0\dbch\af0\loch\f0 10.\tab}}{\insrsid9786412 Invoice 2922 was not disputed in exhibit P1. Neither was}{\insrsid9454426 it}{\insrsid9786412

discussed in the testimony of the only defence witness. This is presumed as accepted and paid.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9454426

\hich\af0\dbch\af0\loch\f0 11.\tab}}{\insrsid9454426 Invoice}{\insrsid14426652 2996 of 6}

{\super\insrsid14426652\charrsid14426652 th}{\insrsid14426652

July 1998 was for US\$3658.72 but only US\$94.}{\insrsid9841595 72}{\insrsid14426652 remained unpaid or outstanding. This was in respect

of collection fees by the shipping company which it charged upon collection of sea freight on arrival of the container in Mombasa. Exhibit P25 and P26 provide proof for payment of the said sum. The only defence witness did not offer any testimony in relat

ion to this charge. I allow it.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid14426652

\hich\af0\dbch\af0\loch\f0 12.\tab}Invoice 3285 of 7}{\super\insrsid14426652\charrsid14426652 th}{\insrsid14426652

September 1998 for US\$225.00 was demurrage. No supporting documents were made available in the testimony of PW1. The defence adduced no evidence whatsoever in connection with this invoice. It is disallowed.}{\insrsid3630222

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid3630222
 \hich\af0\dbch\af0\loch\f0 13.\tab}Invoice 3226 of 25}{\super\insrsid3630222\charrsid3630222 th}
 {\insrsid3630222 August 1998 had }{\insrsid9841595 an}{\insrsid3630222

outstanding balance}{\insrsid9841595 on it claimed by the plaintiff}{\insrsid3630222 , in exhibit
 P3, of US\$195.00. PW1 failed to explain how this sum fully arose. Neither did he provide any
 supporting documentation for the claim. The defence did no

t adduce any evidence in regard to this invoice specifically. It is disallowed.}{\insrsid14426652 }
 {\insrsid9454426

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid3630222
 \hich\af0\dbch\af0\loch\f0 14.\tab}}{\insrsid3630222 Invoice 3290 of 9}
 {\super\insrsid3630222\charrsid3630222 th}{\insrsid3630222

September 1998 was for US\$50.00 being demurrage for 2 days. No supporting documents were
 provided by PW1. Neither did the defence call any evidence in relation to this invoice. It is
 disallowed.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid1443319
 \hich\af0\dbch\af0\loch\f0 15.\tab}}{\insrsid1443319 Invoice 2758 dated 25}
 {\super\insrsid1443319\charrsid1443319 th}{\insrsid1443319

April 1998 (exhibit P33), was for US\$130.00 for port rent due to local delivery delay. It had a
 supporting document tendered by PW2, a Kenya Ports Authority receipt for the same amount,
 exhibi

t P34. The defence did not adduce any evidence with regard to this invoice. It is accordingly
 allowed.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid1443319
 \hich\af0\dbch\af0\loch\f0 16.\tab}Invoice 2759 of 25}{\super\insrsid1443319\charrsid1443319 th}
 {\insrsid1443319

April 1998 is for port rent in the sum of US\$110.00. It has supporting documents from Kenfreight
 (EA) Ltd and Kenya Por}{\insrsid10566645 t Authority. Exhibits P 35, P36 and}{\insrsid1443319 P3}
 {\insrsid10566645

7 refer. There is no evidence from the defendants on this item. It is allowed.}{\insrsid1443319

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid10566645
 \hich\af0\dbch\af0\loch\f0 17.\tab}}{\insrsid10566645 Invoice 2797}{\insrsid8069014 of 5}
 {\super\insrsid8069014\charrsid8069014 th}{\insrsid8069014

May 1998 is for US\$300.00 in respect of port rent due to local delivery delay, and survey charges.
 Supporting documents exhibit }{\insrsid3635714 P}{\insrsid8069014 39 to }{\insrsid3635714 P}
 {\insrsid8069014

41 show US\$100 for port rent but not for US\$200 for survey charges. PW2 did not explain what these charges were for. The defendants did not adduce any evidence in relation to this invoice. I allow only US\$100.00.}{\insrsid10566645

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9055289
\hich\af0\dbch\af0\loch\f0 18.\tab}}{\insrsid9055289 Invoice 3369 of 21}
\super\insrsid9055289\charrsid9055289 st}{\insrsid9055289 September 1998 was

for US\$61.60 for container demurrage. There are supporting documents to support this charge including a detention charges sheet from the shipping line exhibit P46. The defence never adduced any evidence with regard to this invoice. I am satisfied that th

is charge was incurred. The charge is allowed.}{\insrsid8069014

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid11620350
\hich\af0\dbch\af0\loch\f0 19.\tab}}{\insrsid11620350 Invoice 3371 of 7}
\super\insrsid11620350\charrsid11620350 th}{\insrsid11620350

September 1998 (exhibit P46) is for US\$90.00 for port rent due to local delivery delay. It has supporting documents tendered into evidence by PW2. These exhibits P47, P48, and P49. There is evidence from the defendant on this invoice. It is allowed.}{

\insrsid9055289

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid11620350
\hich\af0\dbch\af0\loch\f0 20.\tab}}{\insrsid11620350 Invoice }{\insrsid15803022 3424 of 7}
\super\insrsid15803022\charrsid15803022 th}{\insrsid15803022

October 1999 is for US\$160.00 for demurrage. There are supporting documents to show it was incurred. In particular a refund voucher from the shipping company, exhibit P 69. This sum is allowed.}{\insrsid11620350

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid15803022
\hich\af0\dbch\af0\loch\f0 21.\tab}}{\insrsid15803022 Invoice 3439 of }{\insrsid5008006 14}
\super\insrsid5008006\charrsid5008006 th}{\insrsid5008006

October 1998 is for US\$2,287.84 of which the plaintiff claims US\$1,532.84 as still outstanding. Tendered in evidence are exhibits P71 to P77 that show that the charges therein were incurred.}{\insrsid14886817 DW1 objected to the charge

of Bond and Agency fee of US\$250.00. He claimed that they had paid Kenfreight (EA) Ltd directly the sum of US\$2,127.00, but provided no proof of such payment. He concluded that the plaintiff had not done sufficient reconciliation in filing this claim. }{

\insrsid15803022

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid14886817
\hich\af0\dbch\af0\loch\f0 22.\tab}}{\insrsid14886817 I accept the evidence of the PW2 that
US\$1,532.84 is still outstanding on this invoice 3439}{\insrsid6894210

, given that there is sufficient documentary proof that the fees and expenses were incurred or due
as claimed. Defendant\rsquote s objection remain}}{\insrsid10045290 s}}{\insrsid6894210
unsubstantiated. }}{\insrsid14886817

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid15229999
\hich\af0\dbch\af0\loch\f0 23.\tab}}{\insrsid15229999 Invoice }}{\insrsid10504219 3547 of 12}
{\super\insrsid10504219\charrsid10504219 th}}{\insrsid10504219

November 1998 is for US\$1000.00 with only US\$245.00 outstanding. DW1 }}{\insrsid9841595
testified that this invoice had}}{\insrsid10504219

a mistake of bond and agency having been charged differently from bond, agency, clearing and
forwarding charges. All these items should have b

een charged US\$505.00 and not US\$755.00. PW2 explained each charge, and there is no reason
why the two items should have been lumped together as demanded by DW1. There is
documentation in support of the disbursements incurred by plaintiff in respect }}

\insrsid9524222 of late}}{\insrsid10504219 documentation charges and removal charges.}
{\insrsid1338139 See exhibits P79, P80 and P81.}}{\insrsid10504219

The difference between the Kenfreight (EA) Ltd invoice and Kenfreight (U) Ltd is US\$100.00
which was the agreed mark up for Kenfreight (U) Ltd. I therefore allow the claim for US\$245.00.}
{\insrsid6894210

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid1338139
\hich\af0\dbch\af0\loch\f0 24.\tab}}{\insrsid1338139 Invoice 3552 of 13}
{\super\insrsid1338139\charrsid1338139 th}}{\insrsid1338139 November 1998 for US\$2,770.00 of
which only }}

\insrsid13779025 US\$}}{\insrsid1338139 870.00 is still outstanding.}}{\insrsid13779025 Supporting
documents available and tendered into evidence by }}{\insrsid3635714 P}}{\insrsid13779025

W2 for all items save transport. This item was not disputed in exhibit P1. DW1 in his testimony
stated that all the money had been paid, without offer of any proof of such payment. I allow the
claim for US\$870.00.}}{\insrsid10504219

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid4486577
\hich\af0\dbch\af0\loch\f0 25.\tab}}{\insrsid4486577 Invoice 3560 of }}{\insrsid3501768 16}
{\super\insrsid3501768\charrsid3501768 th}}{\insrsid3501768

November 1998 for US\$930.00 of which US\$175.00 is claimed as outstanding. DW1\rsquote s
objection to this claim is that

bond and agency were not charged together with clearing and forwarding leading to an overcharge. There is no agreement that DW1 is able to point to that required these two different items to be charged together a definite sum. Bond and Agency is a differ

ent item from clearing and forwarding as explained by DW2. I allow the claim for US\$175.00.}

{\insrsid13779025

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid10045290
\hich\af0\dbch\af0\loch\f0 26.\tab}}{\insrsid10045290 Invoice 3713 of 9}
\super\insrsid10045290\charrsid10045290 th}{\insrsid10045290

December 1998 was for US\$1,864.70 of which US\$270.00 was disputed and US\$59.70 still due and owing totalling to US\$329.70 claimed by the plaintiff

f. DW1 in his testimony claimed that they had not received an invoice for US\$329.70 or a debit note. There was no need for issue an invoice or debit note for the balance. The sum claimed of US\$329.70 is allowed.}{\insrsid3501768

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid14514262
\hich\af0\dbch\af0\loch\f0 27.\tab}}{\insrsid14514262 Invoice 3883 of 22}
\super\insrsid14514262\charrsid14514262 nd}{\insrsid14514262 January 1999, (exhibit

P96) is for demurrage charges of US\$243.00 being the balance of demurrage charges incurred on the same container as charged above in invoice 3439. In invoice 3439 demurrage charged was US\$720.00 yet the whole demurrage incurred as shown by exhibit P98 is

US\$963.00. DW1 did not testify about this invoice at all. It is allowed as claimed.}{\insrsid10045290

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9779041
\hich\af0\dbch\af0\loch\f0 28.\tab}}{\insrsid9779041 Invoice 3931 dated 29}
\super\insrsid9779041\charrsid9779041 th}{\insrsid9779041

January 1999 is for US\$138.00 for demurrage charges. DW1 objected to this invoice as there was no accompanying invoice from the shipping line, and Ke

nfreight (EA) Ltd. I am satisfied that there is no supporting document for demurrage incurred. This claim is disallowed.}{\insrsid14514262

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid9779041
\hich\af0\dbch\af0\loch\f0 29.\tab}}{\insrsid9779041 Invoice 3963 of 5}
\super\insrsid9779041\charrsid9779041 th}{\insrsid9779041

February 1999 was for US\$3,306.67 of which only US\$306.67 remained unpaid. DW1 testified that this invoice is wholl

y paid, and at the same time stated that they disputed the bond and agency charge being separate from the clearing and forward charges leading to an overcharge of US\$250.00 And that there were no supporting documents for }{\insrsid1065138 demurrage of }{

\insrsid9779041 US\$160.00. I agree that there are no supporting documents for the demurrage charge, and this is disallowed. The charge for bond and agency and clearing and forwarding charges being separate is fine. }\insrsid11425484

US\$146.67 is allowed on this invoice as being due and outstanding.}\insrsid9779041

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid11425484
\hich\af0\dbch\af0\loch\f0 30.\tab}}{\insrsid11425484 Invoice 4101 of 4}
\super\insrsid11425484\charrsid11425484 th}{\insrsid11425484

March 1999 is for US\$395.54 being demurrage charges charged on container no. CHBU 037965-8. It has supporting documents for this charge in the form of exhibit P107 and P108, indicating that it was incurred. The whole of it was disputed by the defend

ants in exhibit P1. DW1 testified that this demurrage was caused by the clearing and forwarding agent with}{\insrsid3635714 out}{\insrsid11425484

stating in which manner he did so. He attacked the invoice for not showing the number of days claimed or the period the container was kept by consignee.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid11425484
\hich\af0\dbch\af0\loch\f0 31.\tab}Exhibit P108 is clear. The period charged is 39 days from 30}
\super\insrsid11425484\charrsid11425484 th}{\insrsid11425484 October 1998 to 4}{

\super\insrsid11425484\charrsid11425484 th}{\insrsid11425484 January 1999. This expense is proved, and the invoice is allowed.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid13642100
\hich\af0\dbch\af0\loch\f0 32.\tab}}{\insrsid13642100 Invoice 4038 of 24}
\super\insrsid13642100\charrsid13642100 th}{\insrsid13642100

February 1999 is for demurrage charges in the sum of US\$852.59. PW2 tendered supporting documents including exhibit P111, a debit note}{\insrsid9524222 , which}{\insrsid13642100

shows that the shipping company charged US\$850.00 for 85 days for demurrage, and container cleaning Kenyan Shs.160.00. Exhibit 110 is the Kenfreight (EA) Ltd invoice to the plaintiff for these charges.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid13642100
\hich\af0\dbch\af0\loch\f0 33.\tab}

DW1 stated that Ken Enterprises could not have kept the container for all the 115 days. He stated that they gave the documents to their agents in time, and returned the container at the nominated depot in time. }\insrsid7414270

In this case after meeting with the plaintiffs they agreed to share these charges but these are not reflected in exhibit P3.}\insrsid13642100

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid7414270
 \hich\af0\dbch\af0\loch\f0 34.\tab}}{\insrsid7414270

The defence must show how these charges were to be shared, and what proportion was the plaintiff to bear. It has not done so. The charge was incurred. The defendant, a

s principal, is liable for the same, unless it can shift responsibility to the agent, which it has failed. I allow this invoice.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid7414270
 \hich\af0\dbch\af0\loch\f0 35.\tab}Invoice 4411 of 19}{\super\insrsid7414270\charrsid7414270 th}
 {\insrsid7414270

May 1999 for US\$187.00 is conceded by DW1, in his testimony, but he asserts that it was paid. Exhibit P 3 shows that it is disputed. Exhibit P}{\insrsid9841595 1}{\insrsid7414270

shows that it is not disputed by the defendant. However no evidence of payment was put forth by the defence, and I accordingly allow the same.

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid7041553
 \hich\af0\dbch\af0\loch\f0 36.\tab}}{\insrsid7041553 Invoice 4423 of 24}
 {\super\insrsid7041553\charrsid7041553 th}{\insrsid7041553

May 1999 is for US\$313.84 being container demurrage. E

xhibit P119 shows date of discharge of the container, when it was returned, the number of days charged for demurrage, plus repair and cleaning charges. DW1 denies that they could have kept the container for this period but fails to show how long they kep

t}{\insrsid6632289 it}{\insrsid7041553 , and when they returned it. The expense in the circumstances was properly incurred on its behalf, and it is payable by the defendant}
 {\insrsid6632289 s}{\insrsid7041553 , unless }{\insrsid6632289 they establish}{

\insrsid7041553 that this was due to the fault of the plaintiff, which }{\insrsid6632289 they}
 {\insrsid7041553 ha}{\insrsid6632289 ve}{\insrsid7041553 not done. This sum is allowed.}
 {\insrsid7414270

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid7041553
 \hich\af0\dbch\af0\loch\f0 37.\tab}}{\insrsid7041553 Invoice 4447 of 4}
 {\super\insrsid7041553\charrsid7041553 th}{\insrsid7041553

June 1999 for US\$513.01 was demurrage charges, and it has supporting documentation in exhibit P121 and P122. }{\insrsid12808312 DW1 accepts that this was incurred, explaining it as systematic delay. I find that it is due to the plaintiff from the defenda

nts.}{\insrsid7041553

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid11418901
\hich\af0\dbch\af0\loch\f0 38.\tab}}{\insrsid11418901 Invoice 4678 of 5}
{\super\insrsid11418901\charrsid11418901 th}}{\insrsid11418901

August 1999 is for US\$2,438.00 being demurrage charges. The container cleared was in the names of Bridgeway Trading }}{\insrsid9524222 Establishment}}{\insrsid11418901 but cleared at the instance of Ken Enterprises }}{\insrsid6632289 (1988) }}

\insrsid11418901 Ltd. There are supporting documents to show that demurrage as charged was incurred. See exhibits P137 to P142. DW1 in his testimony stated that he did not know this company. Exhibit P135, a fax transmission to the plaintiff dated 12}}

\super\insrsid11418901\charrsid11418901 th}}{\insrsid11418901 February 1999 from Kigongo E. N., who was DW1, (with someone else sig

ning on his behalf) clearly indicates that the plaintiff was instructed to clear the three containers in question covered by this invoice. I do not believe the testimony of DW1 on this claim, and hold the defendants liable for this invoice.}}

\insrsid12808312

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid682426
\hich\af0\dbch\af0\loch\f0 39.\tab}}{\insrsid682426 Invoice 2612 of }}{\insrsid4616011 13}
{\super\insrsid4616011\charrsid4616011 th}}{\insrsid4616011

March 1998 for US\$4,650.00 of which US\$751.00 is still outstanding. The invoice charges, bond and agency, port charges, t.h.c., transport charges, and port rent due to local delivery delay. DW1 claimed that there was a credit note of US\$5100.00 which

paid this invoice but he did not produce the credit note or any evidence in support thereof. Neither was this payment put to the plaintiff\quote

s witnesses during the cross examination. I find that the outstanding amount is due to the plaintiff from the defendants.}}{\insrsid11418901

\par {\listtext\pard\plain\lang2057\langfe1033\langfenp1033\insrsid3819257
\hich\af0\dbch\af0\loch\f0 40.\tab}}{\insrsid3819257 The plaintiff revised its claim}
{\insrsid9524222 downwards}}{\insrsid3819257 to }}{\insrsid15162634

US\$9,884.16, after abandoning several invoices}}{\insrsid3819257 . I have, however, disallowed some invoices, in whole or in part above herein, (}}{\insrsid1785223 Invoices }}{\insrsid3819257 2833, 3285, 3226, 3290, 2797, 3931 and 3963)}}{\insrsid6632289 },}}

\insrsid3819257 to the tune of US\$1,368.00, which I must deduct from the said sum, leaving a sum of US\$8,516.16 as}}{\insrsid15162634 due and owing to the plaintiff from the defendants on account of services rendered, and disbursements incurred.}}

\insrsid3635714

The parties hereto maintained one account, for all their transactions, regardless of the fact that they were two entities one side, the two defendants, with the plaintiff on the other. And this suit proceeded on that one account for both companies.

I enter judgment for the plaintiff, against both defendants, in the said sum of US\$8,516.16, with costs of the suit and interest on the decretal amount at court till realisation in full.

Dated, signed and delivered at Kampala this 27th day of July 2006

FMS Egonda-Ntende

Judge

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