

Maraj Barot v Salvation Army
(Civil Suit No. 713 of 2015) [2018]
UGCommC 35 (4 September 2018)
[2018] UGCommC 35

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Ruling

I have considered submission of both Counsel.

O.13 r.6, CPR provides that;

*“Any party may at any stage 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 as upon the admission he or she may be entitled to, without waiting for the determination of any other question between the parties and the court may upon the application make such order, or give such judgment as the court may think just”**

In the case of **Messrs Equator Touring Services Ltd Vs City Council Of Kampala Misc. App. 406/2013** (arising from **HCCS 278/210**). Court while discussing circumstances under which the applicant can move court for Judgment under this order, refers to the cases of ***Central Electrical International Ltd Vs Eastern Builders and Engineers* MA No. 176/2008**, (arising from **HCCS No. 43 of 2008**), and the case of ***Excel Construction Ltd Vs AG. HCCS No. 3007***, where the gist of the holdings was that;

“(i) An admission of facts be made either on the pleadings or otherwise.

“(ii) the rule applies to any party to the suit whether the plaintiff or the defendant.”

In my considered view the defendant does not make out a case for grant of judgment on admission.

It was held in ***John* *Peter Nazareth Vs Barclays Bank International Ltd., E. A. C. A. 39 of 1976 (UR)*** that;

*“for judgment to be entered on admission, such an admission must be explicit and not open to doubt. Apart from the foregoing, once an admission of facts is made, court may upon application make such order or file such judgment”.**

See ***African Insurance Co. Vs Uganda Airlines [1985] HCB 53; Mohamed B. M. Dhanji Vs Lulu & Co. [1960] E. A. 541.***

In the instant case, the defendant in paragraph 2 of its amended defense denied any lawful claim accruing to the plaintiff as alleged in the plaint or at all.

More so, the defendant raised a counterclaim against the defendant seeking the balance of UGX 164,400,000/= being the balance that the plaintiff owes the defendant. The defendant avers that the plaintiff persistently refused to pay the money.

Under the circumstances, the defendant denied the entire claim and I thus find that the defendant made no such admissions as to warrant a judgment on admission.

Furthermore, I am cognizant of the defendant's counterclaim and I am alive to the fact that it must be heard by this court and a judgment on admission will deny the defendant his right to be heard.

The total sum is that the application for a judgment on admission fails and the suit will be set down for hearing.

Costs will be in the cause.

B. Kainamura

Judge

4.09.2018

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