

IN THE HIGH COURT OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO. 163 OF 2018

BANK OF BARODA

(TANZANIA LIMITED)1ST PLAINTIFF

**ABDUL QAUBID ALIABDALLAH(RECEIVER/MANAGER
OF K & K DEVELOPERS LIMITED)..... 2ND PLAINTIFF**

VERSUS

ZARIHA JUMA KITULE DEFENDANT

Last Order: 20/04/2021

Date of Ruling, 30/04/2021

RULING

NANGELA, J.,:

This matter involves a claim raised against the Defendant by the Plaintiffs for payment of **TZS 1278,532,519.56** being a principal sum together with accrued interest and other charges due to the 1st Plaintiff as a result of credit facilities extended to K&K Developers (now under the receivership of the 2nd Plaintiff) on 11th August, 2016.

When the parties appeared before me on 30th April, 2021, Mr. Charles Mathias Kisoka, Advocate, for the

Plaintiffs, informed this Court that a Deed of Settlement has been filed in Court wherein the parties have struck a compromise agreeing to end the dispute amicably as per their terms in the deed of Settlement filed in this Court on 27th April, 2021.

Mr. Okare Emesu, who represented the Defendant, supported Mr. Kisoka's submission and prayers that this Court should adopt the Deed of Settlement and record the same as constituting judgment and Decree of the Court.

I have looked at the Deed of Settlement which was drawn and filed under Order 23 rule 3 of the Civil Procedure Code, Cap 33. R.E 2019. Legally speaking, the filing of a Deed of Settlement by the parties is, but one step towards finalization of their dispute in Court. It is a welcome step since the ability to negotiate and settle a case fosters a more efficient, more cost effective way of ending disputes and significantly lessen the burden already felt in the judicial system. This was emphasized that way in the case of **Goodyear Tires & Rubber Co. V. Chiles Power Supply, Inc. 332 F. 3d 976,980 (6th Gr. 2003).**

As I stated, the filing of the Deed is but a preliminary stage which is encouraged. The next is for the Court to examine the Deed in order to be satisfied that it does conform to the law and, as once stated in the case of

Motor Vessels Sepideh and Another V Yusuf Mohamed and 2 others, Civil Application No. 237 of 2013 (unreported), the Court will there after proceed to register or record it.

I have examined the Deed and I am satisfied that it does meet the full requirements for it to be registered as constituting a judgment and decree of this Court. In view of at fact, this Court records the Deed of Settlement as forming the judgment and Decree of the Court and, for that matter, this case is hereby amicably marked settled by the parties.

It is so ordered.



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Dr. Deo John Nangela
JUDGE,

High Court of the United Republic of Tanzania
(Commercial Division)
30th day of April, 2021