

IN THE COURT OF APPEAL OF TANZANIA

AT DAR ES SALAAM

CIVIL APPEAL NO. 20 OF 1993

BETWEEN

AFRICAN MARBLE COMPANY LIMITED APPELLANT

versus

THE NATIONAL BANK OF COMMERCE RESPONDENT

R U L I N G

SHANGALI, DR-CA/TAXING OFFICER:

In the Court of Appeal of Tanzania was a Civil Appeal No. 20 of 1993 between AFRICAN MARBLE COMPANY LTD, the appellant, represented by Mr. Marando, advocate and THE NATIONAL BANK OF COMMERCE, respondent represented by the Tanzania Legal Cooperation.

This Civil appeal was filed in the High Court back in 1986 as Civil case No. 1/1986. It came to end on 21st July 1995.

In the final decision of the Court of appeal, the appeal was allowed with costs and the appellant, the Decree Holder filed this bill of costs against the respondent, the Judgement Debtor.

According to his bill of costs the Decree Holder is claiming for shs.10,044,000.00 which include Instruction fees, attendance charges and court fees. I shall start with the first item namely Instruction fees which is loud at shs.10,000,000.00. In support of that amount, the Decree Holder relied on two varied important points. First he submitted on the work involved in preparation

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of the appeal which included:

- (a) preparation of the record of appeal which contained two volumes; one with 143 pages and the other 130 pages.
- (b) List of authorities submitted ^{to support the appeal} ~~by the appellant~~ covered more than 10 different authorities.

The Decree Holder stated that all these required a serious work including stationaries, binding, photocopying etc.

On the second point he submitted that the appeal was heard for two consecutive days due to its complexity and difficulty and several important points of law were discussed and resolved.

The Decree Holder further submitted that it was due to their timeless efforts that all important legal issues were resolved in their favour in the 19 ^{typed} /pages long judgement of the Court of Appeal.

He also stated that even after the pronouncement of the judgement of the Court of Appeal, the matter was again referred to the High Court for the determination of the nature of the relief, entitled to the parties and award them in accordance to the judgement of the Court of Appeal directions. He further said, the work ^{done,} ~~done,~~ time consumed, costs and efforts is proportional to Instruction fees of shs.10,000,000.00. In conclusion and in support of his application he cited the famous case of George Mbuguzi and another vs. Masikini, A.S. (1980) TLR pg.53.


On that item the Judgement Debtor conceded that the appeal was a difficult one but submitted that the amount to be allowed should be reasonable and in accordance with the rules. Therefore he prayed the amount of shs.10,000,000.00 to be reduced.

I concur with the Decree Holder that this was a difficulty and taxing appeal which involved tense preparations, consumed time and costs; and taking into consideration its nature and importance a fair and encouraging Instruction fee is deserved. However, the amount prayed is a bit at the high side as submitted by the Judgement Debtor. Therefore to draw a balance I will accordingly tax off shs.2,000,000.00 and allow shs.8,000,000.00 on ^{first} ~~bid~~ item.

There was no objection from the Judgement debtor in regard to item 2, 3, and 4 which prayed for shs.6,000.00 each; being charges for attending the Court for hearing and judgement days. Likewise is item No.5 which prayed for shs.26,000.00 being court fees for filing the appeal. I therefore tax item 2, 3, 4, and 5 as presented.

In conclusion, I accordingly tax this bill of costs at shs.8,044,000.00.

DATED at DAR ES SALAAM this 28th day of June, 1996.


(M. S. Shangali)
TAXING OFFICER