

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(COMMERCIAL DIVISION)

AT DAR ES SALAAM

COMMERCIAL CASE NO. 88 OF 2019

EXIM BANK TANZANIA LIMITED PLAINTIFF

VERSUS

ASHA TAJMOHAMED FADHILI DEFENDANT

Date of filing closing submissions: 07/05/2021

Date of Judgment: 17/05/2021

JUDGMENT

I. ARUFANI, J.

The plaintiff filed the suit at hand in this court against the defendant claiming for payment of Tshs. 339,729,930.24 being the outstanding balance due and payable by the defendant arising from the facilities offered to the defendant plus interest thereon as at 30th June, 2019. The plaintiff is also claiming for interest of 27% per annum on the stated amount from 1st July, 2019 to the date of judgment or at any time as the suit may be settled, interest at court rate from the date of judgment to the date of final satisfaction of the decree, general damages, costs and any other reliefs that the court may deem fit to grant.

The background of the matter as discernible from the pleadings filed in this court by both sides is to the effect that, the plaintiff is a limited liability company registered in Tanzania under the Companies Act and licensed under the Banking and Financial Institutions Act to trade as a banker. On the other side the defendant is a natural person and a business woman doing business at Dar es Salaam, Tanzania. On 11th July, 2012 the defendant applied from the plaintiff for an overdraft facility of Tshs. 70,000,000/= and the said offer was accepted by the plaintiff on 18th July, 2012. The defendant was required to repay the loan and the interest of 21% per annum calculated monthly within a period of twelve months and penal interest at the rate of 27% on expiration of the stated period of time.

On 4th October, 2013 the said facility was renewed to the tune of Tshs. 70,000,000/= whereby Tshs. 50,000,000/= became an overdraft and Tshs. 20,000,000/= was a term loan and both were payable within a period of twelve months and agreed would have attracted the same rate of interests. As a security for the facility the defendant executed a legal mortgage over plot No. 265, Block "B" Sinza, Dar es Salaam with Certificate of Title No. 26049. She also issued a personal guarantee, executed the

