

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB - REGISTRY OF DAR ES SALAAM**

AT DAR ES SALAAM

CIVIL CASE NO. 55 OF 2022

**THE BOARD OF TRUSTEES OF
THE PUBLIC SERVICE SOCIAL SECURITY FUND PLAINTIFF**

VERSUS

URU DIAMONDS LIMITED DEFENDANT

SUMMARY JUDGEMENT

22 and 22nd June, 2022

KISANYA, J.:

The above named plaintiff filed a plaint preferred under Order XXXV of the Civil Procedure Code [Cap. 33, R.E. 2019] (the CPC). Her claims against the defendant, Uru Diamonds Limited are for payment of the sum of TZS 577,599,427.05/= being unremitted members' contributions and accumulated penalties; interest on the decretal sum at the prevailing court's rate from December, 2017 when the sum accrued to the date of judgment; interest on judgment debt at the prescribed court rate from the date of judgment until the same is fully paid; and costs of the suit.

The essential background to this suit is briefly as follows: On 1st March, 2013, the defendant was registered as a contributing member-employer of the defunct PPF Pension Fund and was issued with a

Certificate with Registration No.2229586. In terms of the law, the defendant was, among others, required to deduct and remit compulsory contribution at the rate of 20% of her employee's basic salary in each month and remit the same to the then PPF Pension Fund.

It is alleged that from 1st March, 2016 to 31st December, 2017, the defendant failed to remit the members' contributions. As of December, 2017, the defendant's default resulted to a debt of TZS 577,599,427.05/= comprising of unremitted contribution of TZS 68,414,000/= and accrued penalty to the tune of TZS 512,356,427.05/=. As the defendant neglected to heed to its statutory obligation, and upon taking over the assets and liabilities of the defunct PPF Pension Fund, the plaintiff decided to institute the present suit for the orders stated herein.

The defendant was duly served with summons to apply for leave to defend the suit within 21 days of service as provided under Order XXXV, Rule 2 of the CPC. Pursuant to the affidavit of service, the service was effected on 23rd May, 2022. However, the defendant did not apply for leave to defend the suit. As that was not enough, the defendant was also not in attendance when this matter was placed before me for hearing today.

In the light of the foregoing, Ms. Nyambilila Ndoboka, learned Senior State Attorney who appeared for the plaintiff moved this Court to enter

judgment in favour of the defendant. Her prayer was made under Order XXXV, Rule 2(2) of the CPC.

I have considered the submission and prayer made by the learned counsel for the plaintiff. According to Order XXXV, Rule 2(1) of the CPC, the defendant was required to file an application for leave to defend the suit within 21 days from the date of receiving the summons. Since the summons was served to her on 23rd May, 2022, the time within which to apply for leave to defend the matter lapsed on 13th June, 2022.

As indicated earlier, the record bears it out that, the defendant did not apply for leave to defend the suit. In view of the provisions of Order XXXV, Rule 2(2) of the CPC referred to by the learned Senior State Attorney, the defendant is deemed to have admitted the allegations in the plaint.

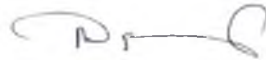
With the above discussion, I hereby enter judgement and decree in favour of the plaintiff and against the defendant as follows: -

1. The defendant shall pay the plaintiff a sum of TZS 577,599,427.05 being unremitted members' contributions and accumulated penalties due and payable to the plaintiff;

2. The Defendant shall pay interest on the decretal at the Court's rate of 7% per annum from December, 2017 when the sum accrued to the date of judgment;
3. The defendant shall pay interest on decretal sum at the court's rate of 7% per annum from the date of judgment until the same is fully satisfied; and
4. The defendant shall pay costs of this case.

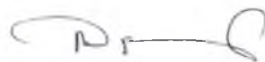
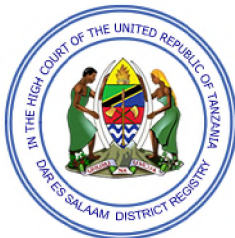
It is so ordered

DATED at DAR ES SALAAM this 22nd day of June, 2022.



S.E. Kisanya
JUDGE

Court: Summary Judgment delivered this 22nd day of June, 2022 in the presence of Ms. Nyambilila Ndoboka, learned Senior State Attorney for the plaintiff and in the absence of the defendant. B/C Zawadi present.



S.E. Kisanya
JUDGE
22/06/22