

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**IN THE SUB- REGISTRY OF DAR ES SALAAM**

**CIVIL CASE NO. 137 OF 2015**

**GM CROSS AFRICA LIMITED ..... PLAINTIFF**

**VERSUS**

**STANBIC BANK (T) LTD ..... DEFENDANT**

**RULING**

27<sup>th</sup> October, & 3<sup>rd</sup> November, 2022

**ISMAIL, J.**

At the instance of the plaintiff in the Counter-Claim, the Court is moved to rectify what are considered to be errors on the judgment and decree of the Court, passed on 24<sup>th</sup> June, 2021. Mr. Albert Lema, learned counsel, for the plaintiff in the Counter-Claim, has pointed out two anomalies he implores the Court to make amends on. These are:

1. That the judgment and decree have excluded the parties in the counter-claim and, as a result, the successful party is facing difficulties in executing the decree as the judgment debtor, Valence Simon Matunda does not appear as a party in the decree;

2. The judgment and decree did not specify the prayers in the counter-claim. This has posed some difficulties in the execution of the decree as specifics found in the counter-claim have been omitted.

Rectification of errors is an allowable practice and it is catered for by section 96 of the Civil Procedure Code, Cap. 33 R.E. 2019, which provides as follows:

*"Clerical or arithmetical mistakes in judgments, decrees or orders, or errors arising therein from any accidental slip or omission may, at any time, be corrected by the court either of its own motion or on the application for any of the parties."*

It is clear that the powers bestowed on the Court under this provision relates to rectification of the clerical and arithmetic errors and accidental slip and omissions. In my considered view, such mistakes or omissions should be those that are of less significant nature and impact, and those which do not go to the very architecture of the decision.

My unfleeting review of the submission by counsel for the decree holders in the counter-claim convinces me that the rectifications sought in this case are not of measly scope and nature. They are significant and change the very existence of the judgment and decree as they are, currently.

They would require moving the Court through a different methodology such as review or any other way. They are far in excess of what the Court would do under section 96 of the CPC, and I am unable to accede to the prayer by learned counsel

In view thereof, the application is dismissed for lack of qualification under the cited law.

Order accordingly.

DATED at **DAR ES SALAAM** this 3<sup>rd</sup> day of November, 2022.



**M.K. ISMAIL**

**JUDGE**

**03/11/2022**

