

IN THE HIGH COURT OF KIRIBATI

CIVIL CASE NO. 174 OF 2011

[DEVELOPMENT BANK OF KIRIBATI PLAINTIFF
[
BETWEEN [AND
[
[ROTINGA TEINGOA
[TEINGOA TAKUA DEFENDANTS

Before: The Hon Mr Justice Vincent Zehurikize

2 March 2017

Ms Batiwate Itibita for the Plaintiff
Mr Raweita Beniata for the Defendant

Office of The Attorney General
P.O.Box 62, Bairiki, Tarawa
DATE

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JUDGMENT

Zehurikize, J: The plaintiff sued the defendants for recovery of the sum of \$7,777.14 with interest and costs.

The plaintiff is a financial institution which advanced a loan of \$7,599.00 to the first defendant. The second defendant came in as a Guarantor of the first defendant's loan repayment. The defendants denied liability as per their Statement of Defence filed on 20 June 2012.

The hearing of the case took off on 31 August 2016 where the following issues were identified:

1. Whether the first and second defendants are liable for the remaining outstanding loan;
2. Whether the action is time barred;
3. Whether the third party is liable for the defendant's loan.

The plaintiff called one witness by the name of Ms Katiabwebe Beebe who was formerly a recovery officer and now the Business Development Officer of the plaintiff. According to her affidavit evidence and her evidence in Court no mention was made of the current outstanding debt. On 1 September 2016 Ms Itibita Counsel for the plaintiff opted to close the plaintiff's case.

Thereafter Counsel for the plaintiff started missing Court sittings until 8 March 2017 when this Court allowed the defence to open its case. The defence called one witness by the name of Rotinga Teingoa, the first defendant. She relied on her affidavit of 38 paragraphs filed on 31 August 2016. The gist of her evidence is that she has paid a total of \$7,075.65 of the claimed sum of \$7,771.14. That this leaves a balance of \$699.78 unpaid. This evidence was not challenged either by affidavit in rejoinder or by way of cross examination.

The issue of whether the action is time barred was not pursued. I take it that this action was not time barred. The third party did not give evidence and the first defendant did not seem to need its help.

In view of the uncontested evidence as described hereinabove I find that the first defendant is indebted to the plaintiff in the sum of \$699.78. Judgment is entered for the plaintiff in the sum of \$699.78. This is a

case where the plaintiff showed lack of interest and for this reason no costs will be awarded to the plaintiff. Each party shall meet its own costs.

Dated the 22nd day of March 2017

THE HON MR JUSTICE VINCENT ZEHURIKIZE
Judge