

In the Supreme  
Court of Nauru

Civil Case 10/2007

BETWEEN

Nauru Phosphate Royalties Trust

Plaintiff

AND

Ali Amwano

Defendant

Mr. Rueben Kun for Plaintiff

Mr. Pres Nimes for Defendant

Date of Hearing : 27th March, 2010.

---

JUDGMENT

---

The writ in this action was issued on the 16<sup>th</sup> of October, 2007. The claim of the Plaintiff Trust is for \$70,754.48 alleged to be owing to it by the defendant; there are ancillary claims such as interest. The debt is alleged to have been incurred by the defendant when he was Chairman of the Plaintiff Trust – between 26<sup>th</sup> of April, 2000 and 26<sup>th</sup> of March 2001. The action is founded in contract

Since October 2007 the action has bumbled along, being adjourned for one reason or another ever since. Yet the first point, the decisive point, is easy to decide.

The defendant has pleaded the (UK) Limitation Act, 1939, as applied in Nauru. One glance at the dates shows the action to have been commenced more than six years after the last of the alleged debt was incurred.

**Section 2 of the Limitation Act:-**

**“2. Limitation of actions of contract and tort, and certain other actions**

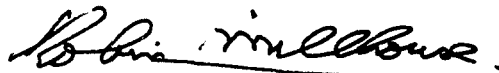
**The following actions shall not be brought after the expiration of six years from the date on which the cause of action accrued, that is to say:-**

**(a) Actions founded on simple contract or on tort; .....**”

The only exception is an acknowledgment or part payment by the debtor (or tortfeasor) within six years before action taken (Section. 23(4)).

The defendant gave no acknowledgment nor made any payment within six years of 26<sup>th</sup> March, 2001. The exception in Section 23(4) does not help the plaintiff. Any acknowledge made after 26<sup>th</sup> March 2007 is irrelevant.

The action has plainly been taken out of time. It is statute barred. There will judgment for the defendant.



Hon. Robin Millhouse QC  
CHIEF JUSTICE

