

IN THE HIGH COURT OF KIRIBATI

CIVIL CASE NO. 102 OF 2011

[KIRIBATI PROVIDENT FUND
[
BETWEEN [AND
[
[GENERAL MANAGER KANABURE
[TOKANTETAAKE FOR KRISTO IESU
[IBUKIIA TAAN ONIMAKI
PLAINTIFF
DEFENDANT

Before: The Hon Mr Justice Vincent Zehurikize

18 August 2016

Ms Ateti Tekawa for the Plaintiff
No Appearance for the Defendant

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

RECEIVED

JUDGMENT

Zehurikize, J: The plaintiff's claim against the defendant is for payment of \$18,596.67 being total contribution the defendant is obliged to pay to the plaintiff under the Kiribati Provident Fund Act.

The plaintiff is a statutory body established under s.3 of the *Kiribati Provident Fund Act* which is empowered to administer contributions made to it by Employers for the benefit of their employees. It is the plaintiff's case that the defendant as an employer failed to remit their contributions as required by law as follows:

February to December 2008 the amount due was \$10,323.45 and interest of \$516.17

January to December 2009 the amount due was \$6,998.80 and interest of \$419.93 while

January 2010 the amount due was \$338.32.

In their defence the defendant contended that the plaintiff was not entitled to any relief on grounds that the defendant had reduced its staff and that the amount claimed included those that had already left the defendant.

When the suit came up for hearing the defence did not appear though duly served through their lawyer. So the case proceeded ex parte.

In proof of their claim the plaintiff relied on the evidence of one Raarube Rokoua who is employed as a Debt Recovery Officer of the Kiribati Provident Fund – the plaintiff. According to paragraph 5 of this deponent's affidavit evidence, on 12 March 2010 an inspection was carried out on the defendant's payroll and found that the defendant had failed to pay the contributions as claimed.

Since this evidence was not rebutted by any counter affidavit evidence nor controverted by cross examination and it is credible on the face of it, I have no option but to believe it.

In the premise I find that the plaintiff has proved its claim on the balance of probabilities and I enter judgment in its favour as follows:

- (a) The defendant shall pay the claimed contributions to the plaintiff in the sum of \$18,596.67;

- (b) Since the plaintiff delayed in prosecuting the case, interest on the above sum at the rate of 5% per annum shall run from the date of this judgment till payment in full;
- (c) The defendants shall pay the costs of this suit.

Dated the day of September 2016

THE HON MR JUSTICE VINCENT ZEHURIKIZE
Judge

