



The place of discharge vouchers in termination

By Geoffrey E. Odongo



Often, when the employment of an employee is terminated, employers will try as much as possible to avert any future claims by the employee. The purpose of discharge vouchers or settlement agreements is to ensure that employees relinquish any claims they may have against the employer.

The courts have held that discharge vouchers are valid contracts between the employer and the employee and the employee cannot claim against the employer after signing a discharge voucher. In **Coastal Bottles Limited Vs Kimathi Mithika**, the Respondent employee was employed by the Appellant as a General Sales Manager on a 2-year contract. About 8 months into his employment, he was served with a termination letter upon which his employer assessed his terminal dues at Kshs. 1,516,281 which sum the Respondent

acknowledged receipt by signing a discharge voucher. In the discharge voucher the employee also waived any further claims against his employer. Thereafter, the employee believing that his termination was unfair for the reason that he had not been given a hearing before his termination sought compensation for unfair termination. The Employer opposed the claim on the basis that the employee had received his terminal dues and signed a discharge voucher stating that he had no further claims against the Employer. The Employment and Labour Relations Court found in favour of the Employee stating that he had been unfairly terminated and that the settlement agreement did not absolve the employer from any further liabilities to the employee arising from the contract of employment.



The Employer appealed the decision to the Court of Appeal on the ground that in signing the discharge voucher the employee had taken away his rights to make further claims against the employer. The Court of Appeal decided that in determining whether the signing of a discharge voucher by an employee barred the employee from making further claims a court has to make a determination on whether the discharge voucher was freely and willingly executed at a time when the employee was seized of all relevant information and knowledge.

In the particular case, it was held that the employee had waived his rights to make any further claims against his employer by signing the discharge voucher. The Court of Appeal noted that the employee understood the content on the discharge

voucher and had not denied signing it. Moreover, there was no indication of misrepresentation on the part of the employer to the employee regarding the nature of the discharge voucher.

The common thread from later decisions of the Employment and Labour Relations Court has been to uphold discharge vouchers as valid contracts even where certain aspects of a termination are held to be unfair. This is unless the employee can prove that the discharge voucher was signed under coercion. Consequently, for an employee seeking to make a claim in the future it is advisable that they do not sign a discharge voucher unless they are certain that they do not wish to pursue any future claims against the employer.