

**MARK COVINGTON d.b.a. LOCK, STOCK & BARRELL,  
Plaintiff-Appellee**

**v.**

**EDWIN S. C. CHANG, Defendant-Appellant**

**Civil Action No. 16-74**

**Trial Division of the High Court**

**Marshall Islands District**

**August 6, 1974**

Contract claim. The Trial Division of the High Court, Turner, Associate Justice, held that claim could not be denied on ground plaintiff allegedly did not have a license to do business in the territory.

**1. Contracts—Breach—Defenses**

Defendant could not avoid liability under contract on ground plaintiff was not licensed to do business in the territory.

**2. Courts—Community Courts—Jurisdiction**

Where plaintiff's contract claim was for \$225, he received judgment for \$70 and community court's jurisdiction in civil cases was limited to \$100, judgment could not be successfully challenged on the ground that the claim exceeded the community court's jurisdiction.

**3. Contracts—Evidence—Documentary Evidence**

“Documentary” evidence was not a necessary prerequisite to proof of contract claim.

**4. Judgments—Rights to a Judgment**

A plaintiff with a non-frivolous claim is entitled to a judgment and need not accept a settlement proposed by the defendant or the court.

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TURNER, *Associate Justice*

This was an appeal by the defendant from the judgment of the Kwajalein Community Court awarding plaintiff judgment in the amount of \$70.00, found to be the balance due on a contract between the parties whereby plaintiff and his band furnished music for a party at the instigation and request of the defendant.

Appellant challenges appellee’s recovery on the basis of four grounds for appeal: (1) That the amount claimed by appellee exceeded the statutory jurisdictional amount of the Community Court; (2) the plaintiff-appellee did not have a business permit to do business in the Trust Territory and therefor could not enforce the contract entered into with appellant; (3) plaintiff-appellee failed to prove the contract by “documentary” evidence; and (4) appellee refused to agree to a proposed settlement on which the court indicated its willingness to enter judgment.

Trust Territory Rule 31, Rules of Criminal Procedure (made applicable to civil appeal by Rule 23, Rules of Civil Procedure) provides that on appeal the Trial Division of the High Court shall consider questions of law and fact and may try a case over again if justice requires.

Being advised of these and other appeal provisions, the appellant elected to stand on the record before the court. Appellant requested postponement of the hearing for one month to permit him to ascertain whether the appellee was licensed to do business by the Trust Territory.

The motion for postponement was denied on the ground the question whether appellant had been issued a business license was immaterial for the reason enforcement of the licensing provisions of the Foreign Investors Business Permit Act is a matter for the Trust Territory government acting through the Attorney General and the Director of Resources and Development. 33 TTC 13. There is no provision in the statute whereby a private citizen may penalize a person doing business without a license. Compliance with the statute in the first instance is charged to the District Economic Development Board. 33 TTC 5(4). In this respect, this act is unlike many other licensing statutes which deny an unlicensed person the right to enforce a contract.

The District government is authorized to issue licenses for wholesale business (3 TTC 2) and the Trust Territory government has exclusive authority to issue certain business licenses (2 TTC 5) none of these licensing provisions apply to the instant "business" on Kwajalein Island, to wit, that of organizing and conducting an orchestra for entertainment purposes.

The record shows the plaintiff had obtained a permit to perform his orchestra business on Kwajalein from the military commander of the island.

[1] It must be concluded appellant's ground for appeal based upon whether or not appellee was licensed to do business is of no avail.

The other question of law raised on appeal was whether or not the Community Court had jurisdiction to entertain appellee's claim on a contract for services in the amount of \$225.00 in view of 5 TTC 151 limiting jurisdiction in civil cases to \$100.00. An examination of the complaint shows that it was an unliquidated claim for the balance due on the service contract and for the settlement of the dispute between the parties.

[2] The prayer for judgment is not binding on the claimant although sometimes the rule is asserted there may not be a recovery in excess of the prayer. In any event, the judgment of the Community Court in "liquidating" appellee's claim at \$70.00 was within the jurisdiction of the court. See 21 C.J.S., Courts, Sec. 50, et seq. Also see 21 C.J.S., Courts, Sec. 53, as to amount in controversy and Sec. 69 as to effect of defendant's allegations on the amount in controversy.

[3] The other two grounds for appeal need not detain us. The complaint of appellant that there was no "documentary" evidence is without effect because none is needed. Written or "documentary" evidence goes only to the mechanics of proof. If the court is able to accept the evidence of one litigant as against the other without the aid of written instruments, the judgment is no less valid than if the proof was bolstered by writings.

[4] Finally, appellant complains because his proposed settlement made at the close of trial, was rejected by appellee. When a non-frivolous cause of action is brought, the plaintiff is entitled to a judgment on his claim, whether it be in his favor or against him. In accordance with this entitlement, he need accept nothing less and may accordingly, reject any offer of compromise made by either the opposing party or the court.

Ordered, adjudged and decreed:—

1. That the judgment of Kwajalein Community Court granting recovery of \$70.00 by plaintiff-appellee from defendant-appellant is affirmed.