



**AMM v CMM (Civil Case 20 of 2015)
[2023] KEHC 3238 (KLR) (Family) (26 January 2023) (Ruling)**

Neutral citation: [2023] KEHC 3238 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
CIVIL CASE 20 OF 2015
EKO OGOLA, J
JANUARY 26, 2023**

BETWEEN

AMM APPLICANT

AND

CMM RESPONDENT

RULING

1. The Applicant and the Respondent got married on November 3, 2000 and dissolved the said marriage on April 22, 2014. During the subsistence of their marriage, they purchased LR No Nairobi/Block XXXX and constructed a five-bedroomed house which became their matrimonial home.
2. After dissolving their marriage, the Applicant filed this suit claiming she contributed to both the purchase of the subject property which is registered in both their names and the construction of their matrimonial home.
3. The Respondent did not enter appearance in this case despite service.
4. As per the Judgment delivered on June 2, 2022 by Muchelule J (as he then was), the subject property and all the developments thereon were declared to be owned jointly and in equal shares by the parties. It was further ordered that the subject property be valued and sold, and the proceeds shared equally between the parties. The parties were to agree on a valuer within 30 days after the date of the Judgment, failing which each party was to propose two valuers from which the Court would pick one.
5. On July 12, 2022, the Applicant’s advocates wrote a letter to the Court stating that the parties have failed to agree on a valuer, and the counsel proposed two valuers: Mak Property Company and Nishani Management Company.



6. Based on this letter and the Judgment delivered on June 12, 2022, the Applicant made an oral Application before this Court. She prayed that the Court chooses one valuer out of the two proposed; that the valuers be allowed into the subject property; and that the Officer in charge of the Industrial Area Police Station do supervise the valuation.
7. The grounds upon which the Application is premised are that the Respondent had neither entered appearance nor proposed a valuer despite being served with the Court's Decree.
8. I have considered the record herein and the oral Application of the Applicant. I am satisfied that the Applicant has made a case for the orders which I make as follows: -
 - a) That Mak Property Company of PO Box 46990-00100 Nairobi be appointed as Valuer to value LR No Nairobi/Block XXXX and the developments thereon.
 - b) That cost of the Valuers be borne by both parties in equal measure. If one party meets the entire cost, the same shall be reimbursed during the sharing of the proceeds of the sale.
 - c) That the Respondent give access to the Valuers to survey and value LR No Nairobi/Block XXXX and the developments thereon. In default, the Officer in charge of the Industrial Area Police Station shall supervise the valuation.
 - d) That both parties be at liberty to look for buyers of LR No Nairobi/Block 93/1522 and the developments thereon.
 - e) The Respondent shall execute the transfer and other required documents to perfect the intended sale. In default, the Deputy Registrar of the Family Division, High Court of Kenya is hereby authorized to sign and execute any transfer documents in place of the Respondent in favour of the prospective purchaser.
 - f) That the purchase price from LR No Nairobi/Block 93/1522 and the developments thereon shall be settled in proportions of 50% - 50%.
 - g) No orders as to costs.

Orders shall issue accordingly.

DATED AND DELIVERED AT NAIROBI THIS 26TH DAY OF JANUARY 2023

E.K. OGOLA

JUDGE

In the presence of:

M/s Mukami for the Applicant

N/A for the Respondent

Gisiele Muthoni Court Assistant.

