

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

COMMERCIAL & TAX DIVISION

HCCC NO. 76 OF 2019

CHINA WU-YI (KENYA) LIMITED PLAINTIFF/APPLICANT

VERSUS

SURAYA PROPERTY GROUP LIMITED..... DEFENDANT/RESPONDENT

RULING

1. The Notice of Motion dated 14th February 2019 was argued on 24th October 2019. Upon reading the Motion, affidavits in support and replying affidavit it has become clear that the Application for injunction sought cannot be fairly and fully adjudicated without the involvement of Muga Developers Limited and Equity Bank Limited.

2. The properties which are the subject of the Motion are either villas or apartments standing on LR No. 28233/33. A copy of the registration of title to that property is annexed to the replying affidavit of Peter Kiarie Muraya. Muga Developers Limited holds a 99 years lease over the said property and are currently the registered owners. As to Equity Bank Limited, they hold charges in the value of Kshs.1,762,000,000.00 over the suit property. Any orders granted will certainly affect these two parties.

3. Indeed, perhaps in recognition of this, the Plaintiff had through a Notice of Motion dated 3rd July 2019 sought to amend its Complaint and the current Notice of Motion to join Muga Developers Limited. In fairness that application should be heard first. To this extent I revise the orders I had made on 4th July 2019 in which I had directed that the current application, of 14th February 2019, be disposed of first.

4. It is my further order that all pleadings herein, applications and replies be served upon Equity Bank Limited who may then elect whether to join the fray as an interested party.

Dated, Signed and Delivered in Court at Nairobi this 24th Day of January 2020

F. TUIYOTT

JUDGE

PRESENT:

Gichoi for Muryalo for Plaintiff

No appearance for Defendant

Court Assistant: Nixon