



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NYAHURURU

CIVIL CASE NO.9 OF 2019

SUPA SAVING CREDIT CO-OPERATIVE SOCIETY.....PLAINTIFF

- V E R S U S -

ROSELINE LORORUA.....DEFENDANT

RULING

By the Originating Summons dated 20/5/2019, the applicant **Supa Saving Credit Co-Operative Society Ltd** Sought the following orders against the defendant **Roseline Lororua**:

(1)Spent;

(2) That the property known as Plot No.P/SCH/2 Wamba, charged by the defendant to the plaintiff under an informal charge dated 29/9/2015 be sold to recover Kshs.98,351/= together with further interest currently due and owing from the defendant to the plaintiff as at 1st May, 2019;

(3) That the auctioneer appointed by the chargee be granted and vested with full power and authority to sell by public auction the property known as Plot No.P/SCH/2 Wamba with a view to repaying, full or in part the sum Kshs.98,351/= and interest from that date till full recovery;

(4) The auctioneer's costs be paid by the defendant;

(5) Costs of this suit.

The application is premised on grounds found on the face of the application and the affidavit of **Isaac Missoy Kiptoo**, the Chief Executive Officer (CEO) of the plaintiff.

Isaac Missoy filed a letter of authority, authorizing him to file this suit (IMK.1). He deponed that the defendant is a member of the plaintiff – No.5391; that the defendant applied for a Biashara Loan of Kshs.500,000/= which was secured by an informal charge over the property known as **Plot.No.P/SCH/2/Wamba** which was allotted to the defendant. The loan application form signed by the defendant is annexed as IMK 2 and the allotment letter from the County Council of Samburu is IMK 3, dated 14/4/2009.

It was further deponed that the defendant failed to liquidate the said debt and a demand letter was issued on 2/10/2018 through the plaintiff's advocates, for payment of loan arrears of Kshs.106,072/=; that the defendant was given 3 months in which to clear the loan but failed to do so. The defendant having failed to pay the outstanding sum, the plaintiff prays that the court do allow it to realize its money by selling the security under the informal charge.

The defendant was served with the Originating Summons. The service was in terms of the affidavit of service filed by Simon Gibson Gichuki, a process server who served the defendant on 12/6/2019. The defendant did not appear in court for the hearing of the Originating Summons.

The plaintiff has through the documents exhibited, demonstrated that the defendant applied for a loan which was granted to her. She repaid part of it and defaulted. A demand was made on 2/10/2018 and the defendant was allowed three months to repay, but so far no payment has been made.

The defendant having failed to file a reply or appear at the hearing, I find that the plaintiff is entitled to realize the security offered by the defendant by way of seeking it and I do grant prayers 2, 3, 4 and 5 as sought in the Originating Summons.

Dated, Signed and Delivered at NYAHURURU this 20th day of June, 2019.

.....

R.P.V. Wendoh

JUDGE

PRESENT:

Mr. Mwangi Kariuki for plaintiff

Ropita – Court Assistant