

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

CIVIL SUIT NO. 32 OF 2010 (O.S)

P W W.....APPLICANT

-VERSUS-

F N K.....RESPONDENT

RULING

1. On 26th September 2014 the court determined that L.R. No. 10901/[particulars withheld] Kahawa Sukari and motor vehicle Toyota Spacio KAY [particulars withheld] were matrimonial property which both the applicant P W W and the respondent F N K had contributed to their acquisition. For LR No. 10901/ [particulars withheld], it was found that the applicant's contribution was 25% and the respondent's was 75%. For the vehicle, they had each contributed 50%. The court asked that each party appoints a valuer to value the land and the vehicle and to present the report which would form the basis for the determination of the actual sum to be paid to the applicant. For the land, it was determined that the respondent would pay the applicant 25% of the same and thereafter the applicant would give its vacant possession. For the vehicle, the respondent was to pay 50% of its value to the applicant.
2. For the land property, the respondent appointed Dantu Valuers Ltd who valued it at Kshs.10,925,000/=. The land comprises a detached single storeyed house with external laundry, external garage and chicken pens. The applicant instructed Cyrus Kariuki & Associates who valued the property at Kshs.14,000,000/=.
3. These valuers are experts in their field. It was held in **Juliet Karisa –v- Joseph Barawa & Another, Civil Appeal No. 108 of 1988 (C.A.)** that expert evidence is entitled to the highest possible regard, and though the court is not bound to accept and follow it, it must form its own independent opinion based on the entire evidence before it. Such evidence must not be rejected except on firm grounds.
4. These valuers have each a different value attached to the property; a valuation whose difference is over Kshs.3,000,000/=. In the particular circumstances of this case, I put the property's market value to be the average of the two reports. This would be Kshs.12,462,500/=. 25% of it would be Kshs.3,115,525/=. Accordingly, I direct the respondent to pay to the applicant Kshs.3,115,525/= within 60 days, following which the applicant shall give vacant possession of the same to the respondent.
5. For the motor vehicle, the applicant got Autostar Assessors and Valuers Ltd to give it a value of Kshs.380,000/=. The respondent did not provide a valuation report. I will accept Kshs.380,000/= to be the value of the vehicle. 50% of it would be Kshs.190,000/=. I ask the respondent to pay the applicant Kshs.190,000/= within 60 days.
6. This was a family dispute. Each party shall bear own costs.

DATED and SIGNED at NAIROBI this 22ND OCTOBER 2018

A.O. MUCHELULE

JUDGE

DATED and DELIVERED at NAIROBI this 23RD OCTOBER 2018

A.N. ONGERI

JUDGE