



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
MILIMANI COMMERCIAL & ADMIRALTY DIVISION
BANKRUPTCY CAUSE NO. 19 OF 2012
IN THE MATTER OF BANKRUPTCY ACT
CAP 53 OF THE LAWS OF KENYA
MONICA NYAWIRA MUTHIA.....DEBTOR

J U D G E M E N T

1. The Debtor petitioned this court on 13th June 2012 seeking an order of Bankruptcy on the grounds that she is unable to pay her debts. On 15th January 2012 this court, having received and considered the Official Receiver's Interim Report with the Creditors dated 15th October 2012, and filed in court on 18th October 2012, granted a Receiving order in the Estate of the Petitioner.

2. The Public Examination of the Petitioner took place on 31st October 2014. In the said Public Examination the Petitioner stated that she is the Debtor herein, aged 67 years, and mother of 6 children:

- Ann Wairimu
- Catherine Muthoni
- Joyce Wanjiru
- James Magua
- Lilian Wanjiku Magua
- John Magua

3. The children are between ages 33 to 45. The Debtor resides in Gigiri Estate Limuru Road, and is a house wife. She previously worked with Barclays Bank from 1973 – 1997, before she retired and went into clothes selling business i.e. imported clothes for ladies. In her business the Debtor operated 3 business accounts number 1472108, No. 151,8159, No. 5463675000634002. All the said accounts were with Barclays Bank. Soon due to illness she closed the business and instructed Barclays Bank to transfer the said account to NIC Bank where her husband had accounts. Those accounts had loan in which were secured by the husband's title deed LR. No. 12325/63. The amount secured a total of Kshs.1,253,624. They also asked Barclays to release the title deed to NIC Bank. They did the same on 6th October 2004. However, there was an outstanding amount due to Barclays of Kshs.350,000/-. This amount with interest was not transferred to the Barclays Bank. Barclays Bank filed a civil suit number Milimani 2378 of 2007. Barclay was given Judgment of Kshs.2,000,000/=. The Debtor was unable to pay the debt and was jailed when she paid paid Kshs.100,000/=. In 2011, auctioneers attached their home and took goods amounting to Kshs.2,416,000/=. The Debtor has since paid the debt fully and so does not need the orders asked for in the Petition.

4. The proceedings of the Public Examination were typed and read to the Petitioner in the open court on

16th January 2015, and the Petitioner confirmed the correctness of the same.

5. From the proceedings, it is clear that the Petitioner has already fully repaid the debt. There was no Creditor in court to controvert the Petitioner's evidence that she has already fully repaid the debt, and that she no longer needs the orders for Bankruptcy, and prays that the Receiving order issued herein be raised and the Official Receiver be discharged from any further liability in the estate.

6. I have carefully considered the Petition. It is true that the Debtor has already paid all the debts. This process is now available just for its validity. Accordingly, therefore I make Judgement in favour of the Petitioner as follows:-

- a. *The Petition is hereby rendered functionally inchoate and is herewith withdrawn.*
- b. *The Receiving Order issued herein on 15th Januarys 2012 is herewith discharged.*
- c. *The Official Receiver is herewith discharged from the performance of any further duties in relation to the said Receiving Orders.*

Orders accordingly.

READ, DELIVERED AND DATED AT NAIROBI THIS 30TH DAY OF JANUARY 2014

E. K. O. OGOLA

JUDGE

PRESENT:

Ngeresa holding brief for Koceyo for the Plaintiff/Applicant

M/s Osochi for the Defendant/Respondent

Teresia – Court Clerk