



Bella Hill Management Limited v Vipingo Development Plc (Environment & Land Case 121 of 2018) [2025] KEELC 3235 (KLR) (8 April 2025) (Ruling)

Neutral citation: [2025] KEELC 3235 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT & LAND CASE 121 OF 2018
FM NJOROGE, J
APRIL 8, 2025**

BETWEEN

BELLA HILL MANAGEMENT LIMITED PLAINTIFF

AND

VIPINGO DEVELOPMENT PLC DEFENDANT

RULING

1. The Plaintiff instituted this suit against the Defendant on 24/4/2024 seeking amongst other orders, that the Defendant be compelled to register the sub-lease for a residential unit no. B17 situated in Awali Estate, Vipingo, on the land comprised in Title C.R 76205, in favour of the Plaintiff, and costs of the suit. The Plaintiff's case was that on 1/12/2021, it purchased the residential unit B17, and as at 17/6/2022, the completion date, the Plaintiff had fulfilled all of its obligations as per the agreement for lease, including payment of the purchase price; that despite doing so, the Defendant had failed to register the lease in favour of the Plaintiff. The Defendant entered appearance on 14/5/2024 through the firm of A.B Patel & Patel LLP.
2. On 18/3/2025 when the matter was mentioned before this court, Mr. Mbugua, counsel for the Plaintiff, informed the court that the Defendant had completed the sale and that the sole issue left for determination was the issue of costs of the suit. Mr. Barasa appearing for the Defendant told the court that there was an arbitration clause in the agreement, and that the parties were trying to enter an agreement on the issue of costs. The court gave parties 7 days to agree on costs and in default, each side to file submissions on the same, cumulatively, within 23 days.
3. On the CTS, there is no agreement on the issue of costs. Parties are yet to file submissions.
4. As a matter of general principle, costs follow the event and the successful party will always have costs of his success unless the court has good reason to order otherwise. The words "the event" mean the result of the entire litigation. The result of the entire litigation herein is that the suit has been overtaken



by events by virtue of the Defendant completing the registration, which was the Plaintiff's cause of action. The Plaintiff is not disinherited of the title of successful party merely because the suit was not opposed or it that met no or little resistance. In any event, both parties agreed that the sole issue left for determination is the question of costs. It is immaterial that the lease contained an arbitration clause. Section 27 of the [Civil Procedure Act](#) is instructive, and it provides as follows: -

“27. Costs

- (1) Subject to such conditions and limitations as may be prescribed, and to the provisions of any law for the time being in force, the costs of and incidental to all suits shall be in the discretion of the court or judge, and the court or judge shall have full power to determine by whom and out of what property and to what extent such costs are to be paid, and to give all necessary directions for the purposes aforesaid; and the fact that the court or judge has no jurisdiction to try the suit shall be no bar to the exercise of those powers:

Provided that the costs of any action, cause or other matter or issue shall follow the event unless the court or judge shall for good reason otherwise order.

- (2) The court or judge may give interest on costs at any rate not exceeding fourteen per cent per annum, and such interest shall be added to the costs and shall be recoverable as such.”

5. In the foregoing, the Plaintiff is hereby awarded costs of this suit together with interest thereon at court rates from the date of filing of suit until payment in full. The registry shall mark this file as closed.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 8TH DAY OF APRIL 2025.

MWANGI NJOROGE

JUDGE, ELC, MALINDI.

