

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET

E&L 643 OF 2012

Formerly HCC 123 of 2010

VIRGINIA WANJIKU MWANGIPLAINTIFF

VS

BARCLAYS BANK OF KENYA LTD & ANOTHERDEFENDANTS

(Application for amendment of plaint; plaintiff wishing to amend plaint to add another defendant to the suit; application not opposed; no reason why application should be denied; application allowed)

RULING

The application before me is that dated 3 October 2013 filed by the plaintiff. It is an application for amendment of plaint. The plaintiff wants to amend her plaint to include a 3rd defendant and make further particulars to her claim.

In the original plaint, the plaintiff sued Barclays Bank of Kenya Ltd and Garam Investments. The plaintiff had charged her property Kapsaret/Kapsaret Block 1 (Yamumbi)/661, to the bank to secure certain financial facilities advanced to one George Kamau Githire. Her claim was that the bank had advertised for sale, through Garam Investments, her property, yet all monies that she had secured had been paid by the said George Kamau Githire. Simultaneously with the plaint, she filed an application for injunction. Interim orders were given but the same were vacated as the plaintiff did not succeed in getting an injunction after the inter partes hearing of the application. The suit land was then sold by the bank.

The plaintiff now wants to amend her plaint to include George Kamau Githire as the 3rd defendant. She also wants to reflect the value of the property sold.

The application for amendment is not opposed by the defendants. On my part I see no reason which can persuade me to disallow the proposed amendments. Every party is at liberty to plead his case as he wishes and courts are ordinarily liberal when it comes to amendments unless such amendments can cause prejudice to the other parties in the suit. This case has not yet commenced and I see no prejudice which will be caused to the existing defendants or the new proposed defendant.

I therefore allow the application for amendment of plaint. I direct the plaintiff to formally file the amended plaint within 14 days from the date hereof. The costs of the application will be costs in the cause.

It is so ordered.

DATED AND DELIVERED AT ELDORET THIS 3RD DAY OF APRIL 2014

JUSTICE MUNYAO SILA

ENVIRONMENT AND LAND COURT AT ELDORET.

Delivered in the presence of:

Mr. Etyang holding brief for M/s Ajaa Olubayi for plaintiff

N/A for M/s Walker Kontos for defendant