

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
CIVIL SUIT NO. 246 OF 2006

CHRISTINE NAZI NYALE PLAINTIFF

V E R S U S

1. HOUSING FINANCE COMPANY OF KENYA LTD

2. JULIUS ALAMA MWAMBERE DEFENDANTS

RULING

1. Plaintiff filed this suit on 2nd November, 2006. The Defendants filed a Memorandum of Appearance and Defence on 28th November 2006 and 4th December 2006 respectively. From that date no action was taken by any part until the Defendants filed their Notice of Motion of 27th July 2011.
2. By that Notice of Motion Defendants seek the dismissal of Plaintiff's suit for want of prosecution. The application was not opposed perhaps as sign that Plaintiff does acknowledge that the suit should indeed be dismissed for want of prosecution. I will remind the Plaintiff her duty once she filed a case by referring to the decision **FITZPATRICK –Vs- BATGER & CO. LTD (1967)2 ALL ER 657** Lord Denning, citing his decision in **REGGENTINE –Vs- BEECHOLME BAKERIES LTD [1967]111 Sol. Jo. 216**, said as follows-

“It is the duty of the Plaintiff's advisers to get on with the case. Public policy demands that the business of the Courts should be conducted with expedition ... the delay is far beyond anything we can excuse. This action has gone to sleep for nearly two years. It should now be dismissed for want of prosecution.”

3. For the above reasons I make the following orders-
 - a. **Plaintiff's suit is hereby dismissed with costs to both Defendants for want of prosecution.**
 - b. **Both Defendants are awarded costs of the Notice of Motion dated 27th July, 2011.**

DATED and DELIVERED at MOMBASA this 19TH day of JUNE, 2014.

MARY KASANGO

JUDGE