

REPUBLIC OF KENYA

High Court at Nakuru

Civil Appeal 185 of 2007

DELAMERE ESTATES LIMITED PLAINTIFF

VERSUS

G4S SECURITY SERVICES LIMITED DEFENDANT

RULING

This appeal was filed on 25/10/2007. Directions were taken on 17/03/09. Since then no steps have been taken towards its prosecution for the last 1 ½ years. The court issued a Notice to Show Cause why the appeal cannot be dismissed for want of prosecution. Upon service of the Notice to Show Cause, counsel for the appellant, Mr. Kamonjo Kiburi, filed a replying affidavit. He stated that on 18/4/2012 they set out efforts to fix the matter for hearing but were advised by the court registry that there were no dates available for the year 2012.

Mr. Chege, counsel for the respondent in opposing the extension of time, submitted that they had been trying to get a date at the registry and invited the appellant's firm of advocates but they did not turn up; they have not been following up with this matter.

I have considered the replying affidavit and oral submissions by Mr. Kiburi and Mr. Chege. Mr. Kiburi has exhibited an invitation letter to fix the matter for hearing. I however note that the letter is drawn by the respondent's firm of advocates. Despite having been served with the letter, neither the appellant nor his representative turned up. I however take note that the respondent's representative were advised that the 2012 diary was closed and therefore could not have fixed the matter for hearing. The court will therefore exercise its discretion in the appellant's favour and order that this matter be set down for hearing within the next 6 months from today's date, failing which the appeal will stand dismissed.

The appellant to bear costs of the appeal and the Notice Show Cause.

Dated and delivered this day 12th October 2012

R.P.V. WENDOH

JUDGE

PRESENT:

Mr. Chege holding brief for Mr. Ngawa for the respondent

Mr. Muchela holding brief for Mr. Kiburi for applicant

Kennedy – Court Clerk