

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 96 OF 2010

ROSE KARUTHU IKUNYUAPLAINTIFF/RESPONDENT

V E R S U S

CHARLES KIBITI IKUNYUADEFENDANT/APPLICANT

R U L I N G

The parties are disputing over the 4 bed roomed house on title No. Nairobi Block 72/1929 in Langata Estate which is registered in the name of the Defendant but in which the Plaintiff resides claiming to be a co-owner having participated in its purchase. She sued for a declaration that the Defendant holds the title in trust for her and asked that the register be rectified to reflect her as a joint owner. The problem is that she exclusively lives on the property and does not want the registered owner any benefit or access to the same. That cannot be allowed to happen. What is reasonable is that, as the parties wait for the resolution of the dispute, the Plaintiff shall in 30 days vacate the house and the parties shall get a tenant who shall henceforth pay rent which shall be deposited into a joint interest earning account to be operated by their counsel. In those terms, the Defendant's application dated 15th December 2010 succeeds and he will have costs of the same.

DATED AND DELIVERED AT NAIROBI
THIS 4TH DAY OF MAY 2011

A. O. MUCHELULE
J U D G E