



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

(MILIMANI COMMERCIAL & TAX DIVISION)

MISC. APPLICATION NO. 394 OF 2010

IN THE MATTER OF THE COMPANIES ACT (CHAPTER 486 LAWS OF KENYA AND COMPANIES

(HIGH COURT) RULES 1964

IN THE MATTER OF AN APPLICATION BY

**CLASSIC DÉCOR LIMITED.....1ST
APPLICANT**

AND

**EQUITY BANK LIMITED.....2ND
APPLICANT**

R U L I N G

The notice of motion dated 5th May 2010 was filed by Advocates for the Applicants, Kimani & Michuki Advocates. The said application is brought under section 96 and 102 of the Companies Act and Rule 8(b) of the Companies Rules. It seeks the following orders:

- 1. THAT this application be certified as urgent and be heard in the first instance.**
- 2. THAT this Honourable Court be pleased to extend time within with to register the Charge created on 30th November 2009 by the 1st Applicant in favour of the 2nd Applicant for a further period of thirty (30) days.**
- 3. THAT consequently the charge dated 30th November 2010 created by Classic Décor Limited in favour of Equity Bank Limited be registered by the Registrar of Companies outside time.**
- 4. THAT costs be in the cause.**

During the hearing of the application, the applicant’s counsel Mr. Kimondo submitted that the time for registration of the charge has already elapsed. He urged this court to extend the time for registration of the charge for a period of 30 days. Besides the above, he also submitted that the creation of the charge was being done simultaneously with the transfer to purchase the property LR. No. Nairobi/Block 104/90. In addition to the above, he also submitted that the first applicant was purchasing the suit property through finance from the second applicant. Apart from the above, he also submitted that the second part of transfer required completion documents from the vendor’s advocate. Those documents were received on 24th February, 2010 which was outside the period of 42 days from the date that the charge was created. The learned counsel also submitted that apart from the above, the valuation was done on 1st April

2010 and the documents were lodged on 8th April 2010 with the Registrar of Lands. Consequently, the said documents were registered and released on 26th April 2010. It is due to the above, that the applicant's counsel has prayed for the extension of the registration period of 30 days.

After carefully considering the application, I hereby concede to the same in terms of prayer No. 2. Specifically, I hereby direct that the time to register the charge created on 30th November 2009 by the first applicant in favour of the second applicant be hereby extended for a period of 30 days from today.

Those are the orders of this court.

MUGA APONDI

JUDGE

Ruling read signed and delivered in open court in the presence of:

Swaka for Kimondo - Applicant's Counsel

MUGA APONDI

JUDGE

2ND JULY 2010