



**REPUBLIC OF KENYA  
IN THE HIGH COURT OF KENYA  
AT NAIROBI**

**MILIMANI LAW COURTS  
Civil Suit 109 of 2010**

**STANLEY KEPKEMBOI KIRUI LAGAT.....APPLICANT**

**VERSUS**

**ISAAC MATANO KODAWA.....1<sup>ST</sup> RESPONDENT**

**WINFRED MZIRAI MATANO.....2<sup>ND</sup> RESPONDENT**

**FESTO YONGO.....3<sup>RD</sup> RESPONDENT**

**RULING**

The plaintiff entered into a Sale Agreement with the 1<sup>st</sup> and 2<sup>nd</sup> defendants in respect of a property known as apartment No.D5 erected on LR.209/4857/36 in Nairobi. The 3<sup>rd</sup> defendant in these proceedings was the agent for the 1<sup>st</sup> and 2<sup>nd</sup> defendants. The purchase price was 12,500,000/=.

It is the plaintiff's case that he complied with the terms of the Sale Agreement but the defendants did not and as a result moved to court to protect his interest.

As at the time of hearing this application it was the plaintiff's case that he had paid the total purchase price due and payable to the 1<sup>st</sup> and 2<sup>nd</sup> defendant, and in fact transfer documents had been forwarded to his advocates but the defendants continue to harass him because of some arrears of rent which are in dispute.

It may not be appropriate to delve any deeper on the issue of rent in this dispute because, that may be a triable issue if this matter is not be settled. Suffice to say, the plaintiff having paid the total purchase price of the said property, having taken possession of the same and the documents having been forwarded to his advocates in respect of the said property, he has established a *prima facie* case with a probability of success and that he is entitled to the orders sought.

On 15<sup>th</sup> March, 2010 this court issued interim orders in favour of the plaintiff against the defendants herein which orders are still in place. To avoid any prejudice I shall not comment any further on the pleadings except to uphold and confirm the said orders until the final determination of this suit. The plaintiffs shall have the costs of this application. Orders accordingly.

***Dated, signed and delivered at Nairobi this 30<sup>th</sup> day of September, 2010.***

**A. MBOGHOLI MSAGHA**  
**JUDGE**