

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI LAW COURTS)
CIVIL SUIT (ELC) NO.558 OF 2010

LUCY WANJUHI KINYANJUI.....
.....PLAINTIFF

VERSUS

ANTHONY MAINA NGANGA alias MAC ANTHONY MAINA.....
.....RESPONDENT

R U L I N G

1. By a chamber summons dated 17th November, 2010, Lucy Wanjuhi Kinyanjui, the plaintiff/applicant herein seeks several orders. Most of the orders have been spent save for the following prayers which she is now pursuing.

(d) That the honourable court be and is hereby pleased to order the Registrar of Land/The Land Registrar, Kiambu County, to place an inhibition, inhibiting any dealings of any kind whatsoever in L.R No. Kiambaa/ Ruaka/3664, L.R No.Kiambaa/Ruaka/ 3799, L.R No. Kiambaa/Ruaka/3800, till further orders of this court and/until the hearing and determination of the originating summons filed herein.

(e) Any other relief that the honourable court may deem fit and just to grant.

(f) Costs of this application be provided for.

2. The application is anchored on the following grounds:

(i) The defendant/respondent herein has commenced a conveyancing transaction relating to the properties specifically described in prayer (c) above.

(ii) The plaintiff is claiming, rights over the said parcel of land, which she has financially assisted to develop into residential buildings in which tenants reside and pay rent, to the family.

(iii) If the defendant is allowed to dispose of the said parcels of land, on which residential buildings stand, the plaintiff/applicant will suffer irreparable loss, as her property will have been sold to a third party without her consent.

(iv) The plaintiff/applicant participated in the developing of the said parcels of land more specifically known as L.R No. Kiambaa/Ruaka/3664, L.R No.Kiambaa/Ruaka/ 3799, L.R No. Kiambaa/Ruaka/3800, on the understanding that the lands are properties of the family and therefore the constructions are for the benefit of the children and the entire family.

(v) The defendant/respondent will not suffer any prejudice if the honourable court orders an inhibition of any dealings, on the said parcels of lands.

(vi) That the honourable court has powers and enormous discretion to order an inhibition to the parcel of land, so as to preserve the subject matter of this suit.

3. The application is also supported by an affidavit sworn by Ms Lucy Wanjuhi Kinyanjui on which she has reiterated facts in support of the above grounds. Of particular importance is the fact that the

respondent is her husband with whom they have 2 children. The applicant is currently residing in the United Kingdom. The plots in question have been developed through financial contributions made by the applicant. The respondent is now threatening to sell the plots without the applicant's consent. The applicant has filed an originating summons under Section 17 of the Married Women's Property Act 1882. She contends that unless the orders sought are given, her rights under the Married Women's Property Act will be compromised.

4. The defendant was duly served with the application together with the originating summons. He did not however file any response to the application nor did he attend court for the hearing of the application.

5. Upon considering the application, I am satisfied that the applicant has laid an appropriate basis upon which the orders sought can be anchored. Accordingly, I allow the application and issue orders as prayed in prayer (d) of the chamber summons dated 17th November, 2010. Costs of the application shall be in the cause.

Dated and delivered this 6th day of December, 2010

H. M. OKWENGU
JUDGE

In the presence of: -
Ms Waweru H/B for Mariara for the plaintiff/applicant
Advocate for the respondent absent
B. Kosgei - Court clerk