

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Miscellaneous Cause 744 of 2009

IN THE MATTER OF: THE COMPANIES ACT (CHAPTER 486 OF THE LAWS OF KENYA)

AND

IN THE MATTER OF: AN APPLICATION FOR EXTENSION OF TIME FOR REGISTRATION OF A MORTGAGE

SAVINGS & LOAN (K) LIMITED.....BANK/MORTGAGEE

AND

COOMES GROUP LIMITED.....COMPANY/MORTGAGOR

RULING

The application has been brought through Notice of motion under Section 3 and 3A of the Civil Procedure Act, Chapter 21 of the Laws of Kenya, section 96, 97 and 102 of the Companies Act, Chapter 486 of the Laws of Kenya and rule 8(b) of the Companies (High Court Rules). The application seeks the following order:

1. THAT this Honourable Court be pleased to grant an order extending the registration, in the Companies Registry, by 30 days from the date of the order or such other period as the court may deem fit, of the Mortgage dated 20th April, 2009 created by the Company over Land Reference Number 330/1300, Flat No. C-6 Nairobi in favour of the Bank to secure the sum of Kshs. 4,000,000.00

During the hearing of the application, Mr. Inyangu, the applicant's counsel, submitted that they are seeking an extension of time in which to register a mortgage in the company's registry by a further 30 days. In addition to the above, he submitted that the application is supported by the affidavit of Agnes Muia which was sworn on 3rd September, 2009. Further to the above, he also informed the court that the mortgage has already been registered at the Lands Office on 24th April, 2009. According to the learned counsel, the delay was caused because the mortgagor had problems to retrieve copies of annual returns. He concluded his submissions by stating that the delay was inadvertent.

After carefully considering the application, I hereby direct that the time for the registration of the mortgage dated 20th April, 2009 created by the Company over LR No. 330/1300, Flat No. C-6 Nairobi in favour of the Bank to secure the sum of Kshs.4,000,000/- be extended for a period of 30 days. The court notes that the same will be in conformity with Section 102 of the Companies Act, Cap 486, Laws of Kenya. Significantly, the above will not prejudice any party.

MUGA APONDI

JUDGE

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

Kipng'eno for Inyangu - Applicant's counsel.

MUGA APONDI

JUDGE

20TH NOVEMBER 2009