



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Election Petition 2237 of 2007

1. Land and Environmental Law Division
2. Subject of main suit. Sale of flats
 - i. LR flat No. MF36 “door R” Madaraka Estate.
 - ii. Offers made to tenants in occupation as priority.
 - iii. The tenant/Plaintiff denied equal opportunity to buy flat.
 - iv. Injunction to restrain defendants from evicting plaintiff/applicants.
3. Subject of main application 31.10.01
 - i. Injunction till determination of main suit.
4. In reply 1st respondent
 - i. Tenant not able to meet conditions of sale
5. In reply 2nd respondent - Nil
6. Held
 - i. Injunction against 1st respondent
 - ii. No injunction against 2nd respondent
7. Case Law - Nil
8. Advocate

T.V.M. Okwaro of Ouna were & Co. Advocates for the plaintiff/applicant – present

K.N. Nyabare of K.N. Nyabare & Co. Advocates for the 2nd respondent - present

PASCHAZIA NGAIZA OKINDA.....PLAINTIFF/APPLICANT

VERSUS

NATIONAL HOUSING CORPORATION1ST DEFENDANT

THE CITY COUNCIL OF NAIROBI..... 2ND DEFENDANT

RULING

I. APPLICATION 31.10.07

INJUNCTION

1. This application of 31.10.07 seeks orders against the National Housing Corporation and the City Council of Nairobi to restrain them from evicting the plaintiff/applicant Paschazia Naiza Okinda from her occupation of Flat No. MF36 door "R" till the determination of the main suit.

2. In brief, the plaintiff/applicant is one of the occupants of 600 flats situated in the Madarka estate Nairobi owned by the two defendants. The defendants wished to sell the said properties to the tenants having first priority to buy. Conditions of sale was laid down. She was unable to put in her papers in time. Nonetheless she claimed that she was being discriminated against and was not given the same preference as were the others.

3. She prayed for an injunction to restrain the two defendants from evicting her out of the said premises/flats.

II: IN REPLY

4. The 1st respondent stated that the applicant was not able to meet the condition of sales. The 2nd respondent made no reply.

II. OPINION

5. The applicant/plaintiff is under the impression that she would be evicted from the suit premises at any time. She prays for this courts protection and to be given time to be heard.

6. The apprehension to be evicted and or not being given the same preference as other would be tenant purchaser is real. The said application for injunction be granted against the 1st defendant only till the determination of the main suit.

7. As to the 2nd respondent, there is not injunction to issue against them[1].

8. I award costs to the applicant to be paid by the 1st respondent.

DATED THIS 11TH DAY OF MARCH 2008 AT NAIROBI.

M. A. ANG'AWA

JUDGE

T.V.M. Okwaro of Ouna were & Co. Advocates for the plaintiff/applicant – present

K.N. Nyabare of K.N. Nyabare & Co. Advocates for the 2nd respondent - present