

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL COURTS I

CIVIL CASE NO. 1573 OF 2001

NJENENI LIMITED.....PLAINTIFF

VERSUS

JOSEPH K. KAMERE1ST DEFENDANT

SIMON KAMERE t/a KAMERE & CO. ADV.....2ND DEFENDANT

RULING

This suit was commenced by way of Originating Summons under Order 52 Rule 49(i)(a)(b) (c) and (d) of the Civil Procedure Rules claims;-

(a) the delivery by the Respondent/Defendants of a full account of the monies received by the Respondent/Defendants from several purchasers in respect of sales of the resultant subdivisions of Land Reference Number 8121 and 8069 Nakuru belonging to the Applicant/Plaintiff which transaction the Applicant/Plaintiff engaged and/or retained the Respondent/Defendant as its Advocates but the Respondents/Defendants have failed, refused and/or neglected to account for the same despite persistent requests to him/them to do so.

(b) the payment or delivery up of the monies had and received by the Respondents/Defendants on behalf of the applicant/Plaintiff from several purchasers together with the accrued interest in respect of the sale of the said sub-plots on Land Reference Number 8121 and 8069- Nakuru which the respondent/Defendants have failed, refused and/or neglected to pay or deliver despite demands to having them to do so.

(c) the delivery up of a list of the sub-plots on land Reference Numbers 8121 and 8009 – Nakuru in respect of which the Respondents/Defendants have received payments together with a list of purchasers thereof including the amount paid for each sub-plot and the balance (if any) outstanding thereof.

(d) the delivery up of papers and completion documents pertaining to the sale of several sub-plots on Land Reference Numbers 8121 and 8069 – Nakuru which the Respondents/Defendants have been given by and/or received on behalf of the Applicant/Plaintiff with a view of completing and registering the various transfers in respect of the sub-plots in favour of the several purchasers but, he the Respondents/Defendants have failed, refused and/or neglected to release or deliver up the same to the Applicants/Plaintiff's current Advocates despite repeated requests to him/them to do so.

The application is supported by sworn affidavit of Dr. Arthur Nganga Njuguna Ngoro. Counsel for the applicant/plaintiff relies entirely on the said voluminous affidavit of the applicant which contains 48 paragraphs. I have considered the application, the affidavit in support and the annexures therein and I am satisfied that it is meritorious. The respondent did not appear to oppose the application despite the fact that the date was taken by consent . The application is allowed in terms of paragraph 1 and 2 of the Originating summons dated 12.10.2001 and it is ordered that the respondent do comply with this order within 21days of the date of this ruling.

Dated at Nairobi this 25th day of February, 2002.

J.L.A. OSIEMO

JUDGE