

REPUBLIC OF KENYA

LAWRENCE MURIUKI GATERE V BARICHU FARMERS COOPERATIVE

High Court Of Kenya At Nairobi

June 27, 2000

Milimani Commercial Courts

T Mbaluto, Judge

Civil Case No. 1062 Of 1999

June 27, 2000 T Mbaluto, Judge delivered the following judgment.

This is an application for third party notices to be issued to some eleven (11) individuals all of whom are former members of the defendant's management committee, the defendant being a co-operative society. According to the applicants, the basis for the application is an alleged fraud relating to the transaction giving rise to the claim whereby members of the management committee were allegedly involved in that fraud.

Although fraud is pleaded in the defence, no particulars thereof are given. The plea therefore offends Order VI rule 8 of the Civil Procedure Rules and is bad in law. It is also to be observed that the suit was filed on August 11, 1999 since which date no action has been taken to join the former members of the management committee until 29.5.2000, just a day before the plaintiff's application for summary judgment was coming up for hearing. In my view therefore, the alleged defence of fraud and the application to issue third party notices are nothing but a ploy to delay the plaintiff in the recovery of the debt.

The application clearly lacks substance and is an abuse of the process of this court. It is for those reasons dismissed with costs.