



Ondika v Swanya Ltd & another (Environment & Land Case 69 of 2021 & Environment & Land Miscellaneous Case 1 of 2023 (Consolidated)) [2023] KEELC 17779 (KLR) (7 June 2023) (Ruling)

Neutral citation: [2023] KEELC 17779 (KLR)

REPUBLIC OF KENYA

**IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND CASE 69 OF 2021 & ENVIRONMENT
& LAND MISCELLANEOUS CASE 1 OF 2023 (CONSOLIDATED)**

JM KAMAU, J

JUNE 7, 2023

(FORMERLY AT KISII ELC CASE NO. 240 OF 2016)

BETWEEN

RAEL MORAA ONDIKA PLAINTIFF

AND

SWANYA LTD 1ST DEFENDANT

ZADOK EAST AFRICA LTD 2ND DEFENDANT

RULING

1. Under Item No 1, the Plaintiff prayed for a Declaration that the Sale Agreement executed between the parties for sale of a property worth Kshs 5,000,000/= be rescinded, returned and cancellation of Title Deed in respect of Gesima Settlement Scheme/1075. She was also defending a counterclaim by the Defendant that the 2nd Defendant is the lawful proprietor of the said parcel of land, surrender of the original Title Deed for payment of the balance of the purchase price, vacant possession and for an eviction order and a permanent injunction.
 - a. For the Declaration either way I don't see the need to interfere with the Taxing Master's Figure of Kshs 200,000/= since the bar minimum fee of Declaration of the sale validity of the sale agreement of the value of Kshs 5,000,000/= is already Kshs 200,000/= on the higher side.
2. I find that due to the complexity of the matter Kshs 275,000/= would suffice. Since there was a prayer for injunction, eviction and vacant possession in the counter claim the figure of Kshs 300,000/= was rightfully awarded. For Item No. 2 I grant Kshs. 50,000/=. Kshs 100,000/= is taxed off. For prayer No 3 service fees for getting up for trial should be 1/3 of instruction fee in which case it ought to have been 1/3 of Kshs 350,000/= which I give as Kshs. 120,000/= and tax off Kshs 30,000/=. I will not interfere with the other Items.



RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 7TH DAY OF JUNE, 2023

MUGO KAMAU

JUDGE

In the Presence of:-

Court Assistant: Sibota

Plaintiff: Ms. Opundo

Defendants: Mr. Kuria

