

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC. CASE NO. 163 OF 2018

BERNADETTE MWELU NYAMIRA.....PLAINTIFF

VERSUS

PATRICK KEMOLI KEYONZO.....1ST DEFENDANT

T.G.KERATU.....2ND DEFENDANT

THE REGISTRAR OF TITLES CENTRAL REGISTRY.....3RD DEFENDANT

RULING

The Plaintiff is the registered owner of L.R. No. 14970/52 (“the Suit Property”) on which is erected a house. She is currently working and residing in the United States of America. In October 2017 when she left for the US, she left the keys to the house on the Suit Property with Chrisantus Misaro to get her a tenant for the house with the help of the 1st Defendant. If no tenant was found within three months, the keys were to be handed back to the Plaintiff. Chrisantus Misaro informed the Plaintiff that sometime in March 2018 he went to the house and found the house was locked with a different padlock and could not access the premises which had many motor vehicles parked in the compound. He reported this to Runda Police Station.

She was forced to travel to Kenya from the US to protect her property. She could not get access to the Suit Property since the 2nd Defendant had placed goons at the gate. On lodging a complaint at the Runda Police Station, she was advised to get an eviction order from the courts for the police to act on. The 2nd Defendant’s actions have caused the Plaintiff emotional distress. The Plaintiff maintains that she has not entered into any agreement to let the Suit Property to the 1st and 2nd Defendants and does not receive any rent from them.

Through the application dated 5/4/2018, she seeks an eviction order against the 2nd Defendant and a temporary injunction to restrain the Defendants from trespassing, alienating, entering, occupying, dealing and or interfering with her quiet possession, use, occupation, development and proprietorship of the Suit Property. She prays to have the order enforced by the Officer Commanding Runda Police Station. She also seeks to have the 2nd Defendant pay a security deposit of two months’ rent and accumulated rent arrears. Unfortunately, it is not clear what amount of rent the Plaintiff seeks as rent at this stage since she did not get into any lease agreement with the 2nd Defendant.

The Defendants were served but did not file any response in court.

The court is satisfied that the Plaintiff has a *prima facie* case against the 1st and 2nd Defendants and grants prayers 2, 3, 4, and 5 of the application dated 5/4/2018 pending hearing and determination of this suit.

Dated and delivered at Nairobi this 2nd day of May 2018.

K. BOR

JUDGE

In the presence of: -

Mr. Wesonga holding brief for Ms. Mwendu for the Plaintiff

Mr. V. Owuor- Court Assistant

No appearance for the Defendant