



Bella Casa Limited & 2 others v Sunset Boulevard Limited (Miscellaneous Application E1056 of 2024) [2025] KEHC 2979 (KLR) (Commercial and Tax) (17 March 2025) (Ruling)

Neutral citation: [2025] KEHC 2979 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI COMMERCIAL COURTS)
COMMERCIAL AND TAX
MISCELLANEOUS APPLICATION E1056 OF 2024**

**A MABEYA, J
MARCH 17, 2025**

BETWEEN

**BELLA CASA LIMITED 1ST APPLICANT
GILLIAN MBUGUA 2ND APPLICANT
MARK MBUGUA 3RD APPLICANT**

AND

SUNSET BOULEVARD LIMITED RESPONDENT

RULING

1. By a Summons in Chambers dated 11th December, 2024, the applicants applied to this Court for the Arbitral Award dated and published on 24th May, 2024 by Hon. Mansur Mauthe Issa, sole Arbitrator, to be recognized and adopted as a decree of this Court. The Summons was brought pursuant to section 36 of the *Arbitration Act*.
2. The Summons was supported by the affidavit of Peter Mbugua sworn on the same date. Peter Mbugua, as a director and principal shareholder of the 1st applicant deposed that; the applicants and the respondent executed six agreements for sale and purchase of 39 apartments developed on LR No. 12867/21, Athi River.
3. Four of the said agreements were dated 30th April, 2012 (4 units) while two of them dated 17th May, 2012 were for 37 units. That each of the said agreements provided arbitration as the agreed mode of settling any disputes arising therefrom.
4. That dispute arose and the matter was referred to Hon. Mansur Mauthe Issa as sole Arbitrator. The arbitral proceedings were completed and an Award published on 24th May, 2024. There was no challenge to the same and it was fair if it could be recognized and be enforced as a decree of the court.



5. On 15th December, 2024, this Court directed that the application be served forthwith for hearing inter-partes on 20th December, 2024. On 20th December, 2024, Mr. Ochieng appeared for the respondent and requested for 21 days to respond thereto. The Court directed that a response be made within 7 days, 31st January, 2025 and the parties file and exchange submissions within 14 days thereafter. The ruling was fixed for 27th February, 2025.
6. Despite as aforesaid, as at the time of writing this ruling there was no response to the Summons nor any submissions. That being the case the Summons stood unopposed.
7. I have considered the Affidavit and the annexures. The agreements between the parties were produced. They contained arbitral agreements. A certified copy of the arbitral Award dated 24th May, 2024 was also produced. The 90 days within which an Arbitral Award can be challenged under section 35 of the Arbitration Act passed on 24th August, 2024. The Award has not been set aside.
8. Section 36 of the Arbitration Act provides, inter alia, that:-
 - “1) A domestic arbitral award, shall be recognized as binding and, upon application in writing to the High Court, shall be enforced subject to this section and section 37.
 - 2) ...
 - 3) Unless the High Court otherwise orders, the party relying on an arbitral award or applying for the enforcement must furnish –
 - a. the original arbitration award or duly certified copy of it, and
 - b. the original arbitration agreement or a duly certified copy of it.”
9. As already stated, the Summons before me has complied with the requirement set out in section 36 (3) of the Act. In this regard, it is clear that there is no impediment to recognition and enforcement of the Award published on 24th May, 2024 by Hon. Mansur Muathe Issa.
10. Accordingly, I find that the application dated 11th December, 2024 is meritorious and I allow the same as prayed.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY VIA MICROSOFT TEAMS AT KISUMU THIS 17TH DAY OF MARCH, 2025.

A. MABEYA, FCI Arb

JUDGE

