



REPUBLIC OF KENYA



KENYA LAW
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**LWK aka LWG v OGM (Matrimonial Cause E089 of 2022)
[2025] KEHC 4552 (KLR) (Family) (8 April 2025) (Judgment)**

Neutral citation: [2025] KEHC 4552 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
FAMILY
MATRIMONIAL CAUSE E089 OF 2022**

HK CHEMITEI, J

APRIL 8, 2025

BETWEEN

LWK AKA LWG PLAINTIFF

AND

OGM DEFENDANT

JUDGMENT

1. The Plaintiff and the Defendant marriage was dissolved and a decree absolute issued on 21st February 2020.
2. During the coverture they had the following properties,
 - (a) Nairobi block 82/XXXX
 - (b) Kajiado/Kitengela/1XXX
 - (c) Kajiado/Kitengela/19XXXX
 - (d) Embu property
3. The Plaintiff filed this suit seeking orders that the said properties which are registered in the Defendant's name be declared matrimonial and the same be divided among the two.
4. The Defendant though served did not prefer any defense. The matter went for formal proof where the Plaintiff testified and did not call any witnesses.
5. In her testimony she said that they registered two companies namely Total Plus Bureau Company Limited while in Kenya and Total Plus Transport Inc. in the United States of America.



6. It is the two companies that generated income in which they used to develop the properties herein especially Nairobi block 82/XXXX which the Defendant has since been collecting the rent to the exclusion of the Plaintiff.
7. It was also her case that the Defendant without her knowledge or consent sold the Kitengela properties between the year 2014 and 2016 and he did not share out any proceeds with her.
8. As regards the Embu property it was her case that the same was purchased jointly but the Defendant has remained with the legal documents and refused to share with her.
9. The Plaintiff filed her submissions and the court has perused the same together with the cited authorities.
10. Having gone through the evidence on record, both oral and documentary the court is satisfied that the aforementioned properties were jointly acquired by the Plaintiff and the Defendant during the subsistence of their marriage. They are properties as defined under Section 6 of the Matrimonial Property Act 2013.
11. However, there is no evidence of the sale of the Kitengela properties placed before the court and the court thus assumes that the same is still registered under the Defendant's name unless a contrary view is exemplified.
12. As regards the rental income from the Nairobi block 82/XXXX, there is no evidence that the same was being rented out by the Respondent or any other party. I shall therefore decline the line taken by the Plaintiff in her submissions that she ought to be paid the rent so far collected.
13. The Embu property as well is amorphous as there is no evidence of any registration or at least some sale agreement or any tangible evidence to support her assertion. It was incumbent upon the Plaintiff to produce evidence to support her claim that there is a 12 acre land under the Defendant's name in Embu.
14. Consequently, and for the reasons stated above I hold that:-
 - (a) The properties below are considered matrimonial namely Nairobi Block 82/XXXX, Kajjado/Kitengela/ 1XXXX and 19XXXX respectively.
 - (b) The Plaintiff is entitled to half share of the above properties which are registered in the Defendants' names.
 - (c) The Parties be at liberty within 90 days from the date herein to share the same either by sale after undertaking a valuation exercise.
 - (d) The Valuer to be agreed upon or the Deputy Registrar of the this Court to appoint one.
 - (e) Costs shall be in the cause.

DATED SIGNED AND DELIVERED AT NAIROBI VIA VIDEO LINK THIS 8TH DAY OF APRIL, 2025.

H K CHEMITEI

JUDGE

