



Njoroge v Balasi Developers Limited & 2 others; Land Registrar, Gatundu (Interested Party) (Civil Case E004 of 2023) [2024] KEHC 9817 (KLR) (22 July 2024) (Ruling)

Neutral citation: [2024] KEHC 9817 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT THIKA
CIVIL CASE E004 OF 2023
BM MUSYOKI, J
JULY 22, 2024**

BETWEEN

JULIAH MURUGI NJOROGE PLAINTIFF

AND

BALASI DEVELOPERS LIMITED 1ST DEFENDANT

MARTIN MURU MWANGI 2ND DEFENDANT

JAMES KAGOI MWIRI 3RD DEFENDANT

AND

LAND REGISTRAR, GATUNDU INTERESTED PARTY

RULING

1. By a notice of preliminary objection dated 6-12-2023, the 3rd defendant objected to the jurisdiction of this court over this matter. The ground for the objection was that this court lacked jurisdiction in view of Article 162(2) of the *Constitution* and Section 13 of the *Environment and Land Court Act* 2011.
2. On 18-12-2023, the court gave directions that the preliminary objection be disposed of by way of written submissions. The 3rd defendant filed his submissions dated 19-02-2024. The plaintiff filed an affidavit dated 13-01-2024 in reply to the preliminary objection. When the matter came before me on 5-06-2024, the plaintiff had not filed her submissions. Her counsel made an application for adjournment and requested for a mention date on grounds that the parties were negotiating and the matter had gone for arbitration and an award issued on 4-06-2024. There was no evidence of any negotiations or an award as submitted by the counsel. In the circumstances and with concurrence of the counsel present, I reserved this matter for ruling.
3. I have looked at the pleadings in this case. Parties are bound by their pleadings which form the basis of their claim before the court. The plaint in this matter is clear that the cause of action herein relates



to purchase of a three bedroomed house number 14 which was to be built on LR number Ngenda/ Kimuyu/2492 which the plaintiff claims to have bought but it was registered to the 1st defendant.

4. Article 162(2)(b) of the Constitution directed Parliament to establish specialized court to hear and determined disputes relating to environment and use, occupation of, and title to land. In compliance with this Article, the Parliament enacted Environment and Land Court Act, 2011 which created a court with exclusive jurisdiction over matters as provided in the said Article.
5. It is clear to me that this matter falls under the boundaries of that Article and Section 13 of the Environment and Land Court Act, 2011. It should have been filed in the Environment and Land Court. It is my finding that this court lacks jurisdiction to handle the matter. I uphold the preliminary objection dated 6-12-2023.
6. Consequently, this suit is hereby struck out with costs to the 3rd defendant.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 22ND DAY OF JULY 2024.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT.

