



REPUBLIC OF KENYA



KENYA LAW
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**Bank of Africa Kenya Ltd & another v Mugah & another (Civil Appeal
34 of 2020) [2023] KEHC 17575 (KLR) (17 May 2023) (Ruling)**

Neutral citation: [2023] KEHC 17575 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL APPEAL 34 OF 2020
RE ABURILI, J
MAY 17, 2023**

BETWEEN

BANK OF AFRICA KENYA LTD 1ST APPELLANT

GARAM INVESTMENTS (AUCTIONEERS) 2ND APPELLANT

AND

ELIJAH JACKTONE ODHIAMBO MUGAH 1ST RESPONDENT

GEORGE OCHIENG 2ND RESPONDENT

*(Being an appeal from the Judgment and Decree of Hon. R. K. Ondieki (SPM) delivered at
Kisumu in Chief Magistrate's Court ELC Case No. 424 of 2018 (formerly Cause No. 153 of 2016)*

RULING

1. I have considered the application dated 27th October 2022 seeking for an order for release of Kshs.738,750/= plus interest as deposited by the Appellant as security for the due performance of decree on appeal.
2. I have also considered the grounds, the supporting affidavit and the annexures.
3. I observe that the judgment in this case as delivered on 30th March 2022 allowed the appeal herein and in effect, dismissed the Respondent's suit in the lower court.
4. As the decree was monetary, with the Appellant having deposited into a joint interest earning account the security for due performance of decree, and as the Appellant is now the successful litigant, I hereby allow the application dated 27th October 2022.
5. I order that the sum of Kshs 738,750 together with all accrued interest which sum was deposited in Account No. xxxx at Equity Bank, Angawa Branch, Kisumu in the joint names of Oundo Muriuki &



Company Advocates and Omondi & Company Advocates be and is hereby released to the Appellant's Account at Bank of Africa Limited, Account No.xxxx in the name of Misc Customer.

6. The said Bank Account Number xxxx at Equity Bank, Angawa Branch, Kisumu, shall upon the release of the said sums of money, be closed forthwith.
7. This Ruling be typed and order extracted.
8. I make no orders at to costs.
9. This file is accordingly closed.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 17TH DAY OF MAY, 2023

R. E. ABURILI

JUDGE

