



REPUBLIC OF KENYA



Angaza Real Estate v Consolidated Bank of Kenya Ltd & another (Civil Case 3 of 2021) [2024] KEHC 14556 (KLR) (15 November 2024) (Directions)

Neutral citation: [2024] KEHC 14556 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KIAMBU
CIVIL CASE 3 OF 2021
DO CHEPKWONY, J
NOVEMBER 15, 2024**

BETWEEN

ANGAZA REAL ESTATE PLAINTIFF

AND

CONSOLIDATED BANK OF KENYA LTD 1ST DEFENDANT

**JAMES ONYANDO JOSIAH T/A NYALUONYO AUCTIONEERS 2ND
DEFENDANT**

DIRECTIONS

1. This matter was initiated vide a Plaint and Notice of Motion application, both dated 8th January, 2018. The application was determined and the parties took directions for compliance with Order 11 of the [Civil Procedure Rules](#).
2. In the Plaint, the Plaintiff seeks for Judgment to be entered against the 1st and 2nd Defendants for:
 - a. An order of injunction be issued restraining the 1st Defendant whether by itself, employees, servants and/or agents or otherwise assigns and/or any person whatsoever acting on its behalf and/or under its mandate and/or instructions from alienating, advertising for sale, offering for sale, selling taking possession of, leasing, transferring, charging or otherwise in any manner whatsoever interfering with land Reference No.1353 Thika Municipality.
 - b. An order do issue for the extension of the time for compliance and/or for rectifying any default to redeem Land Reference No.13537/22 Thika Municipality for a period of 24 months or for such other period as the court may determine.
 - c. A declaration that the 1st Defendant acted in breach of Section 90(1) and (2) of the [Land Act](#), [2023] by failing to notify the Plaintiff of any breach and affording the Plaintiff the opportunity to rectify any breach.



- d. A declaration that the 1st Defendant's Notice of Sale dated 6th December, 2017 be declared null and void and be hereby revoked.
 - e. A declaration that the 1st Defendant Statutory Powers of Sale be suspended and/or postponed for a period of twenty-four (24) months or for such other period as the court may determine to enable the Plaintiff/Applicant redeem Land Reference No.43959/73.
 - f. An order do issue for an independent audit of the application and computation of the principal and interest due on account of the loan.
 - g. In the alternative to prayer No.(e), an order do issue for the substitution of the suit property i.e Land Reference No.13537/22 Thika Municipality with a property of similar value to the outstanding loan.
 - h. General damages.
 - i. The costs of this suit together with interest thereon at court rates and for such a period as this Honourable Court may deem fit.
 - j. Such other or further relief that this Honourable Court may deem fit and just to grant.
3. The 1st Defendant filed Amended Defence and Counter-claim dated 21st July, 2023. Thereafter, the 1st Defendant filed Request for Judgment dated 22nd February, 2024 on the grounds that the Plaintiff had failed to file Defence/Reply to Counter-claim within the required time and has thus urged the court to enter Judgment against the Plaintiff in the sum of Kshs.52,815,913.00 plus costs and interest of the suit at court rates.
 4. On perusing the record, the court confirms that the Affidavit of Service sworn by Martin Ajega on 22nd February, 2024 confirms service of the Defence and Counter-claim upon the Plaintiff. The court finds that the Plaintiff was properly served and an Affidavit of Service duly filed in court.
 5. In view of this, the court proceeds to enter Judgment against the Plaintiff in the sum of Kshs.52,815,913.00 together with costs and interest of the suit pursuant to Order 10 Rules 10 of the Civil Procedure Rules.

It is so ordered.

**RULING DATED AND SIGNED AT KIAMBU THIS 15TH DAY OF ...NOVEMBER, 2024.
(UPLOADED VIA ELECTRONIC MAIL)**

D. O. CHEPKWONY

JUDGE

