



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT NAIROBI**

**ELC CIVIL CASE NO. 666 OF 2017**

**GODFREY KIARIE KIMANI & MARY WANGUI MUNGAI KIARIE.....1<sup>ST</sup> PLAINTIFFS**

**MOSES NDIRANGU MUBEA & ZIPPORAH WAMBUI NDIRANGU.....2<sup>ND</sup> PLAINTIFFS**

**VERSUS**

**RYAN PROPERTIES LIMITED.....DEFENDANT**

**RULING**

1. Before me is a Notice of Motion application dated 23<sup>rd</sup> July 2021 where the Plaintiffs are seeking the following order;

**i. THAT the Arbitral Award dated 30<sup>th</sup> November, 2020 and Additional Award/Clarification of the award dated 4<sup>th</sup> June, 2021 be filed in Court under Section 4 (1) of the Arbitration Rules, 1997.**

2. The application supported by the Plaintiffs' advocate's affidavit dated 23<sup>rd</sup> July 2021 is premised on grounds that **Section 4 (1)** of the **Arbitration Rules, 1997**, provides that an arbitration award should be lodged in court before an application for its enforcement is made. The award dated 30<sup>th</sup> November 2020 and additional award dated 4<sup>th</sup> June 2021 made in favour of the Plaintiffs was as a result of a dispute over sale agreement dated 2<sup>nd</sup> April 2012 between the Plaintiffs and the Defendant.

3. No replying affidavit was filed.

4. **Article 159(2) (c)** of the **Constitution of Kenya, 2010** provides that:

**“In exercising judicial authority, the courts and tribunals shall be guided by ... alternative forms of dispute resolution including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms shall be promoted...”**

5. Further, **Section 36** of the **Arbitration Act** provides for the recognition and enforcement of arbitration awards as follows:

**“(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.”**

6. There is no indication on record that the Defendant has contested the award or has sought for it to be set aside. The Defendant has also not filed a replying affidavit to the application. In the circumstances, I find that the **The application dated 23<sup>rd</sup> July 2021 is merited, the same is hereby allowed as drawn.**

**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 8TH DAY OF DECEMBER, 2021 THROUGH MICROSOFT TEAMS.**

**LUCY N. MBUGUA**

**JUDGE**

**In the presence of:-**

Wamai for the Plaintiff

