



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI LAW COURTS

FAMILY DIVISION

HCC CASE NO. 48 OF 2018 (OS)

IN THE MATTER OF DIVISION OF MATRIMONIAL PROPERTY

AND

IN THE MATTER OF MATRIMONIAL PROPERTY ACT, 29013

BETWEEN

JWM.....APPLICANT

-VERSUS-

ANKW.....RESPONDENT

JUDGMENT

1. The applicant JWM and the respondent ANKW. got married at the Holy Family Cathedral in Nairobi on 1st March 1980. The marriage was dissolved on 26th February 2009. They have four adult children.
2. In the cause of the marriage they acquired three properties. The parties jointly contributed to the acquisition and development of the properties. The properties are:-
 - a) House No. H.**** – Umoja Estate, Phase I;
 - b) LR No. **** – South Ruiru, Kiambu Township; and
 - c) Plot No. D-****- Dandora Area 4, Nairobi.
3. The applicant filed this originating summons dated 1st August 2018 asking that the properties be declared to be matrimonial property. He asked that it be declared that he contributed 70% and the respondent 30% in property (2(a)); he contributed 65% and the respondent 35% in property (2(b)); and that their contribution to the acquisition of property (2(c)) was equal. The prayer was that the properties and their developments be valued, sold and the proceeds shared in the stated ratios.
4. The respondent was served but did not defend the originating summons.
5. The applicant testified to support the summons and his evidence was not challenged. He abandoned his claim on Dandora property which he said should go to the respondent. On Umoja property, he stated that he would claim only 20% over Umoja property, and gift his daughter with the 20%. That means that the respondent would keep 80% of it. He asked to keep the Ruiru property absolutely (100%). Counsel Mr Siagi informed the court that the applicant made these concessions on the property after he had a discussion with the daughter.
6. On the evidence, I allow the originating summons in the following terms: -
 - (a) the respondent shall absolutely keep and be registered in respect of plot No. D – **** – Dandora Area 4 – Nairobi;

(b) the applicant shall absolutely keep and be registered in respect of LR No. **** - South Ruiru, Kiambu township; and

(c) the respondent shall be registered in respect of House No. H **** – Umoja Estate Phase I to hold in trust for herself (80%) and for their daughter (20%).

7. I make no order as to costs.

DATED and DELIVERED at NAIROBI this 5TH NOVEMBER 2020.

A.O. MUCHELULE

JUDGE