



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

MILIMANI COMMERCIAL & TAX DIVISION

CIVIL CASE NO. 235 OF 2013

KAMUINGI HOUSING COMPANY LIMITED.....PLAINTIFF

-VERSUS-

THE REGISTRAR OF COMPANIES.....1ST DEFENDANT

THE NON. ATTORNEY GENERAL.....2ND DEFENDANT

AND

WAMBUI KINUTHIA & 10 OTHERS.....1ST INTERESTED PARTIES

DUNCAN NDEGWA WARUI & 19 OTHERS....2ND INTERESTED PARTIES

RULING

1. This matter involves disputes on who are the genuine shareholders of **Kamuingi Housing Company Limited** (the Company). The company is a land buying company.

2. Before me is a Notice of Motion application dated 21st December 2018. The application seeks orders that:

1) The Court do order that the process of vetting the of the bonafide shareholders of the company as contained in paragraph 1(c) of the Orders of Court of 21/11/2013 and 18/02/2014 (Hon. Mr. Justice Havelock) be carried out by the Registrar of Companies using the following documents as the benchmarks:-

a) Members who were vetted and obtained the clearance from the Registrar of Company to enter Tom Mboya Hall during the meeting of 21/02/2014 respecting which meeting a report dated 27/03/2014 was filed in Court on 28/03/2018 by the Assistant Registrar of Companies.

b) The list of members as per the Registrar published by Nairobi City Commission in Kenya Times publication of 17/10/1987 and 18/10/1987.

2) Any person unable to prove his link to any of the two documents in addition to proof of possession of original share certificates shall be deemed a non-shareholder.

3) Upon compilation and filing in Court of the list of shareholders of the Plaintiff, paragraph 2 of the Orders of Court of 21/11/2013 to take effect.

3. There has been various order made, previously, in this matter where the Court was ordered the verification of the genuine shareholders of the company. The Registrar of Companies did such an exercise and made a report, which is in this file, dated 27th March 2014. The recommendation of the Registrar of the Companies as seen in that report is:

“We would therefore be of the considered opinion that an all encompassing process of identification of the true shareholders of the company be made with a specific register file with the Registrar of the company being the reference point, we propose the register filed in 1982 as it is the current complete register in the file. Thereafter members should trace their roots to the register. The company should then be dissolved once the issues of the plots are sorted out.”

4. That recommendation of the Registrar of Companies is, in my view, the most viable option. The parties who have filed affidavit, herein for other methods to be applied to determine the true shareholders are self-serving and I will not grant them.

5. I have also noted that the Director, Land Administration, in the Ministry of Lands and Physical Planning is desirous of preparing leases emanating from the subdivision of L.R. No6824 Kamorock. This process is hampered, for one, by lack of list of names of shareholders and their national identity number. That list can only be obtained by the Registrar of companies undertaking verification process.

6. In view of the above I make the following orders:

a) The Registrar of Companies shall within 90 days from today carryout a process of identifying the true genuine shareholders of KAMUINGI HOUSING COMPANY LIMITED.

b) The companies Registrar shall file in this Court such a list required under (a) above.

c) At the reading of this Ruling the Court will give a date when this matter shall be before Court for directions.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 4TH DAY OF OCTOBER, 2019.

MARY KASANGO

JUDGE

Ruling Read and Delivered in Open Court in the presence of:

Sophie..... COURT ASSISTANT

..... FOR THE 1ST PLAINTIFF

..... FOR THE 2ND PLAINTIFF

..... FOR THE 1ST DEFENDANT

..... FOR THE 2ND DEFENDANT