



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL SUIT NO. 487 OF 2012

WILD ELEGANCE FASHIONS LIMITED.....PLAINTIFF

VERSUS

STEPHEN KINYANJUI MBURU

MATIC GENERAL CONTRACTORS LIMITED.....DEFENDANTS

RULING

1. The dispute between the Plaintiff and the Defendants is an amount of money alleged to be lost in a purported sale of various pieces of land alleged to be non-existent. When this matter came up on 5th March, 2015, Mr. Amolo learned counsel for the Defendants sentimented that this matter could be best handled by the Land and Environment Court since the contract arose out of a Land transaction. Once a question of jurisdiction is raised, this court is obliged to decide the issue.

2. The Respondent on this point cited **Owners of the Motor Vessel “Lilian S” Caltex Oil (Kenya) Ltd (1989) KLR 1** as referred to in **Republic v. Chairman, Uasin Gishu Land Disputes Tribunal & 2 Others, Kaptich Arap Morogo Ex parte (2014) eKLR**. Where it was stated:-

“Jurisdiction is everything. Without it, a court has no power to make one more step.” Any decision, however well reasoned, made out of jurisdiction is a nullity and cannot be given effect.”

3. The Plaintiff's claim is for KShs. 24,220,000/= alleged to have been paid to the Defendants on account of purported sales of various pieces of land being L.R. 209/11828 and L.R. 209/11822 which the Plaintiff claims was later found to be non- existent. It was the Plaintiff's claim that the Defendants were unable to complete the transactions and had no titles to the parcels of land but refused to refund the money. Among the orders sought were:-

- a. KShs. 24,220,000/= being the amount paid pursuant to the agreement for sale of the suit properties and acknowledged by the Defendants.
- b. Interest on (a) above at 20% being the prevailing commercial rate from the date of filing suit until payment in full.

4. It is thereby important to discuss the scope of the Environment and Land Court vis a vis the pleadings herein. Section 13 (2)(d) of the Environment and Land Act is to the effect that the Environment and Land court shall have the power to hear and determine disputes relating to public, private and community and contracts, choses in action or other instruments granting any enforceable interests in land. The action herein having arisen from a failed contract of land transaction squarely falls within the jurisdiction of the Environment and Land Court. The hearing of this case has not commenced, therefore as per the practice

directions of 9th November, 2012 vide Gazette Notice No. 16268, this suit should be transferred to the Environment and Land Court. I thereby make the following orders:-

- a. That this court has no jurisdiction to hear this matter and herein downs its tools.
- b. This suit be transferred to the Environment and Land Court for hearing and determination.

Orders accordingly.

Dated, Signed and Delivered in open court this 8th day of May, 2015.

J. K. SERGON

JUDGE

In the presence of:

Kaka h/b for Nyaaga for the Plaintiff

N/A for the Defendants