



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**ELC CASE NO. 621 OF 2015**

**MC CONNECTIONS LIMITED.....PLAINTIFF**

**VERSUS**

**GAMI PROPERTIES LIMITED .....DEFENDANT**

**RECUSAL ORDER AND DIRECTIONS**

1. This matter was scheduled for delivery of judgment today, 17/9/2020. Oral evidence in the matter was taken on 19/2//2020. Parties subsequently filed and exchanged written submissions. The plaintiff is represented by the Firm of **Nyaanga & Mugisha Advocates** while the defendant is represented by the Firm of **J S Khakula & Company Advocates**.
2. In June 2020, the Judicial Service Commission published the **Judicial Service (Code of Conduct and Ethics) Regulations 2020**. Among other things, the Code defines persons who constitute membership of a judge's family. Secondly, Regulation 20(1) of the Code requires every judge to avoid being in situations where personal interests conflict or appear to conflict with the judge's official duties. Thirdly, Regulation 21 expressly requires a judge to recuse himself in any proceedings in which the judge's impartiality may reasonably be questioned on account of: (a) the judge's personal interest or the judge's relationship with a person who has a personal interest in the outcome of the matter; or (b) a member of the judge's family has economic or other interest in the outcome of the matter; or (c) any other sufficient reason.
3. While preparing judgment in this matter, it came to my notice that the plaintiff is represented by a law firm where my daughter worked until September 2019 when she left for her doctorate programme in the UK. An online search at the Law Society of Kenya nonetheless reveals that she presently has a current practising certificate and she is still designated as practising in the Law Firm of **Nyaanga & Mugisha Advocates**. My adjudication of this dispute in the present circumstances and in the face of the now published Judicial Code has become untenable.
4. Had the Code been published prior to the hearing of this suit, I would have excused myself at that point. The Code is nonetheless currently in force and binds me as a judge at this point of the proceedings. The Code serves to protect the integrity of judicial processes and the judicial institution as a whole.
5. In light of the above reasons, I am constrained to, and hereby recuse myself from continuing to adjudicate this dispute. This development is regrettable but necessary. As stated, this development has been necessitated by the recently published Judicial Code.
6. Consequently, the judgment date given in the consolidated causes is hereby vacated. The consolidated causes shall be mentioned before the Presiding Judge of the ELC on 24/9/2020 for allocation to a different judge.
7. The court expresses its regrets and apologies to the parties and to the respective advocates.

**DATED, SIGNED AND DELIVERED AT NAIROBI ON THIS 17TH DAY OF SEPTEMBER 2020**

**B M EBOSO**

**JUDGE**

**In the presence of: -**

Mr Dachi for the Plaintiff

Shikhu holding brief for Mr Khakula for the Defendant

Court Clerk - June Nafula