

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC MISC. APPLICATION NO. E064 OF 2020

IN THE MATTER OF RELIABLE REALTY MANAGERS LIMITED

AND

IN THE MATTER OF THE COMPANIES ACT, 2015

AND

IN THE MATTER OF AN APPLICATION FOR EXTENSION OF TIME FOR

REGISTRATION OF A CHARGE BY RELIABLE REALTY MANAGERS

LIMITED IN FAVOUR OF FAMILY BANK LIMITED

FAMILY BANK LIMITED.....APPLICANT

RULING

What is before me is the application by Family Bank Limited (“the applicant”) brought by way of Notice of Motion dated 12/10/2020 under Section 888 of the Companies Act No. 17 of 2015 (“the Act”). In the application, the applicant has sought extension of time by 30 days to register a charge by Reliable Realty Managers Ltd. dated 12th August, 2020 in favour of the applicant over L.R No. 13623/3. I have looked at Section 888 of the Act. The same gives “the court” power to extend the time set under the Act for registration of charges. Before considering the application on merit, I found it necessary to ascertain whether I have jurisdiction to grant the order of extension sought by the applicant. Under Section 3 of the Act, “the court” is defined as follows:

“ “the court” means (unless some other court is specified) the High Court.”

Section 888 of the Act has conferred the power to extend time for registration of charges upon “the court”. The section has not indicated which court is to exercise the power. In the absence of such indication or specification, the provisions of section 3 of the Act comes into play. That section as mentioned earlier, defines the court as the High Court where no other court is specified. In the circumstances, it is my finding that the court with jurisdiction to extend time under Section 888 of the Act is the High Court. Consequent to that finding, I hereby transfer this suit to the Commercial Division of the High Court at Milimani Law Court for hearing and final determination. In view of the urgency involved, the matter shall be placed before the Presiding Judge/Duty Judge of the Division as soon as possible for appropriate directions on the pending application.

Dated and Delivered at Nairobi this 19th Day of October, 2020

S. OKONG’O

JUDGE

Judgment delivered through Microsoft Teams Video Conferencing Platform in the presence of:

Ms. Munyasia for the Applicant

Ms. C. Nyokabi-Court Assistant