

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI

(MILIMANI COMMERCIAL COURTS COMMERCIAL AND TAX DIVISION)

CIVIL CASE 198 OF 2009

REDHOOD DEVELOPMENTS LTD.PLAINTIFF

VERSUS

SPEEDWAY INVESTMENTS LTD.DEFENDANT

RULING ON PRELIMINARY OBJECTION

Plaintiff made application dated 23/3/2009 seeking orders of injunction regarding property described as 2 bedroom apartment AB2, Block A – L.R. No.330/667, Cedar Valley, Nairobi.

The objection taken is that no contract exists between the parties in view of **Section 3 (3)** of the **Law of Contract Act, Cap.23**. That **Section** states no suit shall be brought upon a contract for disposition of any interest in land unless the contract is in writing and is signed by all parties thereto and incorporates all the parties thereto and incorporates all the terms which the parties have expressly agreed in one document and the signature of each party signing has been attested by a witness who is present when the contract was signed by that party.

In view of the said provisions the preliminary objection is upheld. There was no contract between the parties whether payment was made or not. The **Act** does not mention anything to do with money. It is clear the money paid if any, becomes a debt. The application allowed. The suit and application are herewith dismissed with costs.

It is so ordered.

DATED and DELIVERED at Nairobi this 5th day of May 2009.

JOYCE N. KHAMINWA

JUDGE