

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (MILIMANI COMMERCIAL COURTS)

Civil Case 412 of 2009

MOSES KARUMBO NJENGAPLAINTIFF

VERSUS

SILVIA KAGENDO AKUBU 1ST DEFENDANT

BALOZI HOUSING CO-OP. SOCIETY LTD. 2ND DEFENDANT

R U L I N G

Application dated 10/6/09 (Amended Chamber Summons) supported by affidavit of Moses Karumbo Njenga, he was allocated plot No. 363 Phase II of Muthaiga Gardens Estate in consideration of:-

“the sum of Kshs.2,254,649/= due to you vide our statement of account for house No.421

We confirm the plot is free from any liens, encumbrances and claims by third parties.”

Certificate of ownership was issued. Consent offered plot 363. It was confirmed the Kshs.2,254,649/= belonged to the plaintiff and the suit premises (plot) belonged to him. There is a dispute now and it appears both the plaintiff and defendants are members of a Co-operative Society called Balozi Housing Co-operative Society Ltd., with a certificate of registration. Disputes between members of a Co-operative Society or between the members are dealt with under the Co-operative Societies Act. The issue is raised in the replying affidavit.

This court has no jurisdiction. It is ordered that this suit be transferred to the Co-operative Tribunal for hearing and final disposal.

The plaintiff shall pay the costs so far incurred.

It is so ordered.

DATED, SIGNED and DELIVERED at Nairobi this 7th day of July, 2009.

JOYCE N. KHAMINWA

JUDGE