

REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NUMBER 3250 OF 1995**

DANDORA HOUSING SCHEMES LIMITED..... PLAINTIFF

VERSUS

CITY COUNCIL OF NAIROBI DEFENDANT

RULING

When I was requested by Counsel for the plaintiff, Mr. D.K. Thuo, to record a consent order in terms of the letter dated 26th June 1998 signed by the Advocates for the plaintiff and the advocates for the defendant, I asked for time to peruse the case file before recording the consent.

I have now perused the court case file and hold the opinion that it will not be proper to record a consent in the terms proposed in the consent letter dated 26th June 1998 for a number of reasons; among them the following:

First the proposed consent has the Effect of settling the suit through The Notice of Motion dated 20th February 1998 without reference to the amended plaint of same dated

Secondly prayers in the plaint, prayers in Notice of Motion and the prayers the Consent Letter are not consistent and it will be difficult to execute the prayers in the consent letter.

Thirdly, if the suit premises was vested in the Plaintiff by an order of the High Court given on 13th March 1985 in HCCC 1348 of 1972, I do not see the proprietor of a declaratory prayer for ownership of the suit and of prayer (i) in the consent letter.

Fourthly while it may be doubted whether the so called "Certificate of Title" being relied upon by the plaintiff in this suit is a proper lawful document to prove proprietorship, the said "Certificate of Title" is said to be in the name of "Kiambu Dandora Farmers Company" and not the name of the Plaintiff herein, "Dandora Housing Schemes Limited"

Fifthly, having obtained a vesting order in HCCC No.1348 of 1972 there is no evidence that that vesting order or a transfer giving effect to the vesting order was registered under the Regulation of Titles Act.

I think the court is being asked, through the consent letter dated 26th June 1998, to make a bad order and same should not be granted.

Dated this 20th July 1998 in the presence of.....

J.M. KHAMONI

JUDGE

Present:

Mr. Njoroge for Mr. Thuo for the plaintiff/applicant.

J.M. KHAMONI

JUDGE