

IN THE REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT NAIROBI

ELC NO. 350 OF 2019

MWANZO BUILDING MART LIMITED & 5 OTHERS.....PLAINTIFFS

=VERSUS=

EMBAKASI RANCHING COMPANY LTD & ANOTHER.....DEFENDANTS

RULING

1. This is a Ruling in respect of a Notice of Motion dated 7th November 2019. The application is brought by the Applicants who are seeking for a temporary injunction restraining the Respondents from preparing processing, facilitating and/or signing any leases or issuing title deeds with respect to LR Nos. Nairobi/Block 136/19818, 136/19819, 136/19829, 136/19830, 136/19859, 136/19863, 136/19860, 136/19864, 136/19861, 136/19865, 136/9846, 136/9865, 136/9864, 136/9847, 136/9819, 136/8510, 136/8511, 136/8530, 136/8531, 136/8532, , 136/8533, 136/8534, 136/8535, 136/21533, 136/21532, 136/21573, 136/21574, 136/21575, 136/21579, 136/21580, 136/21581, 136/21582, 136/21514, 136/21515, 136/21516, 136/21517, 136/21520, 136/21521, 136/21524, 136/21525, 136/2158, 136/2159, 136/19816, 136/19817, 136/19827, 136/19828, 136/19851, 136/19855, 136/19852, , 136/19856, 136/19853, 136/19857, 136/19781, 136/19780, 136/19777, 136/19776, 136/8503, 136/8504, 136/8505, 136/8506, 136/8512, 136/8513, 136/8514, 136/8529, 136/21605, 136/21606, 136/21586, 136/21587, 136/21588, 136/21592, 136/21593, 136/21600, 136/21599, 136/21598, 136/21597, 136/21609, 136/21607, 136/21608, 136/21610, 136/21601, 136/21602, 136/21603, 136/21604, 136/21611, 136/21612, 136/21617, 136/21601, 136/21602, 136/21603, 136/21604, 136/21612, 136/21617, 136/21618, 136/21619, 136/21613, 136/9866, 136/9873, 136/9818 and 136/9872 to any other persons other than the Plaintiffs/Applicants pending the hearing and determination of the main suit.

2. The Respondents who were duly served with the Notice of Motion neither filed grounds of opposition nor replying affidavit. The Applicants contend that they are owners of the plots mentioned in paragraph 1 hereinabove. They purchased their respective plots from the 1st Respondent and were given non-member ownership certificates. The Applicants have been farming their respective plots since 2005.

3. The 1st Respondent undertook the process of subdivision and their plots were given parcel numbers. The 1st Respondent then advised the Applicants to wait for the Ministry of Lands and Physical Planning to release leases in respect of the suit properties for signing and thereafter issuance of titles. On 22nd October 2019, the applicants came across a public notice by Ministry of Lands and Physical Planning published in the local dailies to the effect that the Ministry was finalizing processing titles. The owners of land within the 1st Respondent were asked to go to the 1st Respondents office to verify whether their plots had been processed and approved for titling.

4. When the Applicants went to the offices of the 1st Respondent, they were told that their plots did not exist in the systems of the 1st Respondent. The Applicants are therefore apprehensive that titles could be processed and given to third parties because they know about the fraudulent activities of the 1st Respondent.

5. Though this application was not opposed, I have carefully considered it in light of the prayers being sought. It is in public knowledge that the 1st Respondent has been behind the trouble of mismanagement of the property which belongs to its shareholders. Because of this, the government through the Ministry of Lands and Physical Planning directed the 1st Respondent to carry out a verification exercise as to who owns what in the farm which was owned by the 1st Respondent on behalf of its shareholders.

6. The process which is being undertaken is so important as it will go a long way to resolve the perennial problems facing the 1st Respondent. It will therefore be against the public interest that such a process is stopped. If the Applicants contention is that they genuinely purchased their plots and were put in possession, I do not understand how then titles can be processed in names other than theirs. If the Applicants have genuine documents, then this must be reflected in the systems of the 1st Respondent. If it turns out that persons other than the Applicants have titles in respect of plots held by the Applicants, those titles will always be cancelled. It is on this basis that I dismiss the Applicants application with no orders as to costs.

It is so ordered.

Dated, Signed and delivered at Nairobi on this 5th day of December 2019.

E.O.OBAGA

JUDGE

In the presence of:

M/s Wambui for Mr Kisaka for Applicants

Court Assistant : Hilda

E.O. OBAGA

JUDGE