



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT NAIROBI**

**E.L.C. CASE NO. 761 OF 2017**

**RURIGI ENTERPRISES LIMITED.....PLAINTIFF**

**VERSUS**

**A.BAUMAN & COMPANY LIMITED.....DEFENDANT**

**JUDGEMENT**

1. The Plaintiffs seeks an order directing the Registrar of this court to execute the lease and sign the transfer in its favour in respect of L.R. No. 1870/VIII/159 ("the Suit Property"). The Plaintiff entered into an agreement with the Defendant for the sale of the Suit Property in 1998 at the agreed consideration of Kshs. 10,000/=. The Plaintiff maintains that it paid the full purchase price.
2. Keshar Shiani & Company Advocates, who were acting for the Defendant in the sale transaction, confirmed to the Plaintiff's advocates M/s Wambugu & Company Advocates on 21/4/1999 that the Plaintiff had fully paid the purchase price and the advocates were waiting to have the lease extended before registering the title over the Suit Property in the Plaintiff's name.
3. On 10/5/1999, Keshar Shiani Advocates wrote to the Plaintiff advising it not to lodge the documents for registration until the extension of the lease was completed since it was the Defendant who sought the extension of lease. The advocates promised to register the transfer in favour of the Plaintiff once the lease was extended. A letter on the Defendants note paper dated 23/6/1999 addressed to Wambugu and Company Advocates who were following up the extension of the lease, confirmed that the Defendant had received the sale proceeds and wished to transfer the land to the Plaintiff.
4. The Plaintiff appointed Nelson Harun & Company Advocate to act for it. The demand note for fees before releasing the indenture documents from these advocates dated 15/6/2009 was presented by the Plaintiff's together with the complaint made against these advocates when they failed to furnish the documents to enable the Plaintiff to complete the transaction.
5. The Plaintiff also annexed a copy of the lease dated 8/9/2017 prepared by the Land Registrar granting the Defendant a lease over the Suit Property for 50 years with effect from 1/6/2003. The Plaintiff avers that it has been unable to trace the Defendant to execute the lease and subsequently transfer the Suit Property to the Plaintiff.
6. The Plaintiff obtained orders to serve the Defendant by substituted means. The Plaintiff only wrote to the Nairobi Securities Exchange on 23/10/2017 seeking to be furnished with the contact details of the Defendant. However, the Plaintiff did not produce any evidence from the Registrar of Companies on the status of the Defendant company. The Plaintiff did not attach a copy of the sale agreement it entered into with the Defendant. Nor did it disclose whether it is in possession of the Suit Property or not.
7. Based on the evidence placed before the court, the court finds that it is just and meet for the Registrar of the court to execute the lease on the part of the Defendant. Once the Plaintiff provides evidence from the Registrar of Companies confirming that the Defendant was deregistered, the Registrar will execute the transfer of lease over the Suit Property to the Plaintiff. Costs will be in cause.

**Dated and delivered at Nairobi this 26<sup>th</sup> day of July 2018.**

**K. BOR**

**JUDGE**

**In the presence of: -**

Mr. Kimani for the Plaintiff

No appearance for the Defendant

Mr. V. Owuor- Court Assistant