



REPUBLIC OF KENYA



KENYA LAW
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**Mboho v Mohammed (Environment & Land Case E417 of 2022)
[2025] KEELC 976 (KLR) (27 February 2025) (Ruling)**

Neutral citation: [2025] KEELC 976 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E417 OF 2022
TW MURIGI, J
FEBRUARY 27, 2025**

BETWEEN

EMMANUEL UDOH MBOHO APPLICANT

AND

FATHUDIN ALI MOHAMMED RESPONDENT

RULING

1. Before me for determination is the Notice of Motion dated 14th June 2024 brought under Sections 1A, 1B, 3A and 98 of the [Civil Procedure Act](#), Order 51 of the Civil Procedure Rules, in which the Applicant seeks the following orders:-
 - a. That the Deputy Registrar of this Honourable Court be pleased to execute the Transfer instruments in respect of Apartment Number B8-1 erected on Land Reference Number: 1/395 (Original Number 1/385/5) in favour of the Decree Holder as decreed in the judgment delivered on 9th October 2023.
 - b. That the costs of this application be provided for.
2. The application is premised on the grounds appearing on its face together with the supporting affidavit of Chris Kabiro sworn on even date.

The Applicant's Case

3. The deponent averred that he is an Advocate having conduct of this matter on behalf of the Applicant/ Decree Holder.
4. He deposed that on 9th October 2023, this court entered judgment in terms of the consent order dated 18th September 2023 filed by the parties herein.



5. He further deposed that on 24th October 2023, his firm delivered to the judgment debtor's Advocate a duly executed lease over Apartment Number B8-1 for execution and registration in accordance with the consent judgment.
6. He averred that the judgment debtor has neither delivered the executed lease nor provided evidence that he had lodged the same for registration to the Lands Office despite numerous requests to do so.
7. In conclusion, the deponent urged the court to allow the application as prayed.
8. The Respondent did not file any response to the application.
9. The application was canvassed by way of written submissions. The Applicant filed his submissions dated 20th February, 2025 which I have duly considered. As at the time of writing this ruling, the Respondent had not filed his submissions as directed.

Analysis and Determination

10. Having considered the application and the submissions by the Applicant, the only issue that arises for determination is whether the Applicant is entitled to the orders sought.
11. The Applicant is seeking orders that the Deputy Registrar of this court executes the transfer instruments on behalf of the Respondent.
12. Section 98 of the *Civil Procedure Act* provides that:-

“Where any person neglects or refuses to comply with a decree or order directing him to execute any conveyance, contract or other document, or to endorse any negotiable instrument, the court may on such terms and conditions, if any, as it may determine order the conveyance, contract or other document shall be executed or that the negotiable instrument shall be endorsed by the such person as the court may nominate for that purpose and a conveyance, contract, document or instrument so executed or endorsed shall operate and be for all purposes available as if it had been executed or endorsed by the person originally directed to execute or endorse it.”
13. The record shows that the parties herein filed a consent order dated 18th September 2023. On 9th October 2023, this court entered a consent judgment in the following terms: -
 - i. That the Defendant executes the lease over the Apartment Number B8-1 erected on Land Reference Number 1/395 (Original Number 1/385/5) within the next thirty (30) days.
 - ii. That the Defendant undertakes registration of the duly executed lease over the aforesaid Apartment in favour of the Plaintiff within ninety (90) days of execution of the Lease as provided for in clause 12 of the Agreement for Sale dated 18th January 2017.
 - iii. That upon registration of the said Lease, the Defendant delivers to the Plaintiff's Advocates the ownership documents set out in clause 12 of the Agreement for Sale.
 - iv. That the Defendant pays the costs of this suit to the Plaintiff. The same to be agreed or taxed.
14. The Applicant annexed copies of the Lease (CK-2) and a letter forwarding the Lease to the Judgment Debtor's Advocate (CK-3) to his supporting affidavit.



15. The Respondent did not adduce any evidence to show that he executed and forwarded the Lease to the Lands Office for registration. It is evident that the Respondent has failed to execute the lease agreement and forward the same for registration to the Lands Office.
16. From the foregoing I find that the Applicant has demonstrated merit in his application.
17. The upshot of the foregoing is that the application dated 14th June, 2024 is hereby allowed as prayed with costs to be borne by the Respondent.

RULING DELIVERED DATED AND SIGNED THIS 27TH DAY OF FEBRUARY 2025.

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T. MURIGI

JUDGE

In the presence of: -

Mbugua Njoroge for the Applicant

Ms Otieno holding brief for Owino for the Respondent.

Ahmed – Court assistant

