



**Odiyo v Agili & 4 others (Environment & Land Case E088 of 2024)
[2024] KEELC 1551 (KLR) (22 March 2024) (Ruling)**

Neutral citation: [2024] KEELC 1551 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E088 OF 2024**

**MD MWANGI, J
MARCH 22, 2024**

BETWEEN

BEATRICE ACHIENG ODIYO APPLICANT

AND

DANIEL OSESE AGILI 1ST RESPONDENT

LENANA GARDENS LIMITED 2ND RESPONDENT

LENANA PHASE ONE MANAGEMENT LIMITED 3RD RESPONDENT

**LENANA GARDENS APARTMENT MANAGEMENT COMPANY
LIMITED 4TH RESPONDENT**

VILLA CARE MANAGEMENT LIMITED 5TH RESPONDENT

RULING

1. The Defendants in their replying affidavit in response to the Plaintiff's application herein, dated 4th March 2024, raised an objection to the jurisdiction of this court to entertain the application filed by the Plaintiff and the entire suit. In his submissions before the court, the Defendants' Advocate explained that the Chief Justice issued a notice dividing the Environment and Land Court (ELC) into two Divisions, being the Environment and Planning Division and the Land Division. He opined that in view of the issues raised in this case, the Division with the jurisdiction to handle the matter is the Environment and the Planning Division; not the Land Division.
2. The Defendants' Advocate was right in regard to the establishment of the two Divisions of the Environment and Land Court. On the 31st July, 2023, the Chief Justice of this country, Hon. Lady Justice Martha Koome, officially launched the two divisions of the Environment & Land court; the Environment and Planning Division, and the Land Division.



3. The establishment of the two Divisions is an administrative decision aimed at enhancing efficiency in case management and effectiveness in adjudication of disputes through the adoption of a specialized approach to justice delivery.
4. Consequently, Judges of the ELC are posted in either of the Divisions from time to time. The posting of a Judge in one of the Divisions however does not take away his jurisdiction as an ELC Judge.
5. I am sure that what the Advocate for the Defendants meant was that the matter ought to have been filed and registered under the Environment and Planning Division. If that were so, the Judge has the authority to direct that it be transferred to that Division despite him/her having the jurisdiction to handle and entertain it.
6. Nonetheless, I have carefully evaluated the Plaintiff's case as stated in the Plaint dated 4th March, 2024.
7. The Plaintiff pleads that she is the registered owner of apartment C7 erected on land parcel No. Dagoretti/Mutuini/618 which is owned by the 2nd Defendant. Her complaints against the Defendants includes unlawful disconnection of electricity, non-maintenance of a broken-down perimeter wall, failure to allocate her parking space, untreated borehole water subjecting her to health risks and failure to partially discharge the apartment to allow processing of title/sublease in her name.
8. The Plaintiff's complaints relate to 'title to land' and 'use of land'. Her cause of action therefore falls squarely within the jurisdiction of the ELC and more particularly, the Land Division.
9. The Objection by the Defendants is unmerited and is disallowed.
10. The Court shall therefore, having dispensed with the Defendants' objection, proceed to give directions on the hearing of the application dated 4th March, 2024 and the main suit herein.

RULING DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI ON THIS 22ND DAY OF MARCH, 2024.

M.D. MWANGI

JUDGE.

In the virtual presence of:

Ms. Ngire for the Plaintiff/Applicant

Mr. Nyamagwa for the Defendants/Respondents

Court Assistant: Yvette.

M.D. MWANGI

JUDGE.

