

REPUBLIC OF KENYA
IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: TUNOI, SHAH & BOSIRE JJ.A.)

CIVIL APPLICATION NO. NAI 134 OF 2000 (61/2000 UR)

BETWEEN

**MR AND MRS AFTAB AHMED
APPLICANTS**

AND

**SAVINGS AND LOAN (K LIMITED IST
RESPONDENTS**

**MRS PHILIPA LAKIN 2ND
RESPONDENTS**

**(An application for an injunction from the ruling of the
High Court of Kenya, at Nairobi (Hon. Ransley,
Commissioner of Assize) dated 4th May, 2000**

in

H.C.C. SUIT NO. 479 OF 1999)

RULING OF BOSIRE JA

I have had the advantage of reading in draft the respective rulings of Tunoi and Shah JJ.A on this matter. I agree with the reasoning and conclusions of Tunoi JA. I would only wish to add that the major complaint by the applicants is that there was collusion between the two respondents in the sale of the suit premises to the 2nd respondent. Section 69 B (2) of the Transfer of Property Act, on which the learned Commissioner of Assize based his decision does not, prima facie, cover cases where a purchaser is shown to have acted in collusion with or been party to any irregularity connected with his acquisition of the subject property.

I agree the applicant's intended appeal raises serious arguable points and that unless a stay is granted their intended appeal, if successful will be rendered nugatory. I also agree that the applicants are entitled to a stay in terms of the order sought in their application before us and that the costs of the application be in the intended appeal.

Dated and delivered at Nairobi this 30th day of June, 2000.

S.E.O. BOSIRE

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JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR