



Green & 2 others v Certified Homes Limited & 2 others (Environment & Land Case E151 of 2024) [2024] KEELC 6250 (KLR) (19 September 2024) (Ruling)

Neutral citation: [2024] KEELC 6250 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E151 OF 2024
LN MBUGUA, J
SEPTEMBER 19, 2024**

BETWEEN

**ELIZABETH WANGARI GREEN 1ST PLAINTIFF
CAROLINE ONGITO 2ND PLAINTIFF
EDDAH WANJIKU KIMANI 3RD PLAINTIFF**

AND

**CERTIFIED HOMES LIMITED 1ST DEFENDANT
LILIAN OKETCH 2ND DEFENDANT
DENNIS OKETCH 3RD DEFENDANT**

RULING

1. This matter was mentioned before me for the very first time on 23.7.2024 when counsel for the 1st defendant indicated that they had filed a memorandum of appearance but not a defence, they sought for 14 days to file their defence. In opposition thereof, the plaintiffs contended that the issue of filing a defence has been overtaken by events as they had filed a request for judgment dated 27.5.2024 in relation to the liquidated claim.
2. There is no controversy that the 1st defendant did not file a defence as stipulated under Order 7 rule 1 and order 10 rule 4 of the Civil procedure rules. Should the court proceed to endorse the request for judgment? The right to be heard is one of the cardinal fundamental rights regarding the rules of natural justice, see Republic v Advocates Disciplinary Tribunal Exparte Apollo Mboya [2019] eKLR, Catherine Muthoni Kiriungi & Another v Chairman, Land Adjudication & Settlement Officer, Tigania East Central Division & 3 Others [2017] eKLR. In the case of Kenya Trypanosomiasis



Research Institute v Anthony Kabimba Gusinjilu [2019] eKLR, the Court of Appeal had this to say on the aforementioned rule;

“The right to be heard is a cardinal rule established under the principles of natural justice generally expressed as audi alteram partem. This Latin phrase literally translates 'hear the parties in turn' and has been appropriately paraphrased as 'do not condemn anyone unheard'. This means that a party, no matter how seemingly frivolous or inconsequential, must be given a fair hearing.”

3. In Isiolo Stage View Enterprises v Isiolo County Government & 2 others [2018] eKLR, I stated thus;

“This court is conscious of its mandate in administration of justice. The ultimate goal is to dispense substantive justice. In this case, I must balance the interests of the parties herein and to this end, I find it necessary to give parties an opportunity to bring forth all the evidence in support of their case.”

4. I find that this matter is at the infancy stage. The dictates of justice would be served better if all parties are given an opportunity to present their case. In that regard, the court declines to endorse the request for judgment. Instead, I hereby give directions for the 1st defendant to file and serve a statement of defence within 14 days failure to which, judgment shall be entered for the plaintiffs against the 1st defendant in terms of the liquidated claim set out in prayer (c) and (d) of the plaint.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 19TH DAY OF SEPTEMBER, 2024 THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:-

Arika for Plaintiff

Owiro for 2nd and 3rd Defendant

Kinoti holding brief for Kimani for 1st Defendant

Court assistant: Eddel

ELC CASE NO. E151 OF 2024 (Ruling) Page 2 of 2

