



**Katunda & 2 others v Equity Bank Limited & 7 others; Chapa
(Intended Interested Party) (Civil Case 4, 5 & 126 of 2018 & 2 of 2021
(Consolidated)) [2025] KEHC 4440 (KLR) (28 March 2025) (Ruling)**

Neutral citation: [2025] KEHC 4440 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT MALINDI
CIVIL CASE 4, 5 & 126 OF 2018 & 2 OF 2021 (CONSOLIDATED)**

**M THANDE, J
MARCH 28, 2025**

BETWEEN

**FERDINARD KENGA KATUNDA 1ST PLAINTIFF
NICHOLAS NGUMBAO KIBOGO AKA MUSA NGUMBAO
KIBOGO 2ND PLAINTIFF
JOHN LUWALI WIMBI 3RD PLAINTIFF**

AND

**EQUITY BANK LIMITED 1ST DEFENDANT
GREEN CREDIT GROUP LIMITED 2ND DEFENDANT
STEPHEN KARANJA T/A DALALI TRADERS AUCTIONEERS 3RD
DEFENDANT
GEOFFREY KOBIA THUKU 4TH DEFENDANT
ELIZABETH MUTHONI 5TH DEFENDANT
FRANCIS OTIENO ONYANGO 6TH DEFENDANT
THE COUNTY LAND REGISTRAR KILIFI 7TH DEFENDANT
GERALD IHA THOYA 8TH DEFENDANT**

AND

MARYAM CHAPA INTENDED INTERESTED PARTY



RULING

1. The Intended Interested Party (Maryam) by her Application dated 31.1.25, seeks to be joined in the proceedings herein as an interested party.
2. Maryam's case is that the property known as Kilifi/Chembe Kibambamshe/192 (the suit property) in respect of which the 2nd Plaintiff (Ngumbao) filed Civil Case No. 126 of 2018 against the Defendants, is her matrimonial home. She claims that she and Ngumbao got married on 25.5.11 and were blessed with a child Ibrahim Jefa born on 13.1.12. The marriage was however dissolved by the Kadhi on 23.5.11. (the Court notes that the dates of marriage and dissolution thereof are incorrect). Upon the dissolution of the marriage, Maryam left her matrimonial home but left Ibrahim Jefa there.
3. Maryam stated that it came to her surprise that the suit property is the subject of court proceedings and that the 1st Defendant (Equity Bank) intends to sell the same to recover an alleged loan of Kshs. 30,000,000/=. Maryam's contention is that as at 5.9.16 when the alleged transaction between Ngumbao and Equity Bank and the 2nd defendant Green Credit Group Limited was entered into, she was still married to Ngumbao but was not made aware of the same.
4. Maryam further stated that she never signed any documents nor was she made aware that her matrimonial property was being charged to Equity Bank. Further that spousal consent was not obtained prior to her suit property being charged to Equity Bank, as required under Section 93 of the *Land Registration Act*. She thus claims that her right to matrimonial property has been infringed upon and that the transaction between Ngumbao and Equity Bank and the 4th Defendant is bad in law. She urged that the orders sought herein be granted in the interests of justice and fairness.
5. Equity Bank opposed the Application vide its grounds of opposition dated 4.2.25. The grounds are that the Application is incompetent, without merit, frivolous, vexatious, misconceived, legally untenable and an abuse of the court process. Equity Bank urged that the Application be dismissed with costs.
6. The Plaintiffs supported the Application and none of the other Defendants opposed the Application.
7. Parties filed their written submissions which I have duly considered. The only issue for determination is whether Maryam should be joined in the proceedings herein as an interested party.
8. Black's Law Dictionary Tenth Edition defines "interested party as:

A party who has a recognizable stake (and therefore standing) in a matter.
9. For a party to be joined in proceedings, it must be demonstrated that such party has a clear interest and recognizable stake in the case and any orders issued by the Court would affect such party.
10. In *Kenya Medical Laboratory Technicians and Technologists Board & 6 others v Attorney General & 4 others* [2017] eKLR, Mativo, J. (as he then was) observed:

It is a fundamental consideration that before a person can be joined as party, it must be established that the party has an interest in the case. In addition, it must be clearly demonstrated that the orders sought in the suit would directly and legally affect the party seeking to be enjoined (sic).



11. And in the case of Communications Commission of Kenya & 5 others v Royal Media Services Limited & 5 others (Petition 14, 14A, 14B & 14C of 2014 (Consolidated)) [2014] KESC 53 (KLR) (29 September 2014) (Judgment) the Supreme Court held as follows:

(22) In determining whether the applicant should be admitted into these proceedings as an Interested Party we are guided by this Court’s Ruling in the Mumo Matemo case where the Court (at paragraphs 14 and 18) held:

“[An] interested party is one who has a stake in the proceedings, though he or she was not party to the cause ab initio. He or she is one who will be affected by the decision of the Court when it is made, either way. Such a person feels that his or her interest will not be well articulated unless he himself or she herself appears in the proceedings, and champions his or her cause...”

(23) Similarly, in the case of Meme v. Republic, [2004] 1 EA 124, the High Court observed that a party could be enjoined in a matter for the reasons that:

- “(i) Joinder of a person because his presence will result in the complete settlement of all the questions involved in the proceedings;
- (ii) joinder to provide protection for the rights of a party who would otherwise be adversely affected in law;
- (iii) joinder to prevent a likely course of proliferated litigation.”

12. Does Maryam have a recognizable stake in the matter herein that requires her to be joined as an interested party? Put differently, would failure to join her result in her suffering any prejudice?

13. Section 93 of the [Land Registration Act](#) relied on by Maryam does not relate to spousal consent.

14. Section 2 of the Act defines a spouse as follows:

“spouse” means either a husband or a wife married under any recognized law in Kenya;

15. From the exhibited divorce certificate, Maryam’s marriage to Ngumbao was dissolved on 23.5.11. She herself stated that the transaction in question between her former husband and Equity Bank was entered into on 5.9.16. Although she stated that she was at the time, a wife to Ngumbao, her earlier averment and documents show the contrary. In light of the foregoing, I do find that Maryam has not demonstrated that she has a recognizable stake the matter herein to warrant her joinder as an interested party.

16. In the end and in view of the forgoing, I find that the Application dated 31.1.25 lacks merit and the same is dismissed with costs to the 1st Defendant, Equity Bank Limited.

DATED, SIGNED AND DELIVERED IN MALINDI THIS 28TH DAY OF MARCH 2025

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M. THANDE

JUDGE

