Utility Defence to Construction Fire and Neighbouring Losses

Educational sample 329 | Mombasa

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE HIGH COURT AT MOMBASA

CIVIL SUIT NO [reference]

[PLAINTIFF] v [DEFENDANT]

STATEMENT OF DEFENCE

1. The Defendant denies liability for the pleaded fire loss except to the extent expressly admitted. The actual supply account, equipment boundary and authorised connection are [records]. A connection registered to a previous owner is disclosed without treating the name alone as conclusive of every duty.

2. The Defendant disputes that a supplier-side defect caused the fire. The condition of consumer-side installations, any unsafe tapping, loading and stored combustible materials require technical evidence. The Plaintiff must prove the specific omission and its causal connection to the damage claimed.

3. The Defendant answers the isolation allegation by reference to genuine call, dispatch and attendance records. The timing and practical effect of disconnection are [particulars]. This specimen does not manufacture an emergency response log or claim an earlier attendance without evidence.

4. Alternatively, contributory negligence and failure to mitigate are pleaded with supported particulars. Special damages, VAT, delay losses and alleged neighbouring losses are denied unless specifically pleaded, strictly proved and claimed by a party with the required standing or authority.

5. The Defendant seeks dismissal of unproved monetary heads and appropriate liability apportionment, interest and costs. The reported appeal ultimately found 20% utility liability and 80% developer liability; this defence does not imply the Defendant historical total-denial position succeeded.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Answer the actual numbered plaint with precise admissions, denials and material grounds. Check summons, appearance, the applicable response period, court directions and the required witness/document pack. A counterclaim or new affirmative relief requires its own proper pleading, fee and service. Do not treat a disputed factual allegation as a pure preliminary objection.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

Fire damaged a sixteen-storey residential development in Ganjoni on 3 April 2017. The developer alleged electrical faults and delayed isolation of supply, claimed KES 40,679,286 for its property and additional neighbouring losses. The utility disputed causation, supply responsibility and standing.

The 2023 trial award must be read with Kenya Power v Ganjoni [2024] KECA 1803: the Court of Appeal assigned 20% liability to the utility and 80% to the developer, rejected the special damages for lack of strict proof and reduced general damages from KES 100,000 to KES 20,000.

The later appeal is essential. Estimates did not prove actual repair expenditure on this record; unsupported claims for neighbours failed for lack of authority. Unsafe tapping, electrical causation, consumer-side responsibility and mitigation require evidence. The appellate ruling is not a licence to omit proof or claim another owner loss.

[2023] KEHC 21706 (KLR) - 4 August 2023. Source decision: https://sheriahub.com/cases/ke/caselaw/ganjoni-towers-limited-v-kenya-power-lighting-company-limited-civil-suit-35-of-2018-2023-kehc-21706-klr-4-august-2023-judgment

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/ganjoni-towers-limited-v-kenya-power-lighting-company-limited-civil-suit-35-of-2018-2023-kehc-21706-klr-4-august-2023-judgment

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.