Supplementary Affidavit Answering a Vendor Spouse s Land Claim

Educational sample 054 | Environment and Land Court at Nairobi

Educational reconstruction based on a reported Kenyan decision. This is newly drafted text, not an original court filing, not a matter handled by our team, and not proof that a sample argument succeeded. Parties, parcels and identifying case details in the specimen are replaced with bracketed fields. Do not sign, swear or file it without checking your facts, jurisdiction, applicable rules and court directions.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

CASE OR APPLICATION NO [insert appropriate reference]

[APPLICANT OR CLAIMANT] v [RESPONDENT OR DEFENDANT]

AFFIDAVIT

1. I, [authorised officer], make oath and state as follows. I am the deponent of the Applicant’s supporting affidavit and make this supplementary affidavit in response to paragraphs [numbers] of the Respondent’s replying affidavit, with leave or directions of the Court as required.

2. The Applicant is not the vendor’s spouse and was not a party to the matrimonial proceeding relied upon. I distinguish the Applicant’s corporate records from assertions about the vendor’s private affairs, of which I have no personal knowledge.

3. The Applicant obtained an official search before purchase. That search and the transfer record are annexed as S1. The documents disclose the registered ownership and the entries apparent at the relevant dates.

4. At the time of the Applicant’s inspection, the land was vacant. The inspection material available is [identify contemporaneous material]. I do not make a wider assertion about occupation or improvements at an earlier date without evidence.

5. The Respondent alleges irregular removal of an earlier caution. I annex the certified register and the registry material available to the Applicant as S2. I ask the Court to examine that issue on the actual entries and documents, rather than treating an allegation as an established defect in title.

6. The Applicant did not receive written notice of the challenged restriction and was not heard before its entry. The replying affidavit identifies [state accurately whether any notice or service evidence is exhibited]. The Applicant maintains its request for a statutory hearing.

7. I deny any collusion by the Applicant to defeat a known matrimonial right. The basis of that denial is the purchase sequence, search and correspondence annexed. I do not assert that a clear search conclusively disposes of every possible fraud or beneficial-interest claim.

8. Any order in the matrimonial file should be read according to its terms and date. I disclose [identify authenticated relevant order, if any]; no order is supplied here as a substitute for the register evidence.

9. I ask that the Court determine the removal application on the statutory procedure while leaving any substantive ownership issues to properly constituted proceedings.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [Commissioner for Oaths]. The jurat must be completed by the authorised officer; this sample has not been sworn.

Use and evidence notes

A supplementary affidavit needs an actual new issue to answer. Seek the necessary leave or comply with existing directions; do not use it to introduce an entirely different claim. Confine statements about fraud to the pleaded acts and the deponent’s knowledge.

S1 search and purchase chronology; S2 certified registry entries; S3 relevant orders and correspondence referred to in the response.

Source and procedural limits

A developer bought land for KES 12,500,000 after a registry search disclosed no encumbrance. A restriction subsequently interrupted development and off-plan sales. A spouse asserted rights connected with a pending matrimonial dispute. The registered developer said it had not been notified or heard and had unsuccessfully asked the Registrar for a hearing.

The court removed the restriction with costs because the statutory notice and hearing safeguards were not observed. It did not finally determine the matrimonial ownership dispute or declare that every allegation of fraud was false.

Land Registration Act sections 76, 77 and 78, particularly the court route under section 78(2). A restriction and a caution are different entries; obtain the actual register before choosing a remedy.

[2015] KEELC 655 (KLR) — 13 February 2015. Source: https://new.kenyalaw.org/akn/ke/judgment/keelc/2015/655/eng@2015-02-13

The linked original judgment may identify parties. This public specimen omits their names. Historical allegations are not presented as established facts. A different result in your own proceedings is possible.