Defence to Estate Land Refund Claim Based on No Authority and No Receipt

Educational sample 437 | Githongo

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 SENIOR PRINCIPAL MAGISTRATES COURT AT GITHONGO

ENVIRONMENT AND LAND CASE NO [reference]

[BUYER PLAINTIFF] v [ALLEGED VENDOR DEFENDANT]

STATEMENT OF DEFENCE

1. The defendant denies the refund claim in the plaint dated [date] except for the admissions expressly stated. She acknowledges her relationship to the deceased and the asserted beneficiary interest, but denies that this made her the registered proprietor or personal representative authorised to sell the portion at the relevant date.

2. The estate property and grant chronology are identified at [records]. The alleged agreement preceded the confirmation and identification of transferable beneficial shares. The defendant pleads the specific absence of estate authority and any resulting illegality, rather than relying on a bare denial of the plaintiff documents.

3. The defendant account is that the document was presented as a lease and that its nature was misrepresented at [particular circumstances]. The language, persons present, explanation given and complaint or cancellation response are pleaded specifically. Fraud, duress or misrepresentation is alleged only to the extent supported by genuine facts.

4. The defendant denies receiving or acknowledging the sums sought, identifying the payment route and alleged third-party benefit as disputed. Payments said to discharge a son separate court debt are not admitted as money received by this defendant merely because they concern family members.

5. The plaintiff special damages and breach allegations are denied for want of the precise payment, recipient, obligation, causation and amount pleaded and proved. The defendant does not assert that every invalid land transaction prevents all restitution against a proper recipient on a different proved basis.

6. PRAYERS: dismiss the unsupported claim against this defendant and award appropriate costs. The actual estate, execution and payment records are supplied through the lawful witness and document process. Neither this defence nor a police allegation determines criminal liability.

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

A buyer alleged purchase of half an acre of estate land from a widow/beneficiary for KES 620,000, with a KES 134,456 deposit. The widow said the document was represented as a lease and denied receipt. Payments allegedly discharged a son court debts. The April sale preceded July/August grant confirmation material. The trial at Githongo granted monetary relief.

Meru ELC allowed the widow appeal, awarding lower-court and appeal costs. It held the transaction lacked estate authority at that date and a later grant could not validate it retrospectively. The pleaded and proved link between the widow, payment, breach and special damages did not support the refund result on that record.

Separate contractual transfer, estate administration and restitution. The ruling does not bar every properly pleaded recovery after an invalid sale, and it does not convict a party of a crime. Source payment totals, dates and statements conflict; use originals. Trial specimens belong to the designated Githongo magistrate and appeals to Meru ELC, subject to actual jurisdiction and deadlines.

[2024] KEELC 6896 (KLR) - 16 October 2024. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2024/6896/eng@2024-10-16

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/mmukindia-v-bundi-2024-keelc-6896-klr

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.