Developer Replying Affidavit Distinguishing Registered Title from Arbitral Merits

Educational sample 469 | Thika

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 ENVIRONMENT AND LAND COURT AT THIKA

ENVIRONMENT AND LAND CASE NO [reference]

[CLAIMANT] v [RESPONDENT]

AFFIDAVIT

1. I am [authorised developer officer] with authority [identified] and knowledge based on [personal dealings and company records]. The project agreement and registered transfer concerning [land] are [genuine exhibits].

2. The developer position on consideration is [actual contractual payment trigger, payment and dispute]. I identify the relevant clause and receipts rather than claiming that registration alone proves every obligation was performed.

3. The agreement contains an arbitration clause at [verified number]. The Applicant has taken [actual negotiation and referral steps]. All steps taken in the suit before seeking stay are [fully disclosed] for the statutory timing inquiry.

4. The landowner alleges a change from housing construction to plot sales. The developer response, including any advertisements, subdivision approvals or third-party transactions, is [truthful and documented]. I supply no fictional completion or consent evidence.

5. I address the asserted risk to the land during arbitration and propose [proportionate protection if justified]. A temporary restraint is distinct from final rescission or a finding of fraud, which should await the competent merits process.

6. I request stay and referral on the actual agreement and procedure, with preservation terms the Court finds necessary. This affidavit does not establish that an old interim order remains operative or that later contractual rights have been decided.

SWORN by [deponent] at [place] on [date]. Signature [ ]. BEFORE ME [competent authorised oath administrator]. This specimen has not been sworn.

Use and evidence notes

Complete the deponent identity, authority and actual personal-knowledge or identified-information basis. Index and authenticate genuine exhibits; missing exhibits are not supplied by this text. An affidavit is evidence, not a vehicle for new unpleaded relief or invented expert conclusions. Obtain any required leave for a further affidavit and complete a valid jurat before a competent authorised person. This specimen is unsworn.

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 landowner agreed to a housing project for cash and two three-bedroom units, alleged incomplete payment and subdivision for plot sales, and sought protective orders. The developer relied on the contract arbitration clause and sought a stay. The arbitration seat was Nairobi, while the land suit was in Thika.

The Court allowed the owner preservation application and the developer stay and arbitration application. Arbitration was to commence within 45 days, failing which interim measures would lapse. Each party bore its application costs. Final rescission, fraud and damages were not determined.

Sections 6 and 7 of the Arbitration Act serve different purposes: timely stay and referral, and interim protection. Check the agreement and Arbitration Rules form requirements. The report contains date and clause-number inconsistencies; use the signed agreement and certified file. The old interim order is not asserted to remain in force.

[2023] KEELC 774 (KLR) - 13 February 2023. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2023/774/eng@2023-02-13

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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.