



REPUBLIC OF KENYA



**Ndungu v Ndirangu (Tribunal Case E678 of 2023)  
[2024] KERRT 304 (KLR) (30 January 2024) (Ruling)**

Neutral citation: [2024] KERRT 304 (KLR)

**REPUBLIC OF KENYA  
IN THE RENT RESTRICTION TRIBUNAL  
TRIBUNAL CASE E678 OF 2023  
HK KORIR, CHAIR  
JANUARY 30, 2024**

**BETWEEN**

**EUNICE WAKARIMA NDUNGU ..... PLAINTIFF**

**AND**

**GEORGE NDIRANGU ..... DEFENDANT**

**RULING**

1. Through a plaint dated 7<sup>th</sup> July 2022 and a Notice of Motion Application dated 7<sup>th</sup> July 2022, the Plaintiff/Tenant herein approached this Tribunal seeking inter alia orders, to compel the 1<sup>st</sup> defendant to pay outstanding KPLC debt and increasing rent.

**The Applicants Case**

2. The Plaintiff's Notice of Motion Application above mentioned is supported by various grounds being that electricity been constantly lacking as a result of power cuts by KPLC due to unpaid bills, the respondent requested the plaintiffs to pay their July rent directly to KPLC which they raised Ksh 91,000/= out of Ksh 183,047.20/=. the respondents have informed the plaintiff of their intention to increase rent from Ksh. 4,500/= to Ksh, 10,000/=.
3. Despite paying rent the respondents have not yet restored the electricity

**The Defendants Case**

4. The 1<sup>st</sup> Defendants avers that the suit property contains 55 dwelling houses in which only 33 are in occupation with tenants paying Ksh 4,500 to 7,000 per month, the property is old and dilapidated and he has desire to conduct minor repair works/renovations and tenants have been stagnating every effort to improve the standard of living in the premises , it has become imperative difficult to pay utility bills, to wit, power, water land rates and the care takers, at times the defendant settles the bills from his pockets since the property is out of financial productivity.



5. The defendant avers that Article 40 of the constitution of Kenya 2010 guarantees the right of every person either individual or in association with others, to acquire and own property and to deal with property as they please within the confines of the law.

### **Submissions**

6. The suit proceeded for hearing physically and the parties were directed to file and serve written submissions, which the parties verily did. I shall proceed to consider the same.

### **Analysis And Determination**

7. I have given full consideration to both parties' pleadings as filed, the written submissions together with the authorities cited.
8. I find one issue for determination to be;

### **Whether the Tenant should grant vacant possession of the suit premises.**

9. Section 14 of Cap 296 provides for the grounds under which a tenant can be evicted. It states as follows:

14. Restriction on the right to possession (1) No order for the recovery of possession of any premises or the ejection of a tenant therefrom shall be made unless—
  - (b) the tenant, or any person residing with him, has been guilty of conduct which is a nuisance or annoyance to adjoining occupiers or has been convicted of using the premises or allowing the premises to be used for an immoral or illegal purpose, or the condition of the premises has, in the opinion of the tribunal, deteriorated owing to acts of waste by, or the neglect or default of, the tenant or any such person;

10. Section 15 of Cap 296 provides for the procedure of granting notices it states as follows:

15. Where notice to quit is required to be given in respect of premises it shall be in writing, and where the required period of notice is not elsewhere specified in this Act it shall be not less than one month's notice ending at the end of a tenancy month:

Provided that the tribunal shall construe notices to quit liberally and without undue regard to technicalities.”

12. The tenants acknowledge to having received the notice, giving notice to vacate is to accord the tenant enough time to find alternative accommodation and in the present case I find that the tenant has had enough time to find alternative accommodation.

13. It is evident that the relationship between the tenant and the Landlady has irrevocably failed and it is therefore in the interest of peace that the tenant renders vacant possession. Additionally, the suit premises are a property of the Landlord and he retains the rights towards its use and ownership the tenant cannot insist on continuing with tenancy whereas the Landlord wants to make renovations to the suit premises. A similar holding was held in the case of Kasturi Limited v Nyeri Wholesalers Limited [2014] eKLR where the court stated that:

It is the duty of the courts to ensure that no individual is prevented from taking possession and or enjoying their property. A tenant cannot impose or force him/herself/itself on a Landlord.”



## **Determination**

14. In the premises, I make the following final orders in respect of this suit: -

- I. The Tenant shall render vacant possession of the suit premises within 30 days. In default to issue execution.
- II. The Tenant shall continue paying rent and utility bills at the agreed amount as and when they fall due.
- III. The Landlord shall grant the plaintiff peaceful occupation of the suit premises until delivery of vacant possession as above.
- IV. Each party shall bear own costs of this suit.

Orders accordingly.

Right of appeal to lie as provided for under Cap 296.

**JUDGEMENT DELIVERED IN CHAMBERS THIS 30TH DAY OF JANUARY 2024 IN THE ABSENCE OF BOTH PARTIES.**

**Certified copies to issue to parties accordingly.**

**SIGNED**

**H.K KORIR**

**CHAIRPERSON**

**RENT RESTRICTION TRIBUNAL**

**NAIROBI**

