



**Angira v Ochoi (Sued as the Legal Administrator of the Estate of the Late Jackson Ochoi Ogeto)  
(Tribunal Case E021 of 2023) [2023] KEBPRT 701 (KLR) (24 November 2023) (Ruling)**

Neutral citation: [2023] KEBPRT 701 (KLR)

**REPUBLIC OF KENYA  
IN THE BUSINESS PREMISES RENT TRIBUNAL  
TRIBUNAL CASE E021 OF 2023  
GAKUHI CHEGE, CHAIR & J OSODO, MEMBER  
NOVEMBER 24, 2023**

**BETWEEN**

**DANIEL ANGIRA ..... TENANT**

**AND**

**GLADYS OCHOI (SUED AS THE LEGAL ADMINISTRATOR OF THE ESTATE  
OF THE LATE JACKSON OCHOI OGETO) ..... LANDLORD**

**RULING**

1. The tenant moved this Tribunal by way of a motion dated 8<sup>th</sup> March 2023 seeking in pertinent part for orders to restrain the Landlord from evicting, harassing, locking and/or interfering with his quiet possession of the suit premises.
2. The application is supported by the affidavit of the tenant sworn on 8<sup>th</sup> March 2023 and the grounds on the face thereof. The Applicant complains that the Respondent issued a one (1) month notice to vacate the suit premises despite being current in rent payment. The landlord is also accused of threatening to attach and/or forcefully evict the Applicant.
3. The tenant also filed a complaint under Section 12(4) of Cap. 301, Laws of Kenya raising the same issues as in the application. The notice to vacate issued by Nyamweya, Osoro & Nyamweya advocates dated 3<sup>rd</sup> March 2023 is attached to the list of documents dated 8<sup>th</sup> March 2023. The tenant has also filed a witness statement of even date.
4. The landlord filed a notice of preliminary objection which is undated together with a replying affidavit sworn on 22<sup>nd</sup> August 2023. The preliminary objection was however dismissed on account of the landlord's failure to file submissions as directed by the Tribunal.
5. In his replying affidavit aforesaid, the Respondent deposes that he has never taken out letters of administration to administer his father's estate. He therefore contends that he lacks *locus standi* to be sued in this case as a defendant/Respondent.



6. The Respondent denies having interfered with the tenant's business as alleged and states that the Applicant has never paid any rent since his father died. The properties of the late Jackson Ochoi Ogeto are yet to be administered. No evidence of payment of rent or lease has been exhibited by the Applicant.
7. According to the Respondent, the applicant has not demonstrated existence of a landlord/tenant relationship between him and the Respondent. As such, the application and the entire suit should not be entertained.
8. The Respondent deposes that the Applicant owes Kshs.90,000/- as he has never paid a penny since death of the landlord.
9. The matter was directed to be canvassed by way of written submissions and both parties complied.
10. The following issues arise for determination:-
  - a) Whether there exists a landlord/tenant relationship between the parties.
  - b) Whether the tenant is entitled to the reliefs sought in the application dated 8<sup>th</sup> March 2023.
  - c) Who is liable to pay costs?
11. This matter was precipitated by a letter dated 3<sup>rd</sup> March 2023 written to the tenant by Nyamweya, Osoro & Nyamweya Advocates written on behalf of the Respondent as the legal administrator of the estate of the late Jackson Ochoi Ogeto. The same refers to a tenancy over a premises known as L.R No. [particulars withheld] and complains about non-payment of rent whose amount is not indicated.
12. The demand letter gives the tenant a period of Thirty days (30) to vacate the suit premises and clear all the rent and other bills in 14 days. The Respondent has not in her response disowned the said letter which does not comply with provisions of Section 4 of [Cap. 301](#), Laws of Kenya as it is neither in the prescribed form neither does it give a notice of two months as stipulated therein.
13. The said letter however confirms existence of a landlord/tenant relationship between the parties herein. In absence of any evidence of a written agreement for more than 5 years, there is a presumption in law that the tenancy is controlled under Section 2(1) of [Cap. 301](#), Laws of Kenya.
14. The Respondent claims that she has not taken out letters of administration in respect of the estate of the late Jackson Ochoi Ogeto (deceased). Her advocates letter of 3<sup>rd</sup> March 2023 describes her as the legal administrator of the estate and she is thus not entitled to resile from the said position. In any event, her failure to seek for letters of administration would not make the proceedings incompetent in line with the decision of the superior court in the case of [Ramadhan Mohammed Ali v Hashim Salim Ghanim](#) (2013) eKLR.
15. The Respondent has contended that the tenant has not paid rent in respect of the suit premises since death of the original landlord but has not indicated the amount in arrears. Whereas the tenant is duty bound to pay rent to the Respondent, the amount thereof ought to have been stated.
16. In view of the foregoing, we find and hold that the Respondents threats of eviction against the tenant based on the defective notice dated 3<sup>rd</sup> March 2023 ought to be stopped by way of an injunction as equity will not allow such an action. The Respondent ought to follow the law by giving the prescribed notice under Section 4(2) of [Cap. 301](#) in the event of wishing to terminate the controlled tenancy.
17. As regards costs, we are constrained to award the same to the tenant in line with Section 12(1)(k) of [Cap. 301](#), Laws of Kenya being the successful party.
18. In conclusion, we make the following final orders:-



- a) The Respondent/Landlord is hereby restrained whether by herself, servants and/or agents from evicting, harassing, locking and/or interfering with the tenant's quiet possession and use of the suit premises on L.R. No. [particulars withheld] without following the provisions of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act, Cap. 301, Laws of Kenya.
- b) The tenant shall pay any rent in arrears from the date when the original Landlord passed on to the Respondent within the next 30 days hereof.
- c) The Respondent shall pay costs of Kshs.20,000/- to the tenant which shall be deducted from the rent account.
- d) The complaint herein is marked as settled in terms as it raises the same issues as the application.

It is so ordered.

**RULING DATED, SIGNED & VIRTUALLY DELIVERED THIS 24<sup>TH</sup> DAY OF NOVEMBER 2023.**

**HON. GAKUHI CHEGE**

**PANEL CHAIRPERSON**

.....

**HON. JOYCE OSODO**

**MEMBER**

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**BUSINESS PREMISES RENT TRIBUNAL**

Ruling delivered in the presence of:-

Nyamai for Landlord/Respondent

Nyareru for Tenant

