

ERNEST JINGA
versus
DAVID SAUNYAMA
and
MOONWAVE PROPERTIES T/A MAPS ASSET
MANAGEMENT, GUZHA T/SHIP, CHIKWANHA
and
CHITUNGWIZA MUNICIPALITY

HIGH COURT OF ZIMBABWE
MATHONSI J
HARARE, 4 April 2013

Opposed Application

N. Bvekwa, for the applicant
1st Respondent in Person

MATHONSI J: In this application, the applicant seeks an order compelling the first respondent to sign documents necessary to transfer a property in Seke Chitungwiza to him. He alleges that he purchased the said property from the first respondent and has produced an agreement of sale brokered by Moonwave Properties t/a Maps Asset Management which he says was signed by the parties.

In his opposing affidavit the first respondent states that he never entered into such agreement of sale and denies that it is his signature which is appended on the Agreement Of Sale. In his address to the court he confirmed that he had an arrangement with the estate agent to dispose of his house. He also stated that the applicant and his father called at his house intending to pay the purchase price directly to him because they did not trust the estate agent.

These facts suggest that indeed there was a relationship between the parties and that the first respondent is now trying to dodge his commitment for other reasons. This cannot be allowed.

I am therefore satisfied that a good case has been made for the relief sought and accordingly grant the following order, that:

1. The first respondent be and is hereby ordered to sign all papers necessary to facilitate cession of rights to the applicant's favour in respect of the stand number 17085 Unit 'M', Seke, Chitungwiza Municipality, Chitungwiza.

2. In the event that the first respondent fails to sign such papers within (48 hours) of service upon him of this order, the Deputy Sheriff is directed to sign papers in his place and stead.
3. The third respondent is directed to facilitate the above cession and to update its records therewith.
4. The first respondent shall pay costs of this application on the legal practitioner and client scale.

Bvekwa Legal Practitioners, applicant's legal practitioners