

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT MACHAKOS
ENVIRONMENT AND LAND COURT
ELC SUIT NO. OF 2026

MIRIAM WANDA MACHIO OBARA 1ST PLAINTIFF
(Suing on her own behalf and on behalf of all homeowners of Luxore Apartments Block E pursuant to Order 1 Rule 8 of the Civil Procedure Rules)

LUXORE D MANAGEMENT LIMITED..... 2ND PLAINTIFF

LUXORE A MANAGEMENT LIMITED 3RD PLAINTIFF

VERSUS

AFRICAN DEVELOPERS GROUP (ADG HOLDINGS LIMITED) 1ST DEFENDANT
LUXORE HOLDINGS MANAGEMENT COMPANY LIMITED 2ND DEFENDANT
VIXERA REALTY GROUP LIMITED 3RD DEFENDANT

CHAMBER SUMMONS

(Brought under Order 40 Rules 1, 2 and 3 of the Civil Procedure Rules, Order 1 Rule 8, Sections 1A, 1B and 3A of the Civil Procedure Act, and Sections 7 and 9 of the Arbitration Act, 1995 and all other enabling provisions of the law)

TAKE NOTICE that this Honourable Court will be moved on the day of **April 2026** at 9 o'clock in the forenoon or so soon thereafter as the matter can be heard by Counsel for the Plaintiffs for the following orders:

1. That the Defendants be restrained from implementing, enforcing or relying upon the letter dated 26th March 2026 issued by Luxore Holdings Management Company Limited purporting to increase Service Charge by Ksh 1,000 per unit and imposing retroactive charges of Ksh 100 per sqm, and that the said letter be declared unlawful and of no legal effect pending the determination of the arbitration proceedings.
2. That pending the hearing and determination of the main suit and/or the arbitration proceedings herein, the Defendants, their servants, agents, assigns or any person claiming through them be and are hereby **restrained** from disconnecting, threatening to disconnect, or in any manner interfering with the supply of water, electricity or any other essential services to the residential units occupied by the Plaintiffs and the represented homeowners in Blocks A, D and E at Luxore Apartments.
3. That the 1st Plaintiff and the homeowners of Block E be and are hereby authorised to collect and hold their proportionate Service Charge in a dedicated Block E bank account pending the final determination of this suit and/or arbitration.
4. That the Defendants, their servants, agents or assigns be and are hereby **restrained** from carrying out any further construction on the Luxore Estate pending the hearing and determination of this suit and/or arbitration, to prevent potential misuse of Service Charge funds and to preserve the subject matter of the dispute.
5. That the costs of this application be provided for.

WHICH APPLICATION is brought on the grounds set out in the **Supporting Affidavit of Miriam Wanda Machio Obara** sworn on the 15th day of April 2026 and the annexures thereto.

DATED at Nairobi this **15th** day of **April 2026**.

DRAWN & FILED BY:

L.A. ODHIAMBO AND COMPANY ADVOCATES

RED HERON CENTRE, KITENGELA

P.O BOX 767- 00100

NAIROBI

laodhiambocompanyadvocates@gmail.com

TO BE SERVED UPON:

1. **ASHITIVA ADVOCATES LLP**
P.O BOX 21372-00100
NAIROBI
2. **THE DIRECTORS,**
AFRICAN DEVELOPERS GROUP
NAIROBI.
3. **THE DIRECTORS,**
LUXORE HOLDINGS MANAGEMENT COMPANY LIMITED
NAIROBI.
4. **THE DIRECTORS,**
VIXERA REALTY GROUP LIMITED
NAIROBI

(The three Defendants (after ex-parte orders are granted)).

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SUPPORTING AFFIDAVIT

I, **MIRIAM WANDA MACHIO OBARA**, adult of sound mind, Chairperson of the duly elected Board of homeowners of Luxore Apartments Block E, residing at Luxore Apartments, Block E, Mavoko, Machakos County, **do hereby make oath and state as follows:**

1. That I am the 1st Plaintiff herein and the Chairperson of the duly elected Board of homeowners of Luxore Apartments Block E, duly authorised by the homeowners' resolution dated 2nd March 2026 to swear this affidavit on my own behalf and on behalf of all other homeowners in Block E. The facts deposed herein are within my own knowledge unless otherwise stated. ***(Annexed hereto and marked "MO-1" a resolution dated 2nd Mar)***
2. That the Plaintiffs and the represented homeowners are lawful sub-lessees of residential apartments in Luxore Apartments (Blocks A, D and E) pursuant to identical Sub-Leases granted by the 1st Defendant (the "**Sub-Lease**"). ***(Annexed hereto and marked "MO-2" is a copy of the Sub-Lease).***
3. That under Clauses C, D, E and H of the Sub-Lease, the 1st Defendant was obliged to incorporate eleven Block Management Companies (including Luxore E Management Limited), which were to become the sole directors of the Main Management Company, each holding one ordinary share. Upon registration of all sub-leases, the reversionary interest in the land (LR 12715/13301) was to be transferred to the Main Management Company.
4. That Blocks A and D have achieved management handover. Luxore A Management Limited was duly incorporated **(Certificate of Incorporation annexed hereto and marked "MO-3")**. However, the 1st and 2nd Defendants have deliberately refused handover for Block E. The current CR12 for Luxore E Management Limited **(annexed hereto and marked "MO-4")** shows that Ahmed Gamal Mohamed Ibrahim (a director of the 1st Defendant) and Rozalid Wangari Mathu control the company, contrary to the Sub-Lease.

5. That despite three formal demand letters dated 5th March 2026, 25th March 2026 and 30th March 2026 (**copies annexed hereto and marked “MO-5”, “MO-6” and “MO-7”**), the Defendants have failed or refused to respond or remedy the breaches.
6. That on 26th March 2026, the 2nd Defendant issued a letter (**annexed hereto and marked “MO-8”**) purporting to impose retroactive charges of Ksh 100 per sqm (total Ksh 745,494 for January 2026), unilaterally increase Service Charge by Ksh 1,000 per unit, appoint the 3rd Defendant as property manager, and threaten disconnection of water and electricity. These demands were made without any auditor’s certificate, in breach of Clause 3(k)(i)(A) of the Sub-Lease.
7. That the Defendants have persistently failed to complete and rectify numerous **incomplete and defective common areas and infrastructure**, in breach of Clauses 4(e) (Lessor’s obligation to repair structural defects), 3(o) (duty to report defects), the Third Schedule (Services to be provided), and the definitions of “Common Parts”, “Retained Parts”, “Services” and “Building Plans”.
8. That the specific defects include, among others: a) Unfinished basement works in Block D that have become a stagnant pool of dark water breeding mosquitoes, posing serious health risks; b) Structural crack and active leaking in the water tank serving Blocks D and E. Instead of rectifying the defect, the Defendants removed the pumps previously serving Block E and relocated them to the Block C tank – a temporary and inadequate measure that leaves Block E residents at risk of unreliable water supply; c) Inadequate capacity of the shared borehole and water treatment plant, which is now straining Block E disproportionately and fails to provide reliable, safe water as required under the Sub-Lease and Building Plans; d) Unresolved drainage issues within the basement areas; e) Incomplete finishing of parking spaces; f) Failure to operationalise promised amenities such as the swimming pool, gym facilities, CCTV security infrastructure, and adequate laundry/designated clothes hanging areas, all of which were represented to purchasers; g) Persistent damp walls in Block D that remain unrepaired despite complaints since 2024; h) Other deviations from the approved Building Plans and Occupancy Certificates issued for the initial blocks.
9. That these defects render parts of the Estate unsafe, unhealthy and below the standard of a completed residential development, breaching the covenant of quiet enjoyment (Clause 4(d)) and the Lessor’s obligations under Clause 4(e) and the Third Schedule.
10. That the Plaintiffs have repeatedly requested transparency on Service Charge utilisation, audited accounts, and a clear schedule for completion of outstanding works, but the Defendants have provided none. There is a real risk that Service Charge funds collected from homeowners are being diverted to ongoing construction works, which are the 1st Defendant’s responsibility.
11. That unless this Honourable Court grants the interim orders sought in the Chamber Summons, the Plaintiffs and homeowners will suffer **irreparable harm** not adequately compensable by damages, including:
 - i. Disconnection of essential services rendering the units uninhabitable;
 - ii. Continued deterioration of defective common areas posing health and safety risks;
 - iii. Potential misuse of Service Charge on developer obligations;

- iv. Further delay in proper management handover and issuance of sectional titles.
12. That the balance of convenience favours the Plaintiffs. Granting the orders will preserve the status quo pending arbitration without undue prejudice to the Defendants, who remain legally obliged to complete the development.
13. That the Plaintiffs have complied with the Sub-Lease's dispute resolution clause. Mediation was attempted through the three demand letters (which were ignored). A formal **Notice of Dispute and Referral to Arbitration** is being issued simultaneously herewith (**annexed hereto and marked "M0-9"**).
14. That this application is brought in utmost good faith and is extremely urgent due to the ongoing threats of disconnection and continuing defects.

WHEREFORE I swear this affidavit in support of the Chamber Summons dated 15th April 2026 and pray that the orders sought therein be granted.

SWORN at Nairobi
this **15th** day of **April 2026**.
MIRIAM WANDA MACHIO OBARA

BEFORE ME

Commissioner for Oaths / Advocate

DRAWN & FILED BY:
L.A. ODHIAMBO AND COMPANY ADVOCATES
RED HERON CENTRE, KITENGELA
P.O BOX 767- 00100
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laodhiambocompanyadvocates@gmail.com

.....
Deponent

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