

IN THE HIGH COURT OF KIRIBATI 2019

MISCELLANEOUS APPLICATION NO 95 OF 2019
(ARISING FROM HIGH COURT CIVIL CASE NO. 26 OF 2019)

	[TEMAUA KWONG	APPLICANT
	[
BETWEEN	[AND	
	[
	[REMARI ATUERU	1 ST RESPONDENT
	[ROOTE KWONG	2 ND RESPONDENT
	[TURIA KWONG	3 RD RESPONDENT

Before: The Hon Chief Justice Sir John Muria

3 September 2019

Ms Taaira Timeon for Applicant

Mr Teetua Tewera for Respondents

JUDGMENT

Muria, CJ: This is a sad case of family members squabbling over a house in which all of them have access to. The house is claimed by the applicant to be his.

The respondents are currently living in the said house on Antebuka 835a, Lot BE. 53. The applicant claims that the respondents prevented him from entering the premises by locking him out.

The respondents, Roote Kwong and Turia Kwong, are the applicant's half-sisters, and Remari Atueru is their deceased father's ex-wife. The respondents' affidavit shows that they (applicant and respondents) all have access to the house. In fact the applicant occupies one room and the respondents occupy the other room in the house.

In their affidavit the respondents stated that the applicant wanted to evict them from the house because he wanted to turn the house into a rental property. The respondents refused because they have no place else to go to if the house is turned to rental property. Consequently, the applicant became angry and threatened to harm them. That was the reason for locking the door, not to the house itself, but to the room where they are occupying since they were afraid of the applicant.

My reading of the affidavit evidence from both the applicant and respondents, shows that the applicant wanted the respondents out of the house because he wanted to have control over the property and to turn it into a rental asset. Before he can succeed to remove the respondents from their late father's house, the applicant has to demonstrate by evidence his exclusive right to the property.

The applicant claims he is now the registered owner of the sublease over the property. There is absolutely nothing before the Court to show for that assertion. No registered document to back up the applicant's claim of ownership of the sublease.

On the other hand, the respondents are clearly within their right to live and remain in the house which their late father owned. They can only be evicted from the house if it can be shown that they have no right to live and remain in the said house.

Having heard Counsel for both parties and upon reading the affidavits filed by both parties, the Court is clearly of the view that the application for interlocutory injunction cannot succeed.

Application for interlocutory injunction against the respondents is dismissed with costs to be paid to the respondents to be taxed if not agreed.

Dated the 6th day of September 2019

