

**REPUBLIC OF KENYA**  
**IN THE BUSINESS PREMISES RENT TRIBUNAL AT NAKURU**  
**TRIBUNAL CASE NO. E091 OF 2025 (LEAD FILE)**  
**CONSOLIDATED WITH BPRT NAKURU NO. E112 OF 2025, E113 OF 2025 &**  
**E114 OF 2025**

**BETWEEN**

**PAUL NDEGWA THIGA T/A PANCOM AGENCY .....1<sup>ST</sup>**  
**TENANT/APPLICANT**

**PETER KAMAU MWANGI T/A EVEREST HARDWARE.....2<sup>ND</sup>**  
**TENANT/APPLICANT**

**FRANCIS NGARI WANDERI T/A PELICAN STUDIO .....3<sup>RD</sup>**  
**TENANT/APPLICANT**

**ELIZABETH NGENDO THUO T/A SHAMBA NJORO INPUTS .....**  
**TENANT/APPLICANT**

**VERSUS**

**MARGARET WANJIKU**  
**MUIGAI.....LANDLORD/RESPONDENT**

**JUDGEMENT**

**A. INTRODUCTION**

1. These consolidated proceedings arise from a series of references filed by the 4 tenants occupying separate commercial units within the property known as **Njoro Township Block 1/339**, Njoro Sub-County, Nakuru County. Each tenant filed a Reference under section

6 of the Landlord and Tenant (Shops, Hotels and Catering Establishments) Act, Cap 301, challenging notices issued by the landlords on **30th May 2025** seeking termination of their controlled tenancies.

2. The respective cases were filed as **BPRT E091/2025**, **BPRT E112/2025**, **BPRT E113/2025**, and **BPRT E114/2025**, each raising identical questions of law and fact concerning the validity, legality, and justification of the landlords' notices, as well as the structural condition of the suit premises and the landlords' intended redevelopment.
3. On the Court's own motion and with the concurrence of the parties, all matters were **consolidated**, with **BPRT E091/2025** designated as the **lead file** for purposes of hearing and determination, in the interest of judicial economy and to avoid conflicting decisions.
4. The tenants sought protective reliefs, including interim injunctions restraining the landlords from interfering with their occupation, and orders suspending the effect of the termination notices. Interim conservatory directions were granted pending full hearing.
5. The landlords filed **replying affidavits and supporting documents** explaining, in detail, the deteriorating condition of the building, the official notices issued by public authorities, the approvals obtained for redevelopment, and the expert reports identifying the building as structurally unsafe. The landlords

maintained that the notices were justified, that redevelopment could not proceed with tenants in possession, and that the tenants' opposition was without legal merit.

6. The Tribunal has now fully considered the pleadings, affidavits, annexures, oral highlights, and written submissions, and proceeds to deliver this final judgment.

**B. FACTUAL BACKGROUND**

7. The tenants occupy separate business units on the subject parcel, each conducting a longstanding commercial activity:
  - a) **Mr. Paul Ndegwa Thiga**, running **Pancom Agency**,
  - b) **Mr. Peter Kamau Mwangi** running **Everest Hardware**,
  - c) **Ms. Elizabeth Ngendo Thuo**, operating **Shamba Njoro Inputs**, and
  - d) **Mr. Francis Ngairi Wanderi**, operating **Pelican Studio**.
8. The parties agree and the evidence confirms that their tenancies were **periodic month-to-month** controlled tenancies within the meaning of section 2 of Cap 301, as none of the parties demonstrated existence of a written lease for a term exceeding five years without provision for termination.
9. Each tenant claims to have been in uninterrupted occupation for several years, paid rent dutifully through bank deposits, and invested substantial sums in developing their respective businesses. The tenants assert that eviction would cause severe economic distress.

10. The landlords, **Margaret Wanjiku Muigai** and **Franco Kuria Rugambi**, are the duly registered proprietors of the property, as evidenced by the Certificate of Lease and the Certificate of Confirmation of Grant from the High Court. They assert full ownership rights and the ability to redevelop the property to a modern commercial and residential complex.
11. On **30th May 2025**, the landlords issued termination notices citing the need to carry out **major demolition and reconstruction** owing to the building's structural unsoundness, deteriorated condition, and risks identified by technical and regulatory authorities.
12. The tenants filed references opposing the notices, alleging lack of justification, improper intent, harassment, and failure by the landlords to secure alternative premises or compensation for improvements.
13. The landlords responded with extensive documentary evidence, including: Structural Engineer's Report (16 January 2025), NEMA approvals and environmental compliance conditions, Physical planning approvals by Nakuru County, Public Health Department notices citing safety hazards, A binding contract with a construction contractor for demolition and redevelopment.
14. The landlords therefore contend that the building is unsafe, redevelopment is mandatory, and continuation of occupation by

tenants presents a safety hazard and obstructs the approved redevelopment program.

### **C. ISSUES FOR DETERMINATION**

15. The Tribunal identifies the following issues for determination:
  - a) Whether the landlords' notices dated 30th May 2025 were valid and conforming to section 4 of Cap 301.
  - b) Whether the reasons stated in the notices are justified under sections 7 of the Act.
  - c) Whether the tenants have shown grounds to warrant the disallowance of the notices.
  - d) Whether the interests of justice require granting the tenants a period within which to vacate.
  - e) What final orders should issue regarding eviction, timelines, and enforcement.
  - f) Who is liable to pay costs?

### **D. APPLICABLE LAW AND LEGAL FRAMEWORK**

16. Controlled tenancies are regulated by **Cap 301**, which protects tenants from unlawful eviction yet recognizes the landlords' right to possession where statutory grounds are met.
17. Under **section 4(2)**, a landlord may terminate a controlled tenancy by issuing a **Form A notice** specifying the reasons and the proposed effective date, not being less than two months.

18. Under **section 6(1)**, a tenant may challenge such a notice by filing a **reference**, upon which the Tribunal must determine whether the notice is **justified**.
19. **Section 7(1)(f) and (g)** expressly permit termination where the landlord intends to **demolish or reconstruct** the premises, or where the premises have become **unsafe** or require substantial structural repairs that cannot be performed with the tenant in occupation.
20. Jurisprudence from Kenyan superior courts repeatedly affirm that redevelopment is a **legitimate ground** for termination where evidence is cogent, approvals exist, and the landlord demonstrates bona fides.
21. These principles guide the Tribunal in determining the validity and justification of the notices issued herein.

#### E. **ANALYSIS OF ISSUES & EVIDENCE**

##### **ISSUE a) Validity of the Notices**

22. The notices dated 30th May 2025 conform to the prescribed **Form A**, indicate the landlord's intention, specify the reasons for termination, and set the effective date beyond the statutory two-month minimum.
23. Affidavits of Service demonstrate that each tenant was duly served. No tenant produced evidence contradicting service.
24. We therefore find the notices procedurally **valid and compliant** with Cap 301.

**ISSUE b) Whether the Notices Are Justified****(i) Structural Engineer's Report**

25. The engineer's report dated 16<sup>th</sup> January 2025 identifies **serious structural defects**, including sagging beams, compromised columns, cracked slabs, and honeycombing. The report classifies the building as **high-risk** and recommends **complete demolition**.
26. The report explicitly states that retrofitting or patch repairs would not achieve structural integrity and that redevelopment is the only feasible solution.
27. The Tribunal places significant probative value on expert evidence, particularly where the tenants produced no contrary technical report.

**(ii) NEMA and County Approvals**

28. The landlords presented **NEMA approval** authorizing the redevelopment, subject to compliance with environmental conditions, confirming government sanction for demolition and reconstruction.
29. The County Government's Department of Physical Planning issued an approval for construction of a **multi-storey development**, demonstrating procedural compliance.
30. Regulatory approval is a strong indicator that the intended redevelopment is genuine, lawful, and in the public interest.

**(iii) Public Health Notices**

31. Public Health Officers issued notices citing hazardous roofing, leaking ceilings, cracked walls, and other structural defects.

32. Such notices reflect concern for **public safety**, and the Tribunal must view them with utmost seriousness.

**(iv) Construction Contract**

33. The landlords entered into a formal contract with a construction company for demolition and site redevelopment. The existence of a binding contract further proves the landlords' intention is genuine and not speculative or malicious.

34. We therefore find that the landlords have established valid, genuine, and compelling reasons under **section 7(1)(f) and (g)** of Cap 301 to terminate the tenancies.

35. The building is unsafe; redevelopment is necessary; and the landlords cannot execute construction work while tenants remain in occupation.

**ISSUE c) Tenants' Grounds of Opposition**

36. The tenants relied heavily on their payment history, length of occupation, investment in business goodwill, and anticipated hardship.

37. While the Tribunal is sympathetic to the tenants' circumstances, these factors, though relevant to mitigation, **cannot override public safety concerns** or invalidate a statutory ground that has been fully demonstrated.

38. The tenants produced **no engineering report** challenging the landlords' evidence.

39. They also did not deny that the landlords obtained lawful redevelopment approvals.

40. The tenants therefore failed to demonstrate that the notices were issued in bad faith or for ulterior motives.

**ISSUE d) Balancing Interests and the Need for Reasonable Time to Vacate**

41. This Tribunal appreciates the long occupation and economic contribution of the tenants but is equally bound to uphold statutory provisions and public safety considerations. Where building integrity is compromised and redevelopment is lawfully sanctioned, termination under Cap 301 is inevitable.
42. Having upheld the notices, the Tribunal must consider a **fair transition** period.
42. The landlords proposed 14 days in submissions; however, given the tenants' longstanding businesses, it is reasonable and just to allow sufficient time to relocate.
43. A period of **Sixty (60) days** is appropriate, proportionate, and consistent with precedent.
44. This period preserves the landlords' right to proceed with redevelopment while cushioning the tenants from abrupt disruption.
45. These consolidated references are therefore resolved finally in favour of the landlords, with sufficient protective measures accorded to the tenants through the extended vacation period granted.

**ISSUE e) Who is liable to pay costs?**

46. On the question of costs, the general principle, encapsulated in section 12(1)(k) of Cap 301 and Section 27 of the Civil Procedure Act which have consistently been applied in Kenyan jurisprudence, is that costs follow the event unless the court or tribunal, for good reason, otherwise orders. We have noted that there was need for the Tenants to file the references as the documents exchanged in this consolidated case were never served upon them to

demonstrate a settled intention on the part of the landlord to redevelop the suit property. Consequently, we shall order each party to meet its own costs.

**F. FINAL ORDERS**

47. In light of the foregoing analysis and pursuant to the powers granted under Cap 301, the Tribunal issues the following final orders:

- a) The Landlords' Notices to Terminate Tenancy dated 30th May 2025 are hereby upheld as valid and justified.***
- b) The Tenants' References in BPRT Nos. E091/2025, E112/2025, E113/2025, and E114/2025 are hereby dismissed in their entirety.***
- c) The Tenants shall vacate and deliver vacant possession of the premises within sixty (60) days from the date of this judgment.***
- d) In default of compliance after the sixty-day period, the Landlords shall be at liberty to evict the Tenants through a licensed auctioneer, who shall receive security and logistical support from the OCS, Njoro Police Station.***
- e) Each party shall bear its own costs of the reference.***

It is so ordered.

**DATED, SIGNED AND DELIVERED THIS 5TH DAY OF DECEMBER  
2025**

**HON. GAKUHI CHEGE**  
**PANEL CHAIRPERSON**  
**BUSINESS PREMISES RENT TRIBUNAL**

**HON. JOYCE AKINYI OSODO**  
**PANEL MEMBER**

**IN THE PRESENCE OF: -**

Kanyi Ngure for the Landlord

Ms Towett holding brief for Raydon Mwangi for the Tenants