



# Amos N. Mutuku

**Principal Associate | ALN Kenya | Anjarwalla & Khanna**

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## Background

Amos Mutuku is a Principal Associate at ALN Kenya | Anjarwalla & Khanna and a member of the corporate department. His focuses on property conveyancing, banking, finance and insolvency, Securities, Probate and Private client work.

## Professional Membership

- Law Society of Kenya

## Professional Qualifications

2013: Postgraduate Diploma in Law, Kenya School of Law

2012: Bachelor of Laws, LL.B, University of Nairobi, Kenya

## Career Summary

Jan 2021 – Date: Principal Associate, Anjarwalla & Khanna, Advocates

Sept 2015 – Dec: 2020: Associate, Anjarwalla & Khanna, Advocates

Jan 2015 – Aug 2015: Associate, MMC Africa Law

2014 – 2015: Trainee Lawyer, MMC Africa Law

2012 – 2014: Intern, MMC Africa Law

## Top Matters

### Corporate

- Acting for **Emerging Capital Partners**, a US based Private Equity fund, in connection with the sale of its stake in Java House, East Africa's leading coffee-led casual dining chain in Kenya, Uganda, Rwanda and

- Tanzania, to Abraaj Group, a leading investor operating in growth markets, including preparing a report on the real estate portfolio of Java House, conducting a due diligence on over 70 short term leases and licences in respect of all the locations where the coffee chain has an outlet and offices and liaising with our Rwandan and Ugandan ALN firms on the review of the leases in their respective jurisdiction which included reviewing the transaction documents for compliance with Kenyan law, advising on the process of the group restructuring, including advising on the share structure in Kenya, Uganda, Tanzania and Rwanda to ensure that the structure was ideal before completion of the transaction, advising on the tax implications on the restructure, coordinating the lawyers in Rwanda, Tanzania and Uganda, providing competition law advice in relation to the transaction; obtaining regulatory approvals in Kenya and advising on Emerging Capital Partners's exit from Java's ESOP.
- Acting for a **leading bank in Kenya**, in connection with banking facilities to another EPZ entity secured by way of Ship Mortgages created and registered in Zanzibar over certain motor vessels acquired by the Borrower, including liaising with a Zanzibar law firm on the approved format of the deed of covenants, registration requirements and enforcement of the ship mortgage, drafting and preparing the deed of covenants in respect of the Ship Mortgage, liaising with the relevant authority in Zanzibar to have the deed of covenants approved and registering ship mortgage.
- Acting for an **international law firm**, which is providing legal services to a subsidiary of the leading pay-TV group in France and the leading provider of premium channels and themed content in France, in connection with the proposed acquisition of the Sub-Saharan Africa business of a premium pay-tv company (excluding South Africa) through the acquisition of a Dutch holding company that owns the company's Sub-Saharan Africa assets. The proposed transaction is structured in two phases. In phase one, A&K was involved in regulatory review and provision of detailed advice on the relevant regulatory regimes including the Communications industry regulations affecting DTT, DTH and SVOD operations in Kenya and the Competition regulations. In phase two, A&K is providing local transactional advice which includes undertaking a legal due diligence on the basis of information provided in a vendor due diligence report and a virtual data room and the necessary jurisdictions regulatory work with a view to making a binding offer to be signed.
- Acting for the **State Bank of Mauritius**, a Mauritian banking group listed on the stock exchange of Mauritius, in connection with its take-over and rescue of Fidelity Commercial Bank (FCB), a Kenyan bank in financial distress, including undertaking a due diligence on FCB and its operations, drafting and negotiating a share purchase agreement in respect of an offer to purchase shares from the 43 shareholders of FCB, drafting and negotiating side deeds of indemnity from the major shareholders, initiating and running an offer to shareholders scattered across the globe, procuring signatures from the majority of the shareholders and issuing and running a statutory squeeze-out process. In addition, we obtained all requisite regulatory approvals from the Central Bank of Kenya, the Competition Authority of Kenya and the COMESA Competition Commission on an expedited basis, obtained the requisite approvals and fit and proper certification for shareholders, directors and senior managers of the State Bank of Mauritius and successfully ran a complex multi-jurisdictional completion as a result of the diverse jurisdictions of the purchaser and sellers.
- Carrying out a legal due diligence for **Godrej Group**, an Indian conglomerate in its acquisition of Cannon Chemicals a company providing cosmetic products to international corporate companies operating in Kenya and across the African continent.
- Advising and acting on behalf of various individuals and companies including incorporating of companies, restructuring of companies, preparing and filing annual returns, allotment and transfer of shares, among other company secretarial services.

## Banking, Finance and Insolvency

- Acting for **KCB Bank** in connection with the USD 5 million Murahaba financing to Ainushamsi Energy under KCB Bank's Product known as SAHL. This is a structured trade import finance facility. The purpose of the facility is to facilitate the local and international procurement of oil products through collateral

- financing, including preparing the bank's documents for Murabaha financing such as the offer letter, the master Murabaha agreement together with the accompanying documentation, agency agreement, declaration, form of Auditor's letter, form of certificate of authority, form of demand promissory note, offer of acceptance and written request. We also prepared a sharia compliant debenture over all the assets of the client's associated company. This was the KCB Bank's first Murabaha financing of such a nature and we guided the bank through the process documentation.
- Acting for **Equity Bank Kenya** and **Equity Bank Congo** in connection with financing of Revin SARL, a company incorporated in the Democratic Republic of Congo, of USD 5.1 million to be used by Revin Sarl for acquisition of new premises and machinery as well as working capital.
- Acting for **Ecobank** in connection with the financing of a medium-term facility of USD 114 million to Grain Bulk Handlers, a wholly owned Kenyan company that owns and operates a specialised terminal for the handling of bulk grain imports.
- Acting for **Equity Bank Kenya** and **Equity Bank Congo** in connection with financing of SOMIKA SARL, a company incorporated in the Democratic Republic of Congo, of USD 150 million to be used by Somika Sarl for expansion of a mining plant and working capital requirements.
- Acting for **NIC Bank** in connection with shipping finance and securities, including review of a ship building and sale contract, drafting the banking securities to include a ship mortgage, assignment of earnings and receivables, assignment of ship insurance policies and subordination of the ship manager's rights.
- Acting for a client in the sale of property in Mombasa for a sum of USD 2,500,000 including carrying out a due diligence on the acquiring entity and negotiating the agreement for sale and preparing the completion documents.
- Acting for various lenders generally in relation to the perfection of securities as relates to financing of working capital, asset financing, property acquisitions, collateral management and the subordination of shareholders and/or directors loans.
- Acting for a client in conducting a due diligence exercise in respect of the sale by an international petroleum company intending to sell its businesses in several African countries.
- Conducting due diligence for various multinationals as well as research and documentation on how to acquire businesses in Kenya.

### **Real Estate & Construction**

- Acting for **Vishwa Developers**, a professionally managed real estate development company specialising in the development of residential and commercial layouts, in connection with its multi-purpose development located in South C, Nairobi known as the "DG Oasis" comprising of a total of 368 Apartments of 1800 sqft each, a shopping centre and a school day care centre, including structuring the transaction and the management company; considering tax consequences and efficiencies on the structures; dealing with the main construction contract and disputes arising from it; advising on the acquisition and change of user in respect of the property; advising on the legal and management structure in respect of the development; drafting and preparing all the relevant documents in respect of sale of the apartments such as the letter of offer, agreement for lease and the lease itself.
- Acting for a **US based Private Equity fund**, in connection with the sale of its stake in a leading coffee chain, (which includes its frozen yoghurt and pizza business), including preparing a report in respect of the real estate portfolio of the chain and in particular, conducting a thorough review of over 70 short term leases and licences in respect of all the locations where the coffee chain has an outlet and offices, liaising with the legal team to ensure that all the leases are up to date and preparing a detailed report setting out the details of each lease and key terms relating to the same, and liaising with our Rwandan and Ugandan counterparts on the review of the leases in their respective jurisdictions.
- Advising and acting for various developers and individuals in real estate and property developments including drafting, review and negotiation of Agreements for Sale, Leases and Transfers and overseeing

- proper and successful stamping, and registration formalities of the same.
- Acting for several landlords of shopping malls and commercial buildings, preparing leases and advising on landlord and tenant laws.

### **Private Clients**

- Acting for diverse private clients in relation to the negotiation, drafting and execution of private commercial agreements including asset and share purchase agreements.
- Preparing probate documents and relevant documentation for probate proceedings at the High Court of Kenya and rendering advice to clients on probate matters.