



# James Njenga Mungai

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

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## Background

James Njenga is a Senior Associate in the Banking & Finance department of Anjarwalla & Khanna. James is an experienced Advocate with a demonstrated history of working in the banking, finance and real estate & construction industry. His main focus is on complex banking and finance transactions, insolvency and restructuring (with a focus on corporate and commercial organizations), property law, mining, conveyancing and property development work. His core competencies include experiences in investment banking, structured finance, corporate finance, corporate banking, financial restructuring, corporate advice, project development & management, contractual framework analysis and revision, commercial and Legal risk analysis, due diligence conduct, domestic and international transaction experience, deal execution and experience in mining law matters. James is committed to effectively executing transactions and achieving client objectives and he is also excellently skilled in people management and relationship building skills, positively impacting team development, valuing teamwork spirit, targeting the highest possible quality within the committed deadlines, and determined to get the deal done.

James is a law graduate of Kenyatta University where he attained a Second-Class Honours – Upper Division. Subsequently, James joined the Kenya School of Law where he obtained a Diploma in Law. James was trained as a Pupil at Anjarwalla & Khanna where he was exposed to various facets of banking, finance and real estate & construction law practice.

James is a qualified and practicing Advocate of the High Court of Kenyan and was admitted into the Roll of Advocates in March 2015 by the then Head of the Judiciary and Chief Justice Dr. Willy Mutunga.

Currently, his practice majorly focuses on real estate, insolvency law, project finance, complex banking and finance transactions. James is also experienced in mining law matters.

## Professional Membership

- Law Society of Kenya

## Professional Qualifications

2015: Admitted as an advocate of the High Court of Kenya and became member of the Law Society of Kenya

2013: Postgraduate Diploma in Law, Kenya School of Law

2012: Bachelor of Laws. LL.B, Kenyatta University School of Law (Second Class Honours (Upper Division))

## Career Summary

Apr 2022- Date: Senior Associate, Anjarwalla & Khanna, Nairobi

Aug 2019- Mar 2022: Principal Associate, Anjarwalla & Khanna, Nairobi

Aug 2015- Dec 2018: Associate, Anjarwalla & Khanna, Nairobi

Jan 2014 – Jul 2015: Trainee Lawyer, Anjarwalla & Khanna, Mombasa

Sept – Oct 2012: Research assistant for Children's Legal Action Network (CLAN)

Jan – Aug 2012: Worked for Nippon Properties in the Legal Department

Sept – Nov 2011: Intern at Kituo cha Sheria

## Publications

- Insolvency Law and Practice Guide in Kenya, Chambers Global Practice Guides, Chambers and Partners (2018).
- Co-contributor Doing Business 2020, a World Bank Group flagship publication, is the 17th in a series of annual studies measuring the regulations that enhance business activity and those that constrain it.

## Top Matters

- Acting for Commercial Bank of Africa, a commercial bank in Kenya in connection with the financing of the acquisition of 100% of the share capital in Hillcrest Investments, a corporate body that holds the Hillcrest International group of schools established in Kenya, by Gems Africa, a subsidiary of GEMS, a world-leading schools company established for the development of educational services across sub-Saharan Africa.
- Acting for Standard Bank of South Africa, the largest African banking group by assets offering a range of banking and related financial services across sub-Saharan Africa, in connection with a financing of a facility of GBP 50 million (approximately USD 63 million) to CCI Kenya.
- Acting for the National Government of Kenya in connection with the issue of a USD 2.5 billion sovereign bond.
- 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 M-Kopa Solar, the world' leading pay-as-you-go energy provider to off-grid homes, in connection with a syndicated loan of USD 80 million arranged by Stanbic Bank, CDC, FMO and Norfund.
- Acting as local counsel for a UK Finance Company in connection with a proposed high-yield bond transaction in accordance with Regulation S of the Securities Act of 1933, as amended and the Securities and Exchange Commission Rule 144A, including the issuance of senior secured notes by a UK finance subsidiary, together with the entry into a *pari passu* revolving credit facility/term loan and inter-creditor agreement with scope related to advising on the enforceability of Kenyan securities, the validity of choice of law in Kenya, conflict of laws/regulations/statutes in Kenya and any consents, approvals, authorizations, filing i.e. Capital Markets approvals.
- Acting as local counsel for a foreign Switzerland based entity in connection with the intended restructure of an existing secured Term Loan, senior secured and unsecured high yield bonds, including the

- restructuring, review and amendment of the term loan and the bonds, reviewing transaction documents e.g. debenture, memorandum of deposit of shares, purchase agreement, indenture agreement and senior facilities agreement.
- Acting for KCB Bank Kenya, Diamond Trust Bank Kenya, Standard Chartered Bank Kenya, and Bank of Africa Kenya, the senior lenders of a large retail chain in Kenya valued at USD 407 million, in connection with their position as creditors and recovery options available on the backdrop of their financial distress.
- Acting for the joint receivers and liquidators of Karuturi, one of Kenya's largest flower farms, after they were put under receivership and subsequently wound up for failing to pay their debts to the creditor, including advising on the powers of a receiver, receivership funding and payment of realizations in receivership, powers, rights and obligations of a liquidator post winding up of a company and the scope of receivers' powers following a winding up order and disposition of assets post winding up of a company.
- Advising the receivers of a prominent publicly listed company in relation to their role as receivers and also in respect to their role as interim-liquidators, including giving an opinion on the enforceability and impact of the receivership on secured creditors and potential legal issues arising, opinion on receivership funding and their priority, effect of receiver's powers of disposition post commencement of a Winding Up, legal analysis and advice with respect to liquidation upon making of a winding up order and the appointment of liquidators, powers, rights and obligations of a liquidator under the new insolvency regime and implications of the appointment of a liquidator in debenture based receivership.
- Advising a local entity with respect to the Kenyan Financial Services sector with respect to small scale lending, including advising on the licences, consents, approvals, authorizations or filings required, advising on compliance requirements for lending and advising on foreseeable challenges related to the contemplated transaction and possible solutions to such challenges.
- Acting for a local investment company in the proposed development of a large scale multi-use development to include residential, commercial, industrial, agricultural developments and health facilities, including providing an opinion on implications of Article 65 (3) (a) of the Constitution on land ownership by foreigners, implications of the Land Control Act on agricultural land ownership by foreigners, opinion on the concept of multiple use, and drafting due diligence report.
- Acting for Karibu Homes Parktel in connection with its proposed large scale residential development in Kenya which includes commercial space, a shopping mall, school and hospital, including advising on the purchase of land, equity and debt raising, drafting and negotiating the subscription and shareholders agreement and project and syndication management agreement, assisting in negotiations with the bankers to provide bridge finance, as well as, mortgage finance for buyers and drafting agreements for sale and leases.
- Acting for a local bank in the intended takeover of banking facilities/securities from another local bank and the provision of additional facilities to a local company in a maximum principal amount of USD 7.5 million, including drafting the release documents for the existing securities, drafting new securities for the new banking facilities and drafting side letters/ancillary completion documents and arranging for the perfection of the securities.
- Acting for a foreign investor in a proposed purchase of shares in a publicly listed company with an estimated transaction value of USD 10 million, including conducting a high level exceptions only due diligence on the target company with a specific focus on real estate, finance and regulatory and compliance aspects, advising on land adjudication, change of user and drafting a due diligence report.
- Acting as the local counsel for CfC Stanbic Bank in connection with its financing to Central Glass Industries in the amount of KES. 1 billion, including undertaking due diligence on the borrower, advising on local law issues pertinent to the security documentation, advising on the security structure, preparing the Kenyan security documents and handling closing and post-closing matters.
- Acting for Karibu Homes, in connection with its development of 1,000 low-cost homes in the Athi River region, including commercial space, a shopping mall, school and hospital, including advising on the purchase of land, equity and debt raising, drafting and negotiating the subscription and shareholders

- agreement and project and syndication management agreement, assisting in negotiations with the bankers to provide bridge finance, as well as, mortgage finance for buyers and drafting the letter of offer, agreement for sale and lease.
- Acting for the shareholders of a local Kenya Company in the proposed sale of shares in their company for an estimated value of KES. 200 million, including drafting a share purchase agreement, liaising with the vendors' advocates to provide due diligence documents and attending to completion formalities including liaising with Governmental departments to procure approvals and clearances.
- Acting for and advising the Wrigley E.A. in connection with its acquisition of land for its new factory in Machakos County.
- Advising an international client in connection to the acquisition of the entire issued share capital of a Kenyan Company.
- Preparing a legal opinion for an International Shipping Company on the Employment Laws in Kenya regarding foreigners.
- Acting for various lenders generally in relation to the perfection of securities as relates to the financing of working capital, asset financing, property acquisitions, collateral management and the subordination of shareholders and/or directors loans.
- Advising an international client in relation to the setting up of businesses or operations in Kenya, including advising the client on the relevant Kenyan laws relating to, inter alia, employment, taxation and business licensing.
- Acting for an International Bank in the preparation of Banking Security documents to perfect securities granted to an International Shipping Company.
- Acting for a Group Company in a restructuring exercise, transfer of properties to the Group's subsidiaries to rebase values of the properties for purposes of Capital Gains Tax.
- Advising a local entity on the setting up of Special Economic Zones and reviewing the Special Economic Zones Bill, 2012.
- Conducting due diligence on an intended takeover of a tea export company.
- Acting for a client on a Share Purchaser Agreement for the acquisition of shares in a Company with the net worth value of the transaction being over USD. 2 million.
- Acting for a client in the purchase of property in Nairobi for a sum of KES 70 million including carrying out due diligence on both the vendor and the property as well as negotiating the agreement for sale.
- Conducting legal research on the Maximum and Minimum Land Acreage Bill (2015) and compiling a report with respect to comments and amendments proposed to be made on the Bill for presentation to the Commission on the Implementation of the Constitution.
- Handling general conveyancing matters including sale, transfer, leasing and charging land and giving legal advice on matters touching on land.