



**Mwangi v Mwangi & another (Environment & Land Case E1 of 2022)
[2023] KEELC 16412 (KLR) (23 March 2023) (Judgment)**

Neutral citation: [2023] KEELC 16412 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE E1 OF 2022**

**A OMBWAYO, J
MARCH 23, 2023**

BETWEEN

MARY WANJIRU MWANGI PLAINTIFF

AND

JACOB KIMANI MWANGI 1ST DEFENDANT

DISTRICT LAND REGISTRAR NAKURU 2ND DEFENDANT

JUDGMENT

1. Mary Wanjiru Mwangi herein referred to as the plaintiff has come to court against Jacob I Kimani and District Land Registrar Nakuru *vide* plaint amended on May 4, 2022 and filed on April 17, 2022 she states the sometimes in September 2021 she became aware that the said land had been closed for sub-division. The plaintiff avers that the defendants, had interfered with the land record relating to title Number Njoro/Ngata Block 2/215 by closing the said parcel for sub-division illegally and unprocedurally and creating title numbers Njoro/Ngata Block 2/7686-7495.
2. The plaintiff avers that the defendant's actions have interfered with the plaintiff's right of use of the said parcel and any dealings relating to the land.
3. Despite being notified of that its actions were illegal the defendants refused and/or rubbished the plaintiffs claim necessitating this action. There is no other suit pending in any court or determined between the plaintiff and the defendants on the same subject matter. The plaintiff avers that this court has jurisdiction to adjudicate over this matter. The plaintiff prays for a declaration that the registration of the 1st defendant as the proprietor of those parcels known as Njoro/Ngata Block 2/7686-7695 was fraudulent, null and void and conferred no proprietary right over the land to the 1st defendant.
4. He further prays for a declaration that the 2nd defendant's action of closing the register to title Number Njoro/Ngata Block 2/215 and creating title numbers Njoro/Ngata Block 2/7686-7695 was illegal, null and void.



5. She prays for an order that the 2nd defendant does rectify the register to Title Number Njoro/Ngata Block 2/215 by cancelling registration of title number Njoro/Ngata Block 2/7686-7695 and reinstating the original number title number Njoro/Ngata Block 2/215 registered in the plaintiff's name.
6. She further prays for a declaration that the plaintiff is the lawful proprietor of the land parcel title number Njoro/Nata Block 2/215 to the exclusion of all others. Lastly, she prays for costs of the suit
7. The 2nd defendant filed defence denying knowledge of the plaintiff's allegations and denying any illegality or fraud.
8. When the matter came up for hearing the plaintiff testified that she is a farmer living in Nakuru. She relied on her statement dated December 20, 2021 and filed on January 17, 2022. She claimed that she was allocated the land and registered as proprietor of the land in 1985 and was issued with title. She has been in occupation of the land since 1985, ploughs the land, and has 65 cows, 5 goats and more than 30 chickens. Nobody has claimed her land. KETRACO took the title when putting their transmission lines in 2018 but returned the same. They refused to compensate her because the land was subdivided. She prays for judgment.
9. The 1st defendant did not enter appearance and did not file defence, moreover, did not offer any evidence.
10. The second defendant called Mr Collins Liyai Adela, the land registrar who was very candid and the court commends him for the said candidness. He is an advocate of the High Court of Kenya, practicing as a Land Registrar Nakuru Ardhi House. He came with all documents in the parcel file and admitted that there was an error and had rectified the register for the suit land by cancelling the fourth entry.
11. I have considered the evidence on record and do find that the parcel of land in dispute is Njoro/Ngata Block 2/215. The register was opened on July 3, 1985 is the name of Settlement Fund Trustees. Mary Wanjiru Mwangi was registered as the proprietor on August 7, 1985 after paying a consideration of Kshs31, 500. The land certificate was issued on August 19, 1985 on the August 8, 2018, entry number 4 was erroneous made indicating that the title was closed on subdivision when new titles numbers 7686-7695 were created. The County Land Registrar came to court and testified that this was an error.
12. I do find that the plaintiff has proved his case on a balance of probabilities and I do grant an order that the 2nd defendant does rectify the register to Title Number Njoro/Ngata Block 2/215 by cancelling registration of title number Njoro/Ngata Block 2/7686-7695 and reinstating the original number title number Njoro/Ngata Block 2/215 registered in the plaintiff's name.
13. Moreover, I do grant a declaration that the plaintiff is the lawful proprietor of the land parcel title number Njoro/Nata Block 2/215 to the exclusion of all others. Lastly, I decline to grant costs because the 2nd defendant has admitted and corrected the error. Orders accordingly.

JUDGMENT DATED SIGNED AND DELIVERED VIA EMAIL THIS 23RD MARCH 2023.

A O OMBWAYO

JUDGE

