



Martini v Lusui (Civil Case 402 of 1994) [2023] KEHC 24833 (KLR) (31 October 2023) (Ruling)

Neutral citation: [2023] KEHC 24833 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT KISUMU
CIVIL CASE 402 OF 1994
RE ABURILI, J
OCTOBER 31, 2023**

BETWEEN

GARISHOM MULUHYA MARTINI PLAINTIFF

AND

KEFA KWORO LUSUI DEFENDANT

RULING

1. This is a 1994 case. It was filed on 20th September 1994 by the Plaintiff seeking for orders for transfer of the parcel of land known as No. South Maragoli/Lusiola/1026 to the plaintiff by the defendant or in the alternative, the court to refund purchase price paid or refund of purchase price and value of development on the land.
2. He also prayed for general damages for breach of contract.
3. The suit was filed before the promulgation of the 2010 *Constitution* and the establishment of the Environment and Land Court under Article 162 (2) (b) of the *Constitution*.
4. As this court had jurisdiction then to hear and determine the claim, which jurisdiction has since been taken away and given to the Environment and Land Court, and as the land in question is situate in Vihiga County, and considering the value of the subject matter, although I had the power to strike out or dismiss this suit for want of prosecution as no action has been taken to prosecute it for a while, I hereby direct and order that this suit shall forthwith be transferred to Vihiga Environment and Land Court for further orders/directions on its disposal noting that this court has jurisdiction to hear and determine the claim on title to land.
5. From this end, this file is closed.
6. I so order.

DATED, SIGNED AND DELIVERED AT KISUMU THIS 31ST DAY OF OCTOBER, 2023



R. E. ABURILI
JUDGE

