



Ndegwa v Nyandarua Progressive Agencies Co Ltd & 2 others (Environment & Land Case E35 of 2023) [2023] KEELC 17654 (KLR) (23 May 2023) (Ruling)

Neutral citation: [2023] KEELC 17654 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE E35 OF 2023
FM NJOROGE, J
MAY 23, 2023**

BETWEEN

HANNAH WANJIKU NDEGWA PLAINTIFF

AND

NYANDARUA PROGRESSIVE AGENCIES CO LTD 1ST DEFENDANT

LAND REGISTRAR NAKURU 2ND DEFENDANT

ATTORNEY GENERAL 3RD DEFENDANT

RULING

1. The plaintiff filed the present suit on May 5, 2023 contemporaneously with the Notice of Motion dated April 26, 2023, which sought the following orders:
 1. ...spent.
 2. That a temporary injunction do issue compelling the 1st defendant/respondent/intruder to forthwith desist by themselves, their servants, agents and all persons claiming under her or through her from trespassing, dealing or interfering with the proprietary rights of the plaintiff/applicant in regards to Plot No 1712 at Barafu Trading Centre behind Barafu cooler and adjacent to the Free Pentecostal Church Barafu, Solai Ward, Rongai Constituency in Nakuru County.
 3. That pending the hearing and determination of this suit, a mandatory injunction order do issue against the 1st defendant/respondent/intruder either by themselves, their servants, agents and all persons claiming under them or through her or from otherwise interfering with the applicant's Plot No 1712 at Barafu Trading Centre behind Barafu cooler and adjacent to the Free Pentecostal Church Barafu, Solai Ward, Rongai Constituency in Nakuru County.



4. That eviction order be issued against the 1st defendant/respondent/intruder either by themselves, their servants, agents and all persons claiming under them or through her to demolish all the structures built and leave the applicant's plot No. 1712 at Barafu Trading Centre behind Barafu cooler and adjacent to the Free Pentecostal Church Barafu, Solai Ward, Rongai Constituency in Nakuru County.
 5. That an order that the status quo be maintained and the plaintiff/applicant continue farming and grazing in the land.
 6. That an order be issued stopping the 2nd defendant from processing the titles or in the alternative cancel any title issued to third parties relating to Plot No. 1712.
 7. That an order be issued against the 1st defendant/respondent/intruder either by themselves, their servants, agents and all persons claiming under them or through her to remove all beacons placed on the applicant's Plot No. 1712 at Barafu Trading Centre behind Barafu cooler and adjacent to the Free Pentecostal Church Barafu, Solai Ward, Rongai Constituency in Nakuru County.
 8. That an order compelling the 1st defendant to issue all documents of ownership necessary to the processing of the title deed of plot No. 1712.
 9. That an order compelling the 1st defendant to rectify her records and capture the plot number correctly if they portray any error and give the plaintiff the correct plot number as per the RIM Map (Registry Index Map) in the interest of justice.
 10. That an order be issued permitting the plaintiff to continue to fence the plot which she had begun thus keeping off intruders who are taking advantage by grazing into the said piece of land.
 11. That the OCS Kamukunji Police Station – Solai within Nakuru County assist in compliance of the order and also ensure that peace prevails during the exercise.
 12. That costs of this application and interest therein be provided for.
2. The grounds upon which the application has been brought are at the foot of the application and in the Supporting Affidavit. The applicant claims that the suit land was in 2007 sold to her by the 1st defendant who has now trespassed thereon, subdivided the same and started developing parts thereof thus denying the plaintiff her only source of livelihood.
 3. The applicant filed an affidavit of service on May 12, 2023 stating that the application was served on the 1st and the 2nd respondents and the 3rd respondents on May 10, 2023 and on May 11, 2023 respectively. However, none of the respondents have filed any response to the motion. I therefore consider the motion as unopposed and I hereby grant the motion dated April 26, 2023 in the following terms:
 - a. All the parties to this suit are hereby ordered to maintain the present status quo of the suit land described as Plot No. 1712 measuring 2.00 acres at Barafu Trading Centre in Rongai Constituency Nakuru County pending the hearing and determination of the instant suit.
 - b. The costs of the application shall be in the cause.
 - c. Parties will comply with Order 11 of the CPR and the plaintiff will file an affidavit of service of summons and the suit will be mentioned on September 26, 2023 for issuance of a hearing date.



**DATED, SIGNED AND DELIVERED AT NAKURU VIA ELECTRONIC MAIL ON THIS 23RD
DAY OF MAY, 2023.**

MWANGI NJOROGE

JUDGE, ELC, NAKURU

