

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT BUNGOMA

ELC. CASE NO. 6 OF 2017

GEOFFREY KONES NDIEMA.....PLAINTIFF

VERSUS.

MOSES JOEL NDIEMA.....DEFENDANT

JUDGMENT.

[1]. The plaintiff in this case is the son of Joel Wandinema now deceased, who died on 14/4/2001. The deceased was the registered owner of Land Parcel Malakisi/N&C Namwela/872. The plaintiff attached to these proceedings a Death Certificate No. 333595 dated 2/4/2013 for Joel Wandinema who died on 14/4/2001. The plaintiff also attached the Certificate of Official Search of Title Malakisi/N. S&C Namwela/782 showing the same having been registered in the name of Moses Joel Ndiema on 18/3/2013 and a title deed issued to me. The plaintiff avers that no one has taken the letters of Administration of his fathers estate. That Inspite of that the defendant Moses Joel Ndiema illegally transferred the said Land into his name.

[2]. The plaintiff therefore filed this suit and requested that the said transfer be cancelled and that the land reverts back to the deceased Joel Wandinema. The suit was served on the defendant and a return of service was filed in court. The defendant has not filed any pleadings in this case. The plaintiff formerly proved its case in Court on 22/2/2018.

I am therefore convinced that the defendant illegally purported to transfer the land parcel land number LP No. Malakisi/N & C Namwela/782 that belonged to a deceased person one Joel Wandinema. That he did so without having the letters of administration on the estate of Joel Wandinema. The subsequent transfer was illegal and unlawful. I therefore order the land Registrar Bungoma County to retransfer the said land to the deceased Joel Wandinema. The same must be done forthwith.

The plaintiff's plaint succeeds and he shall have the costs of this suit.

It is so ordered.

Judgment read in open Court in the presence of the Plaintiff.

Dated at Bungoma this 28th day of February, 2018.

S. MUKUNYA

JUDGE

In the presence of:

Court Assistant Anthony

Plaintiff: Geoffrey