



**REPUBLIC OF KENYA**  
**IN THE ENVIRONMENT & LAND COURT OF KENYA**

**AT MILIMANI**

**ELC CASE NO. 1515 OF 2013**

**DOREEN KWAMBOKA NYAKUNDI.....PLAINTIFF**

**=VERSUS=**

**PETER WERU MUNGA.....1<sup>ST</sup> DEFENDANT**

**EMBAKASI RANCHING CO.LTD.....2<sup>ND</sup> DEFENDANT**

**JUDGEMENT**

1. The second defendant is a Limited Liability Company which is in the business of buying land and distributing it to its shareholders. The second defendant allocated plot No. Nairobi Block 105/8051/(suitland) to one Kariuki Kihiko. On 9<sup>th</sup> August 2012, the said Kariuki Kihiko sold the suitland to the plaintiff at a consideration of Kshs.900,000/=. Kariuki Kihiko and the plaintiff went to the offices of the second defendant where the records were changed to reflect the plaintiff as the owner of the suit land.

2. As the plaintiff was undergoing the process of having the suitland registered in her name, she was approached by the first defendant who expressed his interest in purchasing the suitland. The plaintiff told the first defendant that she was not selling the suitland. The plaintiff later learnt that the first defendant was now claiming to be the owner of the suitland on grounds that he had purchased the same. The plaintiff went to Kariuki Kihiko who had sold her the suitland. The two went to the offices of the second defendant where the vendor maintained that he had sold the land to the plaintiff.

3. The officials of the second defendant tried to convince the plaintiff to give up the suitland to the first defendant who had two plots in the area and wanted to undertake a certain project. The officials of the second defendant offered her an alternative plot at Kilimambogo Plateau. The plaintiff remained adamant that she was not going to surrender the suitland. It is after this that the second defendant's officials started intimidating the plaintiff calling her a stubborn woman and that if she was not willing to surrender the suitland ,she was not going to be allowed to remain there as that area is predominantly occupied by people from the first defendant's community and that she should take up the land at Kilimanjaro Plateau that is where people from the plaintiff's community are buying land.

4. The defendants who were duly served with summons to enter appearance and file defence, only entered appearance but did not file any defence. During the hearing, the first defendant's advocate applied for adjournment which adjournment was rejected. The advocate for the first defendant walked away and never returned after which the case proceeded ex-parte. I have gone through the documents produced by the plaintiff. There was an agreement between her and Kariuki Kihiko. The other documents show that

the plaintiff paid Kshs.20,000/= for the second defendant's surveyor to take her to the ground. While on the ground, it was said that beacons had been interfered with. She was asked to pay another Kshs.20,000/=for beacons to be restored. She paid this. She further paid transfer fees of Kshs.50,000/- to the second defendant who then executed a transfer in her favour.

5. There is evidence that the second defendant sought for consent to transfer the suitland into the plaintiff's name. It is clear that the defendants want to short-change the plaintiff when the process of registration is almost complete. The plaintiff's evidence is uncontroverted. I find that the plaintiff has proved her case on a balance of probabilities. I enter judgement in favour of the plaintiff against the defendant as follows;-

***a. A permanent injunction restraining the defendants by themselves, their agents, servants and or employees from interfering with the Plaintiff's possession ,ownership, offering for sale, trespassing, transferring and or in any manner dealing with plot No. Nairobi Block 105/8051 at Embakasi Nairobi.***

***b. A declaration that the plaintiff is the rightful owner of plot No. Nairobi Block 105/8051.***

***c. Costs of this suit to be paid by the defendants.***

Dated, Signed and delivered at **Nairobi** on this **24<sup>th</sup>** day of **October, 2017**.

**E.O.OBAGA**

**JUDGE**

In the presence of;-

Mr Mogire for Plaintiff

Court Assistant: Steve

**E.O.OBAGA**

**JUDGE**