

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

LAND AND ENVIRONMENT CASE NO. 91 OF 2014

PETER WEKALAO NYONGESA.....PLAINTIFF/APPLICANT

VERSUS

MUSA BIKETI NYONGESADEFENDANT/RESPONDENT

JUDGEMENT

[1] The plaintiff in this case is the registered owner of Kimilili/Sikhendu/47. He brought this suit against the defendant demanding that the defendant be evicted from the said land. The defendant filed a defence he said he occupies ½ of an acre out of the said land. He alleged that he was given that ½ acre by his grandfather Wekesa Biketi. He stated that he had done extensive developments on his ½ acre and has built a semi permanent structure therein and planted various types of crops including coffee stems, banana crops and maize. He alleged that the sale between the plaintiff herein and his grandfather Wekesa Biketi was shrouded by fraud. This case was fixed for hearing on 20/7/2016. The defendant never attended. The plaintiff gave evidence of how he bought the suit land from Wekesa Biket. He told the court that when he bought the suit land, there was a small house. He said that on his enquiry as to whom the house belonged, he was told it belonged to the vendor's grandson who had left the land and had gone to his father's home and vacated the suit land. He said he bought the land in 2014. He said that he went back to the land on 2015 and found the small house still there but the defendant's wife in the small house. The plaintiff said that he then asked the said Wekesa Biketi to ask her to move out and vacate the land. That she did so. That however the small house is still there. He now wants to be allowed to remove the said house. The plaintiff produced a certificate of official search of Kimilili/Sikhendu/47. The same showed the land to be his.

[2] Having heard the plaintiff and having perused the search certificate, I have no doubt that the plaintiff purchased the suit land from Wekesa Biketi and obtained good title.

[3] I dismiss the defence of the defendant. I do order that the plaintiff do remove the small house on the suit land. He is free to deal with his land as he pleases.

It is so ordered.

Dated signed and delivered at Bungoma this 27th day of July 2016

S.MUKUNYA - JUDGE

In the presence of

Joy/Gladys court assistants

Plaintiff present

Defendant absent