

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

LAND AND ENVIRONMENT CASE NO. 21 OF 2014

TERESINA RAPANDO

SALOME MALALAAPPLICANTS

VERSUS

BILLIAT ACHIENG RAPANDORESPONDENT

JUDGEMENT

[1] The 1st and 2nd plaintiffs herein filed Bungoma High Court Civil Case No. 78 of 1998 against Grace Omukwaya Malala, Peter Waswa Rapando, William Wambani Rapando, Bildad Achieng Rapando. They claimed for general damages for breach of trust and transfer of LR No. E. Wanga/Malaha/626, 627, 628, 629, 630 and 631. The plaintiffs claim was allowed by the court and order was issued directing the Land Registrar Kakamega to cancel the aforesaid parcel and register them in the names of the plaintiffs.

[2] The 1st plaintiff gave evidence that she is the daughter of the late Malala Rapando, that her father was the original owner of East Wanga/Malaha/628. That after the death of the plaintiff's father the land was sub divided by Peter Waswa her uncle who had inherited the plaintiff's mother and registered the resultant subdivisions to himself and his family. The situation was corrected by this court vide Bungoma High Court Civil case No. 78 of 1998 aforesaid.

Pursuant to that court order a decree was extracted and titles processed. The decree and title were annexed to the pleadings herein. What then precipitated this case was the fact that the defendant has refused to move and vacate out of the land as per the Court Order. The plaintiffs prayed that the defendant be evicted out of the suit land. The defendant who was duly served and was aware of the hearing date never attended the court. The plaintiff prayed that the case be closed. The case was then closed.

[3] The issues in this case were fully determined in Bungoma HCCC 78 of 1998 aforesaid. The suit land was adjudged to belong to the plaintiffs. As far as the court is aware there is no appeal preferred. There is no stay or any kind of order upon which the defendant can peg his stay on the suit land.

[4] I do order that the defendant shall be evicted out of the suit land together with his agents, representatives, assigns, lessees and servants from land parcel East Wanga/Malaha/628. He shall give vacant possession to the plaintiffs.

[5] The said eviction shall be done by the court bailiff. The police of the nearest police station shall provide security during eviction.

The plaintiffs shall have the costs of this suit.

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

S.MUKUNYA - JUDGE

In the Presence of

Madam Nanzushi for Madam Wakoli for the applicant

N/A for the respondent

Gladys Court assistant