



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL NO. 306 OF 2013

**TERESIAH WANJIRU(Suing for and on behalf of
GIBSON REUBEN WAMWEA**

by virtue of a Power of Attorney no. IP/A60107/1.....PLAINTIFF

VERSUS

CHRISTOPHER ONGECHI OMBATI.....DEFENDANT

JUDGMENT

1. The Plaintiff has sued the Defendant herein in her capacity as the Donee of a Power of Attorney no. IP/A60107/1. She claimed that at all material times to this suit, Gibson Reuben Wamwea (***her husband***) was and still is the owner of Kahawa West Estate House No. CC 22 Nairobi through an allocation of Kahawa West Tenant Purchase Housing Scheme allocated vide the letter dated 30th January, 1985. That pursuant to a formal understanding between her husband and the Defendant, the Defendant rented the suit property on a monthly payment basis. That since her husband relocated abroad, the Defendant has been defiant in rent payment and has refused to give vacant possession of the property. She claimed that due to the aforesaid reason she has suffered loss and damage since she has been deprived of use and possession of the property. Due to the foregoing, the Plaintiff sought the following orders:-
 - a. **A declaration that the Plaintiff is entitled to exclusive and un-impeached right of possession and occupation of the suit premises being Kahawa West House No. CC 22 Nairobi.**
 - b. **An order for permanent mandatory injunction directed to the Defendant his agents and/or servants to give vacant possession of Kahawa West House No. CC 22 Nairobi.**
 - c. **Costs of this suit.**
 - d. **Any further relief that this court may deem fit and just to grant.**
2. Despite being served, the Defendant neither entered appearance nor filed a defence and interlocutory judgment was entered against him on 15th January, 2015. This matter then proceeded for formal proof. Gibson Reuben Wamwea (PW1) confirmed that he had given her wife Teresia Wanjiru Wamwea power of attorney and stated that he was comfortable with her wife prosecuting this matter. Teresia Wanjiru Wamwea (PW2) essentially reiterated her averments in the plaint in her testimony.
3. As earlier mentioned in this judgment, the Defendant neither entered appearance nor filed a defence. The Plaintiff's case therefore remains uncontroverted. The plaintiff produced a certified copy of allocation letter dated 30th January, 1985 and copies of rate bills paid to City Council of Nairobi by her husband. I see no reason why the Plaintiffs' case for vacant possession should not

- succeed. I also give costs of the suit and interest.
4. In the end judgment is entered in favour of the Plaintiffs and against the Defendant in the following terms:-
 - a. **I declare that the Plaintiff is entitled to exclusive and un-impeached right of possession and occupation of the suit premises being Kahawa West House No. CC 22 Nairobi.**
 - b. **A mandatory injunction directed to the Defendant his agents and/or servants to give vacant possession of Kahawa West House No. CC 22 Nairobi, within 30 days. In default the plaintiff to be at liberty to forcefully evict the defendant**
 - c. **Before executing (b) above, the Plaintiff should serve the Defendant and then appear before this court on 29.6.2015 to show proof of compliance of the directive on service by a competent court process server.**
 - d. **Costs of the suits plus interest to the Plaintiff.**

Dated, Signed and Delivered in open court this 22nd day of May, 2015.

J. K. SERGON

JUDGE

In the presence of:

..... for the Plaintiffs

..... for the Defendants