



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KISII

ENVIRONMENT AND LAND CIVIL CASE NO. 68 OF 2012 (OS)

TITUS ONG'ANG'A NYACHIEO PLAINTIFF

VERSUS

MARTIN OKIOMA NYAUMA1ST DEFENDANT

JULIUS MAGERO MARTIN 2ND DEFENDANT

THOMAS BOSIRE MARTIN 3RD DEFENDANT

JOHN MAGERO MARTIN 4TH DEFENDANT

JUDGMENT

1. This is a claim over land on account of adverse possession. The plaintiff brought this suit by way of originating summons dated 23rd February 2012 seeking the following reliefs;

(i) A declaration that the defendants right to recover a portion measuring 198ft by 69 ft (approximately 1/4acre) of LR No. Central Kitutu/Daraja Mbili/819 is barred under the Limitation of Actions Act Cap 22 Laws of Kenya, and their title over a portion in occupation/use of the plaintiff thereof extinguished on the grounds that the plaintiff herein has openly, peacefully and continuously been in occupation/use and possession of the aforesaid portion measuring a ¼ acre for a period exceeding 12 years.

(ii) An order that the plaintiff be registered as the proprietor of the portion measuring 198ft by 69ft (approximately ¼ acre) of land parcel No. LR No. Central Kitutu/Daraja Mbili/819, in place of the defendants and/or the register thereof be rectified to reflect the plaintiff ownership of the aforesaid ¼ acre under his use.

(iii) An order that the defendants do execute all the requisite papers necessary to have the plaintiff registered as owner of the portion of LR No. Central Kitutu/Daraja Mbili/819, measuring 198ft by 69ft (approximately ¼ acre), decreed by the court and in default, the deputy registrar and/or court executive officer be at liberty to execute all such necessary documents to give effect to the judgment and/or decree of the court.

(iv) Costs of this Originating Summons to be borne by the defendants.

(v) Such further and/or other orders be made as the court may deem fit and expedient, in the circumstances of this case.

2. In his affidavit in support of the Originating Summons the plaintiff stated that; the 1st defendant herein sold to him a portion of all that parcel of land known as LR No. Central Kitutu/Daraja Mbili/819 measuring 198feet by 69feet (approximately $\frac{1}{4}$ of an acre) (hereinafter referred to as “the suit property”) in the year 1975. He took possession of the suit property soon after purchase and has occupied and used the same for cultivation since then. The 1st defendant was to obtain consent of the Land Control Board to transfer the suit property to him (plaintiff) which he failed to do thereby rendering the sale transaction null and void. On 18th January 1996, the 1st defendant through an agreement of the same date, surrendered the suit property to him and relinquished all his claims over the same. The 1st defendant however reneged on the said agreement of 18th January 1996 and proceeded to transfer the suit property to the 2nd, 3rd and 4th defendants who are his sons on 30th June 2011 with a view to defeating his (plaintiff) claim over the same.

3. The plaintiff stated further that he has been in actual, open, peaceful and uninterrupted occupation of the suit property for over 35 years and that the suit property is fenced and delineated on the ground. The plaintiff stated that the defendants’ claim over the suit property has been extinguished by lapse of time and has become statute barred. The plaintiff stated that his claim over the suit property through adverse possession has accrued and that a title in respect thereof should be issued in his favour. He annexed to his affidavit; a copy of an agreement dated 18th January 1996 said to have been made between him and the 1st defendant in respect of the suit property, a copy of a certificate of official search on the register of the suit property dated 15th June 2006, and a copy of a certificate of official search on the register of the suit property dated 17th January 2012.

4. The plaintiff’s Originating Summons application was opposed by the defendants. The defendants filed a replying affidavit sworn 8th August 2013 by the 4th defendant on his own behalf and on behalf of the other defendants. In his affidavit, the 4th defendant stated that save for the parcel of land known as LR No. Central Kitutu/Daraja Mbili/1679 (hereinafter referred to as “Plot No. 1679”) that was sold by the 1st defendant to the plaintiff in the year 1973, the 1st defendant did not sell any other parcel of land to the plaintiff. The 4th defendant denied that the 1st defendant sold to the plaintiff the suit property in the year 1975. He contended that the said parcel of land was only leased to the defendant which lease has lapsed. He stated that LR No. Central Kitutu/Daraja Mbili/819 (hereinafter referred to as “Plot No. 819”) was registered in the name of the 1st defendant and one, Nyauma Mbira on first registration and as such the agreement for sale in respect of a portion thereof said to have been made between the plaintiff and the 1st defendant alone in 1996 is fraudulent. The 4th defendant annexed to his affidavit, a copy of a certificate of official search dated 1st August 2013 on the register of Plot No. 1679 and a copy of agreement for sale between the plaintiff and the 1st defendant dated 20th December 1973 in respect of Plot No.1679.

5. On 4th June 2013, directions were given that the Originating Summons shall be deemed as a Plaint and the defendants’ replying affidavit as a defence and that the Originating Summons shall be heard by way of viva voce evidence. At the trial, the plaintiff gave evidence and called two witnesses. On their part, all the defendants gave evidence but did not call any witness. In his evidence, the plaintiff reiterated the contents of his affidavit in support of the Originating Summons. The plaintiff told the court that the 1st defendant who is the father of the 2nd to 4th defendants sold to him the suit property in the year 1975. He took possession of the suit property immediately and started cultivating the same. The agreement that they entered into with the 1st defendant was oral. The same was later reduced into writing in the year 1996 before the clan elders. In the year 2012, he carried out a search on the register for Plot No. 819 which search revealed that the said property a portion of which comprised of the suit property had been transferred by the 1st defendant to the 2nd to 4th defendants. He has over the years planted maize and bananas on the suit property which activity was continuing as at the time he instituted these proceedings. In the month of August 2012, the 2nd to 4th defendants in the company of their mother chased him from the suit property. He has since then not used the suit property having been advised by the area chief to keep off the same until this suit which he had filed by then is heard and determined. The said chief had arbitrated on the dispute earlier in the year 2006 when a decision was made that he continues using the

suit property.

6. The plaintiff stated further that the 1st defendant had sold to him another parcel of land earlier measuring $\frac{3}{4}$ of an acre which was duly transferred to him and a title issued in his favour. That parcel of land is not in dispute. The suit property which is in dispute herein was sold to him as an addition to the said parcel of land that was sold to him earlier. Unlike in the case of the earlier parcel of land aforesaid, the 1st defendant declined to transfer the suit property to him. This compelled him to institute legal proceedings against the 1st defendant at the Kisii Municipality Land Disputes Tribunal (“hereinafter referred to as “the tribunal”) sometimes in the year 2006. The tribunal determined the dispute in favour of the 1st defendant but its decision was quashed by the High Court on judicial review. The plaintiff stated that the defendants have never brought legal proceedings against him for the recovery of the suit property since he took possession of the same in 1975. He stated that he had used the suit property from 1975 until the year 2012 when he was hounded out of the same by the defendants. The plaintiff produced as exhibits; a copy of the certificate of official search on the register of Plot No.819 dated 15th June 2006(P.Exh.1), a copy of the agreement dated 18th January 1996(P.exh.2), a copy of the certificate of official search on the register of Plot No.819 dated 17th January 2012(P.Exh.3) and a copy of the decision of the tribunal made on 18th July 2007 in Claim No. 6 of 2006(P.Exh.5).

7. The plaintiff’s first witness was Job Nyakundi Onchera (PW2). PW2 is a former chief. He told the court that the parties herein are known to him. They are his neighbours and were residing within his jurisdiction while he was the chief of Kisii Township Location. He stated that the dispute between the plaintiff and the defendants over the suit property has been going on for a very long time and that the same started before he became a chief in the year 2001. The dispute was brought to him for arbitration in the year 2006. At the time, the plaintiff had complained that the 1st defendant had destroyed the plaintiff’s boundary fence and encroached on the suit property. The 1st defendant on the other hand denied that he had sold the suit property to the plaintiff. PW2 stated that from the representations that were made before him by the parties, he learnt that the 1st defendant had sold the suit property to the plaintiff in the year 1975 and that the plaintiff had been using the same since then. He stated further that in the year 2012, there was a confrontation on the suit property and arising from the incident, he advised the plaintiff to stop any activity on the suit property until this case is determined. He told the court that he took down the minutes of the deliberations that took place before him which he produced as P.Exh.4. He stated that the 1st defendant admitted before him that he had sold the suit property to the plaintiff and that he had executed the agreement dated 18th January 1996 (P.Exh.2) that was produced at that meeting.

8. The plaintiff’s second and last witness was Peter Onsongo Maiko (PW3). PW3 told the court that the plaintiff and the defendants are known to him as they are neighbours. He told the court that the 1st defendant sold to the plaintiff two parcels of land. The 1st defendant transferred and caused a title deed to be issued to the plaintiff with respect to the first parcel of land. He however refused to transfer to the plaintiff the second parcel of land (the suit property) which the plaintiff purchased from him in the year 1996 although the plaintiff had taken possession of the same. PW3 stated that the Plaintiff is using a half portion of the suit property while the remaining half portion is being used by the 1st defendant, who started using the same in the year 2000. He denied that the 1st defendant forcefully entered the suit property in the year 2012 as had been claimed by PW2. He stated that he witnessed the agreement for sale that was made between the plaintiff and the 1st defendant on 18th January, 1996(P.Exh.2).

9. On the part of the defendants, the first to give evidence was the 1st defendant. He told the court that he sold to the plaintiff a parcel of land on 20th December 1973 which parcel of land he transferred to the plaintiff and the plaintiff has a title thereto. He sold this parcel of land to the plaintiff jointly with his father, one, Nyauma Mbiru, deceased who was a co-owner thereof. He denied that he sold to the plaintiff any other parcel of land. He also denied entering into any agreement for sale of land with the plaintiff in the years 1975 and 1996. He told the court that he had a case with the plaintiff before the tribunal over the suit property that was determined in his favour. He stated that he is the one in occupation of the suit property and that the plaintiff has never occupied the same. He stated that the plaintiff is occupying the

parcel of land that he had sold to him in 1973 aforesaid in respect of which there is no dispute. The 1st defendant produced as exhibits; a copy of the agreement for sale dated 20th December 1973(D.Exh.1), a copy of certificate of official search on the register for Plot No. 1679 dated 1st August 2013(D.Exh.2 (a)), a copy of the certificate of official search on the register of Plot No. 819 dated 17th January 2012 (D.Exh.2 (b))and a copy of the proceedings of the tribunal (D.Exh.3).

10. The next to give evidence was the 2nd defendant, Julius Mogere Martin (DW2). DW2 corroborated the evidence of the 1st defendant (DW1). He reiterated that the 1st defendant sold to the plaintiff only one parcel of land in respect of which there is no dispute. He denied that the 1st defendant entered into an agreement for sale of land with the plaintiff on 18th January 1996. He stated it is the defendants who have used the suit property over the years and that the plaintiff has all along been using the parcel of land that was sold to him by the 1st defendant in the year 1973. The 3rd (DW3) and 4th (DW4) defendants adopted the evidence of the 1st and 2nd defendants.

11. After the close of the defendants' case, the advocates for the parties agreed to make closing submissions in writing. The plaintiff filed his submissions on 5th May 2015 while the defendants did so on 8th June 2015. I have considered the pleadings and the evidence on record. I have also considered the parties' respective submissions. The parties did not agree on issues for determination by the court. The plaintiff framed seven (7) issues while the defendants came up five (5) for determination. From my analysis of the pleadings, the evidence tendered and the parties' respective submissions, the following in my view are the issues that arise for determination in this suit, namely;

(i) Whether the plaintiff has been in actual, open, peaceful and uninterrupted occupation of a portion measuring 198feet by 69feet (approximately ¼ acre) of all that parcel of land known as LR No. Central Kitutu/Daraja Mbili/819 (“the suit property”) for a period exceeding 12 years?

(ii) Whether the plaintiff has acquired rights over the suit property adverse to the defendants' title over the same?

(iii) Whether the plaintiff is entitled to the reliefs sought against the defendants?

(iv) Who is liable to pay the costs of the suit?

Before, I consider these issues one after the other I wish to set out the law on adverse possession as laid down over the years in various judicial pronouncements.

In the case of **Ahmed Abdulkarim and Another vs. Member of Lands and Mines and Another [1958] E. A 436**, it was held among others that:-

“before possession can be adverse there must be a denial of another’s right by an open assertion of a hostile title with notice thereof to the other, either express or inferred from notorious acts and circumstances and the burden of proof rests upon the persons claiming title by adverse possession.”

In the case of **Kimani Ruchine & Another vs. Swift, Rutherford Co. Ltd & Another [1976-80] 1KLR 1500**, Kneller J. stated as follows at page 1508 on what a plaintiff who claims land by adverse possession must prove:

“The plaintiffs have to prove that they have used this land which they claim as of right; nec vi, nec clam, nec plecario (no force, no secrecy, no evasion). So the plaintiffs must show that the company had knowledge (or the means of knowing, actual or constructive) of the possession or occupation. The possession must be continuous. It must not be broken for any temporary purposes or by any endeavour to interrupt it, or by any recurrent consideration; see Wanyoike Gathure –vs- Beverly [1965] E. A 514, 518, 519, per Miles J.”

In the same case, Kneller J. stated further that:

“Possession can take different forms such as fencing or cultivation..... Certainly, where cultivation of the land is the evidence put forward to support the claim by adverse possession, then it should be definite as to the area and to time; see generally, West Estates Ltd. –vs- Arthur [1966] 3 WLR 750”

In the case of **Githu vs. Ndeete [1984] KLR 776** it was held among others that:-

(i) “Time ceases to run under the Limitation of Actions Act either when the owner takes or asserts his right or when his right is admitted by adverse possessor. Assertion occurs when the owner takes legal proceedings or makes an effective entry into land. Giving notice to quit cannot be an effective assertion of right for purpose of stopping the running of time under the Limitation of Actions Act.”

(ii) A title by adverse possession can be acquired under the Limitation of Actions act to a part of the parcel of land which the owner holds title.

(iii) The mere change of ownership of land which is occupied by another person under adverse possession does not interrupt such person’s adverse possession.”

12. The first and second issues;

The plaintiff has contended that, sometimes in the year 1975, he entered into an oral agreement for sale with the 1st defendant through which the 1st defendant sold to him a portion of Plot No.819 measuring 198feet by 69feet (approximately ¼acre) (“the suit property”). He took possession of the suit property immediately and started cultivating maize and bananas thereon. The plaintiff led evidence that the said agreement for sale was reduced into writing on 18th January, 1996 while he was in possession of the suit property. He produced in evidence as exhibit a copy of the said agreement (P.Exh.2). The plaintiff has contended that he occupied and used the disputed portion of the suit property from 1975 up to August, 2012 when he was prevented from entering the same by the 2nd to 4th defendants in the company of their mother. Before he was chased away from the suit property, the dispute between the parties had been referred to the area chief and the tribunal for arbitration.

13. The plaintiff produced as exhibits, the minutes of the deliberations that took place before the chief (P.Exh.4) and the decision of the tribunal in claim No. 6 of 2006(P.Exh.5). The tribunal dismissed the plaintiff’s claim over the suit property and ordered the plaintiff to stop interfering with the said property. The tribunal’s decision was made on 18th July 2007. The plaintiff contended that he challenged the said decision of the tribunal by way of Judicial Review in Kisii High Court Misc. Civil Application No. 10 of 2011 and succeeded in having the same quashed. The plaintiff did not however produce in evidence a copy of the decision that was made by the High Court in the said judicial review application. In his testimony, the plaintiff admitted that he had earlier bought another parcel of land from the 1st defendant that was transferred and registered in his name without any incident. He also admitted that his home is situated on this parcel of land. In cross-examination, the plaintiff stated that:-

“I have nothing to show that I have occupied the suit property for 35 years. I have my home on another parcel of land. I have been using the suit property for cultivation. I have been cultivating maize and bananas on the suit property.”

14. PW2 told the court that the dispute between the plaintiff and the 1st defendant over the suit property has been going on for several years. He told the court that when the dispute was referred to him in the year 2006 for arbitration, the 1st defendant was said to have destroyed the plaintiff’s boundary fence and entered the suit property. PW3 told the court that the plaintiff purchased the suit property from the 1st defendant in the year 1996 and that he took possession of the same after the execution of the agreement for sale. He told the court that the plaintiff is using a half portion of the suit property while the other half

is being used by the 1st defendant who started using the same in the year 2000. PW3 reiterated in cross-examination that the disputed portion of the suit property was sold by the 1st defendant to the plaintiff in the year 1996 and that the 1st defendant entered and started using a half a portion thereof in the year 2000.

15. In re-examination PW3 stated that the agreement that was made between the plaintiff and the 1st defendant on 18th January 1996 was made while the plaintiff was in possession of the suit property and that the plaintiff and the 1st defendant had entered into an oral agreement earlier for the sale of the disputed property. Upon examination by the court, PW3 stated that the dispute between the parties herein started in the year 1996 and that they have never lived in peace since then. On further examination by the plaintiff's advocate, PW3 told the court that the plaintiff and the 1st defendant have fought over the suit property.

16. On their part, the defendants maintained in their testimonies that the 1st defendant sold to the plaintiff only one parcel of land namely, Plot No. 1679. They denied that the 1st defendant sold the suit property to the plaintiff and that the plaintiff has occupied the same for over 35 years. The defendants denied also that the 1st defendant had entered into an agreement for sale of the suit property with the plaintiff on 18th January 1996. The defendants contended that they are the ones in occupation of the suit property and that the plaintiff occupies Plot No. 1679. In cross-examination, the 1st defendant told the court that the plaintiff had occupied the disputed portion of the suit property under a lease for 8 years but declined to vacate the same after the expiry of the said lease.

17. I have carefully analyzed and evaluated the evidence on record. As I have stated earlier in this judgment, the onus was upon the plaintiff to prove that he has occupied the suit property continuously without any interruption, peacefully, openly and without any fraud. I am not satisfied that the plaintiff has discharged this burden. The plaintiff has claimed that he purchased the suit property from the 1st defendant in the year 1975 and took possession thereof immediately. There is no evidence of whatsoever nature of this agreement which is said to have been the basis of the plaintiff's entry and occupation of the suit property. It is instructive to note that an agreement that was entered into earlier in the year 1973 between the plaintiff and, the 1st defendant and his deceased father over a different parcel of land was reduced into writing and a copy thereof was produced in evidence (D.Exh.1).

18. The only agreement that was placed before the court which is said to have been made between the plaintiff and the 1st defendant was that dated 18th January, 1996(P.Exh.2). The 1st defendant denied having executed this agreement. A perusal of the agreement also reveals that it does not contain the particulars of land that was the subject thereof. It does not also purport to be an agreement for sale. It provides as follows in part, **“I, Martin Okioma Nyauma, the holder of I.D No. have surrendered the disputed piece of land of approximately a quarter of an acre to Mr. Titus O. Nyachio whose ID. No. is 0249154/64”**. This is an agreement for the surrender of land. The question that arises therefore is whether the plaintiff took possession of the suit property which he claims to have been the subject of this agreement on 18th January, 1996 when it was purportedly surrendered to him or in the year 1975 when he claims to have entered into an agreement for sale with the 1st defendant in respect thereof. I doubt if the latter is the case. I don't see how the plaintiff could have occupied the suit property before it was “surrendered” to him by the 1st defendant.

19. There is no evidence that the plaintiff occupied the suit property in 1975. The plaintiff testified that he took possession of the suit property in 1973 and started planting maize and Bananas thereon. No evidence of such activity was placed before the court. As was stated in the case of **Kimani Ruchine & another –vs- Swift, Rutherford Co. Ltd & Another (supra)**, where cultivation of land is the evidence put forward in support of adverse possession claim, the claimant must come out clearly as to the area on which the cultivation was being carried out and the period when it took place. The plaintiff has claimed that the suit property measures approximately ¼ of an acre. In his evidence the plaintiff stated that, **“I planted maize and bananas on the suit property. That is what I have done on the property over the**

years.” There is no indication as to when the cultivation of the two crops started and the area that was covered by the two crops.

20. Assuming that the plaintiff entered onto the suit property when it was purportedly surrendered to him by the 1st defendant in the year 1996 pursuant to the agreement dated 18th January 1996, is there evidence that the plaintiff occupied the suit property continuously for uninterrupted period of over 12 years from that date? As I have stated above, the evidence that was relied upon by the plaintiff in support of his occupation of the disputed property was cultivation of maize and bananas. Although the plaintiff claimed to have occupied the suit property upto August, 2012 when he was chased away therefrom by the defendants, no evidence was placed before the court in proof of cultivation of the said crops on the disputed property. I am of the view that since the plaintiff has claimed to have been in occupation of the disputed property even after the filing this suit, some photographs of the activities that he was carrying out on the property would have sufficed as evidence of such occupation. In cross-examination, the plaintiff stated that **“I have nothing to show that I have occupied the suit property for the last 35 years.”** I think the plaintiff was candid in this statement. Due to the foregoing, I am not satisfied on the material before me that the plaintiff had occupied the suit property for a period of 12 years prior to the filing of this suit.

21. As I have stated above, for one to acquire land by adverse possession, the possession must be peaceful, continuous and uninterrupted. Has the plaintiff met these conditions, assuming that he was in occupation of the disputed property? I am not satisfied that the plaintiff’s occupation of the suit property was peaceful and continuous. From the evidence on record there has been a long standing dispute between the defendants and the plaintiff over the suit property. It is not very clear from the record when the dispute arose. It appears however that the dispute was already in existence in the year 1996 when the plaintiff claims to have entered into the agreement dated 18th January, 1996 with the 1st defendant. The said agreement refers to **“the disputed piece of land”**. The dispute was referred to the area chief for arbitration in the year 2006. Thereafter it was taken before the Kisii Municipality Land Disputes Tribunal (“the tribunal”). PW2 who is the chief who had tried to resolve the matter told the court that he became a chief in the year 2001 and that the dispute over the suit property started before that date. When the dispute was referred to him in the year 2006 the 1st defendant was said to have damaged the plaintiff’s boundary fence and entered the suit property.

22. According to the minutes of the deliberations that took place before the chief (PW2), the defendants are said to have destroyed the fence that the plaintiff had put up around the suit property and entered the suit property on several occasions namely, August, 2000, 8th January, 2006 and 10th April 2006. In his decision made on 20th April 2006, PW2 permitted the plaintiff to restore the damaged fence and barred the defendants from any further encroachment on the suit property. PW2 directed the plaintiff to take the dispute to the tribunal. In the proceedings of the tribunal that were produced by the defendant in evidence as D.Exh.3, the plaintiff had told the tribunal that he purchased the suit property from the 1st defendant in 1975 at a consideration of kshs. 8,000/= and had the same fenced. The fence was however destroyed by the 1st defendant and members of his family on several occasions. In the year 2006, the destruction was so severe that even the crops that he had planted on the property were destroyed. The tribunal dismissed the plaintiff’s claim on 18th July 2007 and barred the plaintiff from interfering with the suit property. Although the plaintiff has contended that he successfully challenged the tribunal’s decision in the High Court by way of judicial review, no evidence was placed before the court concerning the said judicial review application. A search by the court at the registry revealed that Kisii High Court Misc. Civil Application No. 10 of 2011 (JR) that the plaintiff claimed to be the judicial review that he lodged against the said decision of the tribunal, concerned other parties namely, **Republic –vs- The Clerk Municipal Council of Kisii, Ex parte Masosa Construction Ltd.**

23. PW3 told the court that;-

“A dispute arose in 1996 when the plaintiff started demanding a title deed for this parcel of land. From 1996, the plaintiff and the 1st defendant have not had peace over this second parcel of land.....The plaintiff and the 1st defendant have had fights over this parcel of land.”

It is clear from the foregoing that the plaintiff's occupation of the suit property for whatever period he had such occupation was not peaceful and continuous. His occupation of the property was interrupted on several occasions by the defendant's entry onto the property after demolishing the fence that the plaintiff had erected around the same. I am also of the view that it was also interrupted by the defendants' assertion of their rights over the suit property in the claim that the plaintiff had lodged against the 1st defendant at the tribunal. The plaintiff cannot therefore be said to have occupied the suit property peacefully for a continuous uninterrupted period of 12 years as at the time he brought these proceedings. Due to the foregoing I have to answer issues number one and two above in the negative.

24. The third issue;

From what I have set out earlier in this judgment, it is my finding that the plaintiff has failed to prove the ingredients of an adverse possession claim. The plaintiff is therefore not entitled to the reliefs sought in the Originating Summons filed herein. In conclusion, I find the plaintiff's claim against the defendant not proved to the required standard. The same is accordingly dismissed with costs to the defendants.

Delivered, Dated and Signed at Kisii this 27th day of August, 2015.

S.OKONG'O

JUDGE

In the presence of:

| | |
|-------------------------|-------------------|
| N/A | for the plaintiff |
| Mr. Abobo for Mr. Sagwe | for the defendant |
| Mr. Omwoyo | Court Assistant |

S.OKONG'O

JUDGE