



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT**

**AT KISUMU**

**ELC CASE NO. 437 OF 2015**

**GEORGE OPONDO OOKO.....PLAINTIFF**

**VERSUS**

**PIUS OLOO.....1<sup>ST</sup> DEFENDANT**

**SYLVESTER WANJALA.....2<sup>ND</sup> DEFENDANT**

**SUSAN ADOYO.....3<sup>RD</sup> DEFENDANT**

**JUDGMENT**

George Opondo Oloo, (hereinafter referred to the Plaintiff) has come to court for a declaration that:

- a) The plaintiff is entitled to exclusive and unimpeded right of possession and occupation of all that piece of land known as KISUMU/KANYAKWAR 'A'/134.**
- b) The defendants whether by themselves or their servants or agents or otherwise howsoever are wrongfully in occupation of the suit property and are accordingly, trespassers on the same.**
- c) The defendants whether by themselves or their servants or agents or otherwise howsoever re not entitled to remain on the suit property.**
- d) An injunction restraining the defendants whether by themselves or through their agents, servants or otherwise howsoever from remaining on or continuing in occupation of the suit property.**
- e) Vacant possession of the suit property.**
- f) General damages for trespass.**
- g) Mesne profits.**
- h) Costs of this suit and interest thereon at such rate and for such period of time as this honourable court may deem fit to grant.**

The Plaintiff asserts that he is legally registered proprietor of the KISUMU/KANYAKWAR 'A'/134 measuring 0.09Ha having purchased the same from James Onyango Josiah and a title deed issued to him. He produced copies of the said title deed. The Plaintiff gave evidence that the defendants were his tenants between 2007 and 2009. He asked them to move out but they refused.

They are occupying his land illegally. They were paying 14,000/= per month. He produced the receipts. PW2, Stephen Odhiambo Jaoko stated that he used to collect rent from the defendants and remit it to the plaintiff. The Defendants were given notices to vacate but they refused.

The defendants were served with hearing notice but they did not attend hearing. They were informed of the court order to file submission but they did not.

I do find that the plaintiff has satisfied the court that he is the registered owner of the suit property.

Moreover, the defendants were paying rent but stopped doing so for their own reasons.

The plaintiff has proved his case on a balance of probabilities. I do grant orders:

- a) The plaintiff is entitled to exclusive and unimpeded right of possession and occupation of all that piece of land known as KISUMU/KANYAKWAR 'A'/134.**
- b) The defendants whether by themselves or their servants or agents or otherwise howsoever are wrongfully in occupation of the suit property and are accordingly, trespassers on the same.**
- c) The defendants whether by themselves or their servants or agents or otherwise howsoever re not entitled to remain on the suit property.**
- d) An injunction restraining the defendants whether by themselves or through their agents, servants or otherwise howsoever from remaining on or continuing in occupation of the suit property.**
- e) Vacant possession of the suit property.**
- f) General damages for trespass.**

Mesne profits of Kshs. 14,000 per months from April 2010 to-date.

Costs of the suit to the plaintiff.

**DATED, SIGNED AND DELIVERED AT KISUMU THIS 23<sup>rd</sup> DAY OF MARCH, 2022**

**ANTONY OMBWAYO**

**JUDGE**

*This Judgment has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic and in the light of the directions issued by his Lordship, the Chief Justice on 15<sup>th</sup> March 2020.*