



**IN THE HIGH COURT OF KENYA AT KERUGOYA**

**ELC SUIT NO. 623 OF 2013**

KARIUKI GATUMU .....  
PLAINTIFF

VERSUS

MICHAEL MUNENE NJOGU .....  
DEFENDANT

**JUDGMENT**

By his plaint filed herein on 3<sup>rd</sup> July 2013, the plaintiff suing as the registered owner of a parcel of land known as L.R NGANDORI/KANGARU/PLOT T.13 (hereinafter the suit land) filed this suit against the defendant seeking a declaration that the registration of the said suit land in the names of the defendant is null and void and the same should revert back into the plaintiff's names. The plaintiff also sought the costs of this suit.

The suit was premised on the pleadings that whereas the plaintiff has always been the registered owner of the suit land, he discovered that infact the defendant had on or about 19<sup>th</sup> November 1974 fraudulently and illegally caused the said land to be registered in his names without the knowledge or consent of the plaintiff. Particulars of fraud were pleaded.

According to the record, the defendant was duly served with the plaint but did not enter any appearance. Accordingly, on 26<sup>th</sup> September 2013,interlocutory judgment was entered against him and the matter came up before me for formal proof on 10<sup>th</sup> July 2014.

In his evidence in chief, the plaintiff testified that he has always been the registered owner of the suit land and produced the Green Cards (Exhibit 1). The said land has been in the possession of DOMINIC MUGO NJERU (PW2) whom he has allowed to grow nappier grass thereon. However, sometime in 2011, PW2 saw some people on the land claiming to have bought the land from one MUNENE. PW2 informed the plaintiff who commenced investigations and went to the Lands office where he found documents showing that he had transferred the land to the defendant. One of the documents was a transfer form (Exhibit 3) showing his Identity Card as No. 9177021/61-0 yet his Identity Card is No. 3521468 (Exhibit 2). He therefore placed a caution on the land and filed this suit.

DOMINIC MUGO NJERU (PW2) confirmed that he knows the plaintiff as the owner of the suit land which he has leased to grow nappier grass and sometime in 2011, some people went there claiming to have bought it from the plaintiff and so he informed the plaintiff.

I have considered the plaintiff's evidence as supported by his witness. The same is not controverted as the defendant did not file appearance or any defence. It is clear from the plaintiff's evidence that the

defendant must have fraudulently registered himself as the owner of the suit land. This is because, the Identity Card number appearing on the transfer documents does not even belong to the plaintiff. There was clearly collusion between the defendant and un-known person or persons at the Lands Registry. Believing the plaintiff and his witness as I do, I have no reason to find otherwise than that he has established his case as required in law.

Accordingly, therefore, I enter judgment for the plaintiff as prayed in his plaint.

**B.N.**  
**OLAO**  
**JUDGE**

**18<sup>TH</sup> JULY, 2014**

18/7/2014

Before

B.N. Olao – Judge

Mwangi – CC

Mr. Kamiru for Muthoni for Plaintiff – present

No appearance for Defendant

COURT:

Judgment delivered in open Court this 18<sup>th</sup> day of July 2014.

Mr. Kamiru for Ms Muthoni for Plaintiff present

Defendant absent

Right of appeal explained.

**B.N. OLAO**

**JUDGE**

**18<sup>TH</sup> JULY, 2014**