

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

AT MOMBASA

ELC. NO. 66 OF 2014

SUDI HAMISI PLAINTIFF

- V E R S U S -

MATANO JUMA MBARUKU 1ST DEFENDANT

DISTRICT LAND REGISTRAR 2ND DEFENDANT

RULING

[1] The 1st respondent raised a Preliminary Objection on a point of law. He argued that this suit is time barred as this action has been brought after the expiry of 12 years from the date the action accrued to the plaintiff and that the same therefore contravenes Section 7 of the Limitation of Actions Act Cap. 22 Laws of Kenya.

The plaintiff argues that *Land Case No. 548 of 1985* was heard by the adjudication department in Nairobi. The land was ordered to be registered in the name of the applicant.

An *Appeal No. 460 of 1988* was filed but the same was compromised through a consent judgment. That the reliefs sought herein are the same relief sought then. That pursuant to the aforesaid title was issued to the first defendant on 15th October, 1981. The present suit was filed on 25th March, 2014. Mr. Waithera advocate for the plaintiff conceded that there was the said determination by the Adjudication Committee. He is also conceded that the case was filed twenty three (23 years) after the applicant was issued with his title.

[3] I have no doubt in my mind that this suit was filed out of time. The same is statute barred. The said suit is dismissed with no orders as to costs.

Dated and delivered in open court at Mombasa this 18th day of

September, 2014.

S. MUKUNYA

JUDGE

18.9.2014

In the presence of:

Mr. Waithera advocate for the plaintiff'

Mr. Asige advocate for Lamanya advocate.