

REPUBLIC OF KENYA

High Court at Kakamega

Civil Case 69 of 2011

EPHRAIM AMUGU IFEZA 1ST PLAINTIFF

ERNEST ALUGONGO 2ND PLAINTIFF

JOSINA ALIVIZA INDASI 3RD PLAINTIFF

V E R S U S

HENRY FORD MUKWEYU DEFENDANT

J U D G M E N T

The three plaintiffs filed the originating summons dated 30th May 2011 seeking to be declared as having obtained title to six (6) acres of land out of plot number **KAKAMEGA/LUMAKANDA/1192** by way of adverse possession. The defendant was served with the pleadings and hearing notice but did not respond.

Ephraim Amugu Ifeza testified as PW1. His evidence is that he bought two acres of land from the defendant in 1989 for **KShs.58,000/=**. He lives on the land since 1989 and paid the entire purchase price. He produced his Sale Agreement dated 22nd September 1989.

Ernest Alugongo, the 2nd plaintiff testified as PW2. His evidence is that he bought **two (2) acres** of the suit land from the defendant in 1982. He has lived on the land with his family since 1992 and has built a house. The defendant has not chased him away. He produced a copy of his Sale Agreement dated 15th January 1992 which shows that the purchase price was Seventy Thousand (**KShs.70,000/=**) being KShs.35,000/= per acre.

The third plaintiff, **Josina Alividza Indasi**, testified as PW3. She produced Sale Agreement showing that she bought **two (2) acres** of the suit land from the defendant for **KShs.100,000/=**. She bought the land in 1995 and has been living thereon since then. Her husband died at was buried on the plot.

From the evidence adduced by the three plaintiff and the three sale agreements, I am satisfied that the plaintiffs purchased **two (2) acres** of land each from the defendant making a total of six (6) acres. Each of the plaintiffs maintains that he has been living on the suit land for a period of over 12 years and the defendant has not objected to their stay. The plaintiffs would like to obtain titles to their respective portions of the suit land.

I am satisfied that the plaintiffs have proved their case and the originating summons dated 30th May 2011 is hereby granted as prayed. Each of the plaintiffs has acquired **two (2) acres** of land by way of adverse possession out of plot number **KAKAMEGA/LUMAKANDA/1192** and should be registered as the owners of those portions as prayed. Further the defendant is directed to effect the transfer of the **six (6) acres** of land as pleaded to the plaintiffs failing which the Kakamega Law Court Deputy Registrar to execute all documents necessary to effect the transfer to the plaintiffs.

Each party to meet his/her own costs.

Delivered, dated and signed at Kakamega this 7th day of February, 2013

SAID J. CHITEMBWE
J U D G E