



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NAIROBI**

**JUDICIAL REVIEW DIVISION**

**JR ELC 51 OF 2011**

**REPUBLIC .....APPLICANT**

**VERSUS**

**LAND DISPUTES TRIBUNAL LARI DISTRICT.....1<sup>ST</sup> RESPONDENT**

**SENIOR PRINCIPAL MAGISTRATE'S**

**COURT LIMURU .....2<sup>ND</sup> RESPONDENT**

**MARY WANGARI .....INTERESTED PARTY**

**EX-PARTE  
PETER MUNIU NGUGI  
JUDGEMENT**

Through the notice of motion dated 11<sup>th</sup> June, 2011 Peter Muniu Ngugi (the ex-parte applicant) prays for an order of certiorari quashing the decision made by the Lari District Land Disputes Tribunal (the 1<sup>st</sup> respondent) awarding Mary Wangari (the interested party) half an acre of his land parcel number Kiambu/LARI/827 in Tribunal Case No. LARI/LND/7/3/7(2010) on 6<sup>th</sup> January, 2011. He also seeks an order of certiorari to quash the decision made on 15<sup>th</sup> March, 2011 by the Senior Principal's Court at Limuru (the 2<sup>nd</sup> respondent) adopting the decision of the 1<sup>st</sup> respondent.

According to the proceedings before the 1<sup>st</sup> respondent, sometimes in 2004 the ex-parte applicant and the interested party entered into an agreement in which the ex-parte applicant was to sell ½ acre of his land parcel number KIAMBU/LARI/827 to the interested party at an agreed price of Kshs.300,000/=. The interested party paid the purchase price by installments and eventually took possession of the parcel of land after the same was demarcated. The interested party later asked the ex-parte applicant to transfer the parcel of land to her but he refused. That is when the interested party launched proceedings before the 1<sup>st</sup> respondent. After hearing the matter, the 1<sup>st</sup> respondent awarded 0.5 acres of the ex-parte applicant's parcel of land to the interested party. This is the decision which the ex-parte applicant seeks to quash.

It is the ex-parte applicant's case that the 1<sup>st</sup> respondent had no jurisdiction to hear the matter. The interested party on the other hand appeals to equity and has asked this court to do that which is just.

The 1<sup>st</sup> respondent was a creature of the repealed Land Disputes Tribunal Act Cap 303 A. Section 3(1) of the said Act gave it jurisdiction as follows:-

**“3(1) Subject to this Act, all cases of a civil nature involving a dispute as to –**

- (a) the division of, or the determination of boundaries to land, including land held in common;**
- (b) a claim to occupy or work land; or**
- (c) trespass to land, shall be heard and determined by a Tribunal established under section 4.”**

It is clear that the 1<sup>st</sup> respondent was not mandated to hear disputes touching on ownership of land. It had no jurisdiction to hear matters touching on contracts for sale of land. The 1<sup>st</sup> respondent therefore overstepped its boundaries by hearing and making a determination in the matter. It also follows that the decision which the 2<sup>nd</sup> respondent purported to adopt was a nullity. The application therefore succeeds and the same is allowed.

It is unfortunate that this court has no powers in its judicial review capacity to order the refund of the money paid by the interested party to the applicant or even to give other orders. Considering that there is unfinished business between the parties, I order each party to meet own costs.

Dated, signed and delivered at Nairobi this 16<sup>th</sup> day of April , 2013

**W. K. KORIR,**  
**JUDGE**