



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA AT NYERI**  
**LAND AND ENVIRONMENT COURT**  
**CIVIL CASE NO.82 OF 2005**

EUNICE WACEKE WOTO.....PLAINTIFF

**VERSUS**

CHARLES MUGUNDA GACHERU.....DEFENDANT

**J U D G M E N T**

The plaintiff is an adult female residing at Watuka sub-location engaged as a farmer whilst the defendant is an adult male also a farmer at the said sub-location.

By agreement dated 10/2/1998 entered between the plaintiff and defendant, the defendant sold the plaintiff a portion of land measuring 2.0 acres out of the defendants land parcel No.Nyeri/Watuka/577 as it then was, at an agreed price of Kshs.220,000/-.

In pursuance of the said agreement, the plaintiff paid the defendant the full agreed purchase price and the defendant put the plaintiff into occupation of the said portion of 2.0 acres where the plaintiff is still in occupation upto and including todote.

The plaintiff has been in continuous and uninterrupted occupation of the said portion and has caused considerable developments thereon whose value would amount to over Kshs.150,000/=.

The defendant has made various promises to subdivide the land and transfer the said portion to the plaintiff since the year 2000 but the former has never honoured the promises.

The plaintiff states that she is in peaceful occupation of her said portion of 2.0 acres within the defendants suit parcel No.Nyeri/Watika/577, the plaintiff wants her said portion to be hived from the defendant's land to enable her obtain title.

The plaintiff's claim against the defendant is for an order requiring the defendant to subdivide and transfer the portion of 2.0 acres that the plaintiff has bought and developed within the defendants suit parcel of land No.Nyeriu/Watika/577 and order that the defendant signs all relevant documents to effect transfer, failure of which the Executive Officer of court to sign the same on behalf of the defendant.

The defendant filed a written admission of claim whose import is that.

- 1. He admits to have entered into sale agreement with the plaintiff on 10.02.98 for the sale of**

**2.0 Acres within the defendant's land parcel No.Nyeri/Watuka/577 at an agreed purchase price of Kshs.220,000/=.**

- 2. He admits to have received the sum of Kshs.220,000/= from the plaintiff being the full agreed purchase price of the portion of 2.0 Acres which the defendant sold to the plaintiff as stated in paragraph 3 of the plaint.**
- 3. He also admits to have put the plaintiff in occupation of the portion of 2.0 acres where the plaintiff is in occupation of the said portion to date and where the plaintiff has built and caused other developments thereon.**
- 4. He adds that he is ready and willing to sub-divide and transfer the said portion of 2 acres to the plaintiff.**

On the hearing of the suit, the court was informed that land parcel No.Nyeri/Watuke/577 had been subdivided into two parcels of land namely Nyeri Watuka/1914 that was registered in the name of Charles Mugunda Gacheru (the defendant herein) and Nyeri/ Waituka/ 1913 registered in the names of Maina Gacheru and therefore appearing to defeat the claim of the plaintiff unless there was an amendment. Unfortunately, the portion of land initially occupied by the plaintiff did not fall in the defendant's parcel. The plaintiff produced the certificates of official search to confirm the new developments.

This court finds that the agreement of sale of land between the plaintiff and the defendant was binding as a consideration of Kshs.220,000 was paid. The court is alive to the provision of Article 159 of the constitution and since the defendant is not denying the claim the court grants the plaintiff the following orders.

- 1. The defendant to subdivide and transfer a portion of 2.0 acres within his parcel of land Nyeri/Watuka/1914 that was subdivided from Nyeri/Watuka/577, the original suit land.**
- 2. The defendant to sign all the documents required to effect the said subdivision and transfer and in default the Deputy Registrar of this court be and is hereby ordered to sign the same on behalf of the defendant.**
- 3. Costs of the suit to the plaintiff.**

*Dated, signed and delivered at Nyeri this 25th day of June 2013.*

**A. OMBWAYO**

**JUDGE**

