



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KITALE

ENVIRONMENT & LAND CASE NO. 6 OF 2013

JONATHAN WAFULA MUTENDE..... PLAINTIFF

VERSUS

JAMES WAMALWA MUSAMALI DEFENDANT

J U D G M E N T

The Plaintiff brought this suit against the Defendant claiming the following reliefs:

- a. *A declaration that title number Trans Nzoia/Kimondo Kimondo Block 6/Nalulingo/313 measuring 1.214 hectares or thereabouts solely belongs to him.*
- b. *An order of eviction of the Defendant from the said piece of land.*
- c. *Costs.*
- d. *Interest on (c) above.*
- e. *Any other relief this Honourable Court may deem fit to grant.*

The Defendant who was duly served with summons to enter appearance and file defence neither entered appearance nor filed defence. He did not even come during formal proof. During the hearing, the Plaintiff testified that he bought the suit land in 1988 from Trans-Nzoia Investment Co. Ltd. He later processed and was issued with Title Deed on 29/07/2010. The Plaintiff has however not been able to utilize the land as the Defendant who is cultivating it has refused to let him use his land. The Plaintiff sent a demand letter to the Defendant asking him to move out of the land but he has refused to move out prompting him to seek Court intervention.

I have looked at the Plaintiff's pleadings and considered the evidence adduced by him. He produced Title Deed to the property (*exhibit 1*). The green card (*exhibit 2*) shows that the land belonged to Trans-Nzoia Investment Company Limited but was transferred to the Plaintiff on 16/06/2010. A search conducted on 03/09/2010 shows that the Plaintiff is the registered owner of the property. The evidence of the Plaintiff is uncontroverted. There are no encumbrances registered against the title. Prima facie, the land belongs to the Plaintiff and there is no reason why the Defendant should prevent him from utilizing the same. I find that the Plaintiff has proved his claim against the Defendant on a balance of probabilities.

A declaration is hereby issued that the Plaintiff is the sole owner of land parcel No. Trans-Nzoia/Kimondo Kimondo Block 6/Nalulingo/313. The Defendant should be evicted from the said land forthwith. The Plaintiff shall have costs of this suit.

Dated, signed and delivered in Open Court on this 18th day of June, 2013.

E. OBAGA

JUDGE

In the presence of M/S Munialo for Plaintiff.

Court Clerk: Joan.

E. OBAGA

JUDGE

18/06/2013