



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MOMBASA
HCC. NO. 637 OF 2011

CROMWEL MWALUGA MKALA PLAINTIFF

- VERSUS-

SEFU ABDALLA MWAKULAFIADEFENDANT

JUDGEMENT

[1] The plaintiff filed this suit on 7th December 2011. He claims from the defendant a mandatory injunction to stop the defendant from selling, alienating, developing and/or realign with Plot No. 1002 Shanzu Settlement Scheme. He further asks the court to declare him the owner of the suit plot and to order the defendant to transfer the suit property to him. Finally he asks for costs of this suit.

This suit came for formal proof on 19th June 2013. The Judgment had been entered on 30th April 2012. The Plaintiff said the he is employed at Bamburi Cement. The he knows the defendant because he sold to him plot No. 2839 on 4th June 2006. He produced documents to prove such sale. He said he paid Kshs. 100,000 . That the defendant thereafter asked for some more money and was paid a further Kshs. 20,000 through the Chief of the area.

[2] He said that he has not received the title deed until now. This was inspite of the fact that he reported the matter to the Chief and they have looked for the defendant and cannot find him.

He said that he has developed the plot and planted trees. He said he wanted the Court to grant him the orders so that the defendant is prevented from selling the land. He said that Shanzu Settlement Scheme is within Mombasa Municipality.

I am satisfied that the plaintiff has proved his claim in the plaint on a balance of probabilities and I grant his prayers in the plaint as prayed with costs and interest.

Dated and delivered in open Court at Mombasa this 23rd day of August, 2013.

S.N. MUKUNYA

JUDGE

In the presence of:

Okanga Advocate for the plaintiff/applicant

No appearance for the defendant/respondent