

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT BUNGOMA
CIVIL APPEAL 4 OF 2003

(Appeal from the decision of the Western Provincial Land Appeals Committee dated 26th November 2002)

DANIEL NDEMAKI MARANGO.....APPELLANT
~VRS~
BENJAMIN MARANGO.....1ST RESPONDENT
RICHARD J. WEKESA.....2ND RESPONDENT
MOSES LUSWETI.....3RD RESPONDENT

JUDGMENT

This case began when the Respondents went to the Land Disputes Tribunal at Webuye claiming portions from land parcel of land no.Bokoli/Kituni/133 registered in the name of the Appellant. The dispute was heard following which the 1st Respondent was awarded 20 acres, the 2nd Respondent was awarded 45 acres and the 3rd Respondent was awarded 10 acres of the suit land. The Appellant was aggrieved by the decision and appealed to the Western Provincial Land Disputes Committee which dismissed the appeal with costs. The Appellant then appealed to this court.

I have read the proceedings. I agree with Mr. Makali for the Appellant that the dispute between the parties fell outside section 3 (1) of the Land Disputes Tribunal Act no.18 of 1990. It was not a dispute as to the division of or the determination of boundaries to land including land held in common; a claim to occupy or work land; or trespass to land. It was a claim for the ownership of registered land. By its decision, the Tribunal in effect awarded portions of the land registered in the name of the Appellant to the Respondents. The Tribunal and the Committee did not have jurisdiction to hear the dispute or make the awards in question (**Jotham Amunavi v. The Chairman Sabatia Division Land Disputes Tribunals and another, Civil Appeal no.256 of 2002 at Kisumu**). The proceedings and awards of both the Tribunal and the Committee were a nullity for want of jurisdiction.

The complaint by the Appellant that Appeals Committee did not hear him on the appeal before rendering its decision is also borne out by the proceedings. On the basis of **Savings & Loan (K) Ltd v. Odongo [1987] KLR 294**, the decision was a nullity.

There were other grounds, but what I have said is enough to resolve the appeal. The appeal is allowed with costs. The award of the Tribunal and the Appeals Committee and the order of the subordinate court adopting any such award are hereby nullified and set aside.

Dated, signed and delivered at Bungoma this 20th day September, 2012.

A. O. MUCHELULE
JUDGE