



**REPUBLIC OF KENYA**

**IN THE HIGH COURT OF KENYA**

**AT BUSIA**

**CIVIL APPEAL NO. 26 OF 2008**

**HUSSEIN MOHAMMED HASSAN ..... APPELLANT**

**VERUS**

**DAVID MAKUPA OGANA ..... RESPONDENT**

**( From the decree and order of the Principal Magistrate**

**Busia in Busia P.M. LD No 41 of 2007)**

**JUDGMENT**

The appeal arises from the orders of the Busia Principal Magistrate adopting a decision of Busia Land Disputes Tribunal in Tribunal case no. Land of 2006 dated 10/1/2007.

In the above proceedings the appellant herein Hussein Mohamed Hassan sought a return of L.R. No. Bhujayo/Mundika/7391 ( from the original no. 978). The court found that the piece of land being only one subdivision of the six subdivisions had been sold to one Wilson Ogona Osolo, deceased by one Hassan Mbago deceased. The latter was the father of the appellant while the Respondent herein David Makuda Ogana is the son of Wilson Ogona Osolo, deceased, aforementioned.

The record shows that the Busia Land Disputes Tribunal which heard the dispute, found that the appellant who was the claimant before it had no good claim to the land in dispute. It dismissed the claim on merit. The Busia Principal Magistrate's Court adopted the decision of the Land Disputes Tribunal under Land Disputes No. 41 of 2007, as required by the provisions of the Land Disputes Tribunal Act, 1990 after taking into account a confirming decision of Kakamega, Provincial Land Disputes Appeal Tribunal Case No. 113 of 2007 arising from Busia Land Disputes Tribunal aforesaid.

I have carefully perused the records of the tribunals aforesaid which have also carefully considered in the face of the grounds of appeal of the appellant. I am of the view that the grounds of appeal have no merit. The appellant's deceased's father subdivided his piece of land then known as L.R. No. Bhukayo/Mundika/978 into six subdivisions ie Bukhayo/Mundika/9386 to 9393. He sold L.R.No Bhukayo/Mundika/7391 to the Respondent's father, Wilson Ogona Osodo for a valuable consideration of Kshs1500/-. Accordingly the appellant Hussein Mohammed Hassan, the respondent had no valid claim, as the Tribunal found.

It is also observed that the appellant may not only have had no locus standi to file the suit before the Tribunal but may not have established that the Busia Land Dispute Tribunal had jurisdiction to entertain a beneficial interest in a registered land under the Registered Land Act, Cap 300 of the Laws of Kenya.

This appeal has no merit. It is hereby dismissed with costs to the Respondent.

Orders accordingly.

**Dated and delivered at Busia this 8th Day of February 2011.**

**D. A. ONYANCHA**

**JUDGE**