



Kirui v Towet (Land Case 26 of 2013) [2022] KEELC 2468 (KLR) (20 July 2022) (Ruling)

Neutral citation: [2022] KEELC 2468 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
LAND CASE 26 OF 2013
FM NJOROGE, J
JULY 20, 2022**

BETWEEN

CAROLINE CHERONO KIRUI PLAINTIFF

AND

LINER CHERONO TOWET DEFENDANT

RULING

1. This is a ruling on the application dated 10/05/2022 filed by the plaintiff. The application seeks the following orders:
 - a. Spent
 - b. That this honorable court be pleased to enlarge and further extend by a period of 6 months, the time within which to apply for the consent of the Land Control Board in respect of the subdivision and transfer of a portion measuring 0.404 Hectares, in the area marked 'A' in the sketch annexed to the Agreement for Sale dated March 20, 2012 from the Defendant's land parcel No. Njoro/Ngata Block 2/2807 (Kirobon) to the Plaintiff as granted by this Honorable Court in its judgement delivered on July 13, 2018.
 - c. That this honorable court be pleased to grant any further orders that it may deem fit to grant to facilitate the full implementation and/or execution of its judgement delivered on July 13, 2018 and its resultant decree.
 - d. That costs of this application be provided for.
2. The grounds on the face of the application and the supporting affidavit are that the judgement in this matter was delivered on July 13, 2018 in favor of the plaintiff; that the court granted an order of specific performance compelling the defendant to comply with the terms of the agreement dated March 20, 2012 and to exercise and transfer to the plaintiff a portion measuring 0.404 hectares in the area marked 'A' in the sketch annexed to the aforementioned sale agreement from her parcel of land known as land



parcel No. Njoro/Ngata Block 2/2807; that the court also extended the time to apply for the consent of the Land Control Board in respect to the transaction from the date of delivery of the judgement; that the defendant filed the application dated 8/08/2018 seeking stay of execution pending appeal after filing the notice of appeal dated July 17, 2018; that the said application was allowed on 15/05/2019 where stay orders were granted for a period of two years from the date of delivery of the ruling; that upon lapse of the stay orders, the plaintiff instructed her advocates on record to proceed with execution of the judgement; that the court had ordered the defendant to execute all the relevant documents for completion of the sale and transfer of the portion measuring 0.404 Hectares within thirty days of the judgement and in default, the Deputy Registrar was to execute the said documents; that the defendant refused to execute the said documents and the Deputy Registrar signed the application for land control board consent for subdivision; that the consent to subdivide land parcel No. Njoro/Ngata Block 2/2807 (Kirobon) was applied for and the letter of consent obtained; that the surveyor could not proceed because there was lack of security to conduct the exercise and that the suit property had been subdivided and neither of the subdivisions measured 0.404 Hectares nor in the area marked 'A' in the sketch annexed to the sale agreement dated March 20, 2012; that the plaintiff's advocates filed the application dated October 14, 2021 seeking for the amendment of the Registry Index Map for Njoro/Ngata Block 2 (Kirobon 'A'), the cancellation of the subdivisions and the suit property to revert back to the old land parcel number and for the plaintiff's private surveyor to excise 0.404 Hectares in favor of the plaintiff; that the application dated October 14, 2021 was heard and allowed on February 25, 2022 and orders issued on March 1, 2022; that the order issued on March 1, 2022 was served upon the Regional Surveyor, Rift Valley Region who complied with the order and reverted the Registry Index Map for Njoro/Ngata Block 2 (Kirobon 'A'); that the OCS Njoro had been ordered to provide security but he declined to do so which led to the filing of the application dated March 21, 2022.

3. The applicant states that her surveyor was not able to visit the suit property and subdivide the land; that the plaintiff had been issued with a letter of consent to subdivide on October 12, 2021 by the Rongai Land Control Board which has now lapsed; that the plaintiff seeks that the court enlarges the period for applying for the Land Control Board consent as per the provisions of Section 8(1) of the [Land Control Act](#); that it is in the interest of justice that the application be allowed.
4. There is no response on record to the application dated May 10, 2022. No submissions were filed with regard to the application dated May 10, 2022 by either party.
5. The plaintiff's application dated May 10, 2022 is seeking for the extension of time for a period of six months to enable the plaintiff to apply for the consent of the Land Control Board.
6. The plaintiff is seeking the aforementioned order because she had only managed to apply and obtain the land board consent to subdivide the suit property but not the land board consent to transfer the subdivided portion of 0.404 Ha.
7. The plaintiff in her application extensively laid the basis for the extension of time and the application is unopposed. In the circumstances, I hereby grant prayer 2 of the application dated May 10, 2022. The costs of the application shall be borne by the respondent.

DATED, SIGNED AND DELIVERED AT NAKURU VIA ELECTRONIC MAIL ON THIS 20TH DAY OF JULY, 2022.

MWANGI NJOROGE

JUDGE, ENVIRONMENT AND LAND COURT, NAKURU

