



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAIROBI (NAIROBI LAW COURTS)

Miscellaneous Civil Application 77 of 2009

**GRACE WAMBUI KAMAU
(Suing on behalf of Riruta Satellite Women Umoja Group).....PLAINTIFF**

VERSUS

PHILOMENA WAMBUI MUNGE.....DEFENDANT

JUDGMENT

The plaintiff brought this suit by way of Originating Summons on her own behalf and on behalf of Riruta Satellite Women Umoja Group against the defendant for the court to address the following questions:

1. Whether Riruta Satellite Women Umoja Group has become entitled by adverse possession to be registered as the proprietor of all that property known as Title No. Dagoretti/Rirutta/S68
2. Whether Riruta Satellite Women Umoja Group has become entitled to an order of injunction to restrain the defendant by herself, her servants, or her agents or otherwise howsoever from interfering with the group's quiet possession of all that property known as Dagoretti/Rirutta/S68; and
3. Whether or not they have become entitled to costs of this suit.

In support of the Originating Summons there is an affidavit sworn by Grace Wambui Kamau the Chairlady of this women group. The defendant herein was served by way of advertisement in the Daily Nation but did not enter an appearance. The proceedings herein were conducted ex parte.

It is the plaintiff's case that this women group has been occupying this property for a period of over 12 years. At some stage, the defendant herein sued the group demanding eviction but she withdrew the said suit and nothing thereafter took place in relation thereto.

The group has developed this property where they have some rental premises. At the hearing, Grace Wambui Kamau and Teresia Wanjiru Murrithi gave evidence reiterating the contents of the affidavit sworn in support of the Originating Summons. In the absence of any evidence to the contrary, the evidence adduced on behalf of the plaintiffs is uncontroverted. The learned counsel for the plaintiff has filed an elaborate submission and cited several authorities relating to adverse possession and the law applicable. These have been very helpful to the court and address the issues conclusively.

I watched the two witnesses testify and observed their demeanour. I am satisfied that what they told the court was the truth and I do not deem it necessary to repeat in this judgment what they said.

My judgment is that they have justified the granting of the orders sought in the Originating Summons dated 16th January and filed on 4th February, 2009. The end result is that, they are entitled to be registered as proprietors of the Title No. Dagoretti/Rirutta/S68. They are also entitled to restraining orders against the defendant, or any person claiming under her, from interfering with the group's quiet possession of the said property.

The defendant having been served as above, and having elected not to defend the Originating Summons will bear the costs of this suit.

Orders accordingly.

Dated, signed and delivered at Nairobi this 5th day of March, 2010.

A. MBOGHOLI MSAGHA
JUDGE