

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT ELDORET

CIVIL SUIT 147 OF 2008

REAGAN MAGOTI:.....PLAINTIFF

VERESUS

FELISTUS N. MULIRO:.....DEFENDANT

R U L I N G

The Plaintiff/Applicant entered into sale Agreement with the Defendant/Respondent over a parcel of land known as Block 21 (King'ong'o) 442 at the agreed price of Kenya shillings three hundred thousand. The Plaintiff states that he paid in full and took possession. During some time there arose some dispute as to the ownership of the parcel of land and the Plaintiff was shown an alternative plot to occupy by the Defendant while the resolved she dispute. Later the defendant attempted to evict the Plaintiff from the parcel of land and hence these proceedings.

By a chamber summons brought under Order XXXIX rules 1 and 2 of the Civil Procedure Act the Plaintiff/Applicant prays that the defendant be restrained by means of an interlocutory injunction from forcefully and unlawfully evicting the Plaintiff, harassing and intimidating him while in occupation of the land parcel known as Eldoret Municipality/Block 21 (King'ong'o) 2238 and 2239. The Plaintiff swore an affidavit to support his application. He annexed thereto the Sale Agreement and a heap of other documents showing the transactions between the parties herein.

The Defendant/Respondent filed no papers at all and did not attend court.

Mr. Kigamwa learned counsel for the Applicant submitted that the Plaintiff had made out a prima facie case and was entitled to a grant of an injunction.

I have considered the Application. I have seen the annexed sale Agreement and a series of letters between the Plaintiff and the Defendant. From the annexures and the affidavits it is clear that the Plaintiff has made out a prima facie case with a probability of success at trial. I am satisfied that on the facts before court the Plaintiff has earned a Grant of a temporary injunction and I hereby allow the application dated 28th October,2008 with costs.

Orders accordingly.

DATED AND DELIVERED AT ELDORET THIS 13th DAY OF MAY 2009

P.M.MWILU

JUDGE

IN THE PRESENCE OF:-

Paul Ekitela - Court clerk

N/A - Advocate for the Applicant

N/A - Advocate for the Defendant