

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA

OF KISII

Civil Case 5 of 2006

REBECCA OONGE MOKAMBA PLAINTIFF

VERSUS

JOSEPH NYAKWAMA DEFENDANT.

RULING

The Plaintiff filed this suit on 17th January, 2006 claiming that she had on 6th November, 1998 bought L.R.WEST KITUTU/BOGUSERO/2857 measuring 0.47 hectares from one Francis Njuguna Gitu. In 1999 the Defendant forcibly entered the land and has since remained thereon without her consent. She sought a declaration that she was the legal owner of the land and asked that an eviction order do issue against the Defendant.

The Defendant filed a Memorandum of Appearance on 21st February, 2006 but did not file a Defence to the claim. Interlocutory judgment was subsequently entered and case set down for formal proof.

In her evidence, the Plaintiff produced Title Deed (Exh.1) to the land which shows that it is still in the name of **Francis Njuguna Gitu**. It would appear that the land was not transferred to her. Her evidence that she bought the land was not challenged. I find she is the owner of the land following the purchase and that is entitled to occupy it and to peacefully enjoy the same. There will be final judgment in her favour as prayed in the Plaintiff.

DATED at KISII this 12th day of May, 2009

A. O. MUCHELULE

JUDGE

Delivered in open court in the presence of :

Mr. Nyagwencha for Mr. Nyariki for the Plaintiff

Plaintiff present.