

ALEXANDER GEORGE KIRAITHE PLAINTIFF

VS.

JAMES NJERU KABURIA DEFENDANT

JUDGMENT

The plaintiff, George Alexander Kiraithe brought this suit against James Njeru Kaburia in respect of parcel of land known as Plot No.Karingani/Ndagani/638 situated in Meru. It is his case that he bought the said piece of land by way of private treaty from the Public Trustee but the defendant, who is the administrator of the estate of the late Muruja Kaburia, who was the owner of the said piece of land, has refused to transfer the title to him.

He now seeks an order from the court that the defendant be compelled to transfer the said parcel of land to him and if he does not do so, by signing the necessary transfer documents in his favour the court do order that the deputy registrar signs the said documents. He also claims costs and interests.

The record shows that the defendant was served with summons to enter appearance but failed to appear within the prescribed time and so, on the application of the plaintiff, an interlocutory judgment was entered in his favour and this suit listed for formal proof.

The plaintiff has given evidence in support of his pleadings and produced several documents. He has proved to the satisfaction of the court that, he paid Kshs.50,000/= for the said plot and took possession thereof. He obtained authority from the District Commissioner to take possession of the same.

His evidence backed by all the documents he has produced has not been contested and therefore remains uncontroverted.

I am satisfied on the evidence on record that the plaintiff is indeed entitled to the said property and that the defendant has no reason whatsoever to withhold the transfer to him. That being the case, I find that the plaintiff has proved his case to the required standards and that the order sought in the plaint should be granted.

I therefore order that, the defendant shall transfer the said property known as Karingani/Ndangani/628 to the plaintiff. This he must do within twenty one (21) days of the order and in default the Deputy Registrar of this court shall sign all the necessary documents in favour of the plaintiff. The plaintiff shall also have the costs of this suit.

Orders accordingly.

Dated, signed and delivered at Nairobi this 22nd day of October, 2009.

A. MBOGHOLI MSAGHA

JUDGE