

REPUBLIC OF KENYA

IN THE HIGH COURT

AT KAKAMEGA

Civil Case 97 of 2005

MIRIAM MBAISI MUCHISI ----- PLAINTIFF

VERSUS

BENSON CHWEYA PAUL ----- DEFENDANT

JUDGEMENT

The Plaintiff was the registered proprietor of Plot No. **KAKAMEGA LUGARI/909** formerly described as Plot No. 157 Lugari Settlement Scheme. She testified that she sold 2.2 acres to the defendant but instead the defendant transferred to himself 2.2 hectares.

By an agreement dated 22nd November, 1989 the Plaintiff sold three (3) Acres of her land by then described as Plot No. 157 Lugari Settlement Scheme at a consideration of Kshs.75,000/=. The Plaintiff now prays that the defendant be given the three (3) acres he bought and that the land registry be amended to reflect that fact.

From the evidence of the Plaintiff, I am satisfied that the Plaintiff has proved her case against the defendant. The sale Agreement shows that the Plaintiff sold three acres out of her Plot No. 157 Lugari Settlement Scheme. The defendant is therefore only entitled to three (3) Acres and no more.

Judgement is hereby entered for the Plaintiff against the Defendant as prayed in the Plaint. The registration of the defendant as the owner of 2.2 Hectares of Plot No. 157/Lugari Settlement Scheme is null and void. The Kakamega District Lands Registrar is hereby directed to correct the records and ensure that the defendant is registered as the owner of three (3) acres out of Plot No. 157/Lugari Settlement Scheme and the remainder to be registered in the Plaintiff's name.

The Defendant shall pay the costs of this suit.

Delivered, Dated and signed at Kakamega, this 12th day of November, 2009.

SAID J. CHITEMBWE

JUDGE