



REPUBLIC OF KENYA

**IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)**

Civil Case 42 of 2008

- 1. Land and Environmental Law Division
- 2. Subject of main suit: Land
 - a) LR No.105/5896
Embakasi, Nairobi
 - b) Fraud
- 3. Application for injunction dated 14.2.08
 - a) That the 1st defendant holds land in trust of the plaintiff
 - b) Plaintiff attempts to sell land and or transfer same
 - c) Restraining orders sought
- 4. Respondents 1,2 and 3 served – absent
- 5. Held: Application refused
- 6. Case law – nil
- 7. Advocates

G.E. Karikui of Edward Kariuki Gacau & Co. Advocates for the plaintiff

Defendants not represent - absent

JOSEPH MWAURA KARANJAPLAINTIFF

VERSUS

HANNAH WANJIKU MWAURA1ST DEFENDANT

SUSAN WANJIRU CHEGE2ND DEFENDANT

RULING

I: APPLICATION FOR AN INJUNCTION CHAMBER SUMMONS AMENDED 14 FEBRAURY 2008

1. The plaintiff and the 1st defendant are man and wife. They are married under Kikuyu customary Law. The plaintiff has no intention of divorcing his wife.
2. He alleges that he purchased their matrimonial property being LR No.105/5896 but registered in the name of the 1st defendant. She in turn had delivered the same by way of a transfer to the 2nd defendant who is her sister. Her sister now intends to sell the property to a third party. The intention of the plaintiff was that the plaintiffs hold the said property in trust of his children and himself. Instead the defendants now wishes to dispose of the same.
3. Prayers for injunction to restraint the three defendants as prayed.
4. The three defendants are said to have been served but failed to enter appearance nor file reply.

II: Opinion

5. There must be a prima facie case to show that said defendants hold land for plaintiff and or in trust the suit land. It is claimed by the plaintiffs that he purchased the suit property.
6. I am not shown what type of title is held and there is no attached title to this application. I was not addressed on the issue of the indivisible title.
7. I did note that this matter would have been best dealt with as a matrimonial issue on the division of property in the Family Division.
8. I decline to issue an injunction.

I award no costs to the respondents as they are absent.

Dated this 20th day of February 2008 at Nairobi.

M.A. ANG'AWA

JUDGE

G.E. Karikui of Edward Kariuki Gacau & Co. Advocates for the plaintiff

Defendants not represent - absent