

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT EMBU
CIVIL CASE 6 OF 2004

J. NDWIGA KATHUNGU.....PLAINTIFF

VERSUS

KINYUA ANDREW.....DEFENDANT

JUDGMENT

This suit was filed by the plaintiff on 23/1/2004 praying for eviction of the Defendant from Parcel No. Kagaari/Kigaa/4540 which is registered in his name. There is no dispute about this. He exhibited the Title Deed. The Title deed is dated 18/1/1995. In his evidence he testified that he purchased the land from Nancy Kina an Administrator of the estate of Kathendu Chiano. The fact of the registration of the land is admitted by the defendant but the defendant pleads that means used by the plaintiff to acquire the land was dubious in that the plaintiff concealed important information to the court in the Succession Cause of the estate of Kathendu Ciano the grandfather of the defendant. There is no dispute that the plaintiff was an outsider not involved in the succession of that deceased.

It is also clear that the said title is a subdivision of another title which originally belonged to the deceased. Upon considering the evidence I do not see any proof of the allegation by defendant that the plaintiff obtained the title by concealment of any facts. The grant of the seller was never revoked and therefore it continued in force. The evidence shows that the Defendant was not a beneficiary of the original registered owner and had no rights to inherit the estate. I therefore find that the plaintiff has proved his case and is entitled to judgment.

I therefore enter Judgment in favour of the plaintiff as prayed in the plaint together with costs of this suit. It is so ordered.

Dated this 8th April, 2008.

J. N. KHAMINWA

JUDGE

9/4/2008

Khaminwa –Judge

Njue-clerk

Parties present

Read in open court

J. N. KHAMINWA

JUDGE

