

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT MACHAKOS

Civil Case 79 of 2005

ABRAHAM LINCOLN KIMWELI PLAINTIFF

VERSUS

ANDREW KINAMA MULIKA DEFENDANT

JUDGMENT

1. The Plaintiff, Abraham Lincoln Kimweli has filed this suit against the Defendant, Andrew Kinama Mulika.
2. In the Plaint dated 2/9/2005 and filed on 6/9/2005 and in evidence by PW1, Joel Waita Kinama and the Plaintiff's lawful attorney and mother, Rodah Nathan Kimweli, it is the Plaintiff's case that by an agreement made on 12/12/1999 (P. Exh.1), he bought plot No. 971 within Kilome/Kilungu Adjudication Section from PW1, Joel Waita. The purchase price was Kshs.80,000/= and on that day he paid Kshs.40,000/= and later, kshs.20,000/=. P. Exh.5 is a letter from the District Land Adjudication Officer, Makueni District confirming that the Plaintiff is now the owner of the suit land. P Exh.4 is a consent under S.30 of the Land Adjudication Act to institute these proceedings.
3. From the evidence before me and since the Defendant has failed to enter appearance or file a defence, I can only conclude that the Plaintiff has proved on a balance of probabilities that he is the true and lawful owner of land parcel No. 971 in issue.
4. He is entitled to possession and exclusive use of that parcel of land and PW1, brother of the Defendant has confirmed that the Defendant has no shade of right to occupation of the land at all.
5. I have little choice but to enter judgment for the Plaintiff as prayed in paragraphs (1) of the plaintiff save that no proof of damages suffered has been made and the claim in that regard is dismissed. Paragraph 2 is granted as prayed.
6. Costs follow the event and so the Plaintiff will have costs of the suit.
7. Orders accordingly.

Dated and delivered at Machakos this **28th** day of **May** 2008.

ISAAC LENAOLA

JUDGE