

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAKURU

Civil Case 195 of 2001

KANGOGO CHEPEITANY.....PLAINTIFF

VERSUS

LABAN CHELELGO.....
...DEFENDANT

RULING

The Plaintiff claims in the plaint that he is the registered owner of the piece of land known as Title Number Baringo/Kapropita/427 (the suit piece of land) measuring 3.0 hectares or thereabouts. In the year 1995, the defendant without any colour of right entered that piece of land and fenced off 2 acres and constructed a semi permanent house on it. In spite of demand the defendant has refused to vacate the piece of land. The Plaintiff therefore claims for an order to evict the defendant therefrom. He also prays for costs.

Though served, the defendant did not enter appearance or file any defence. After obtaining interlocutory judgment, the Plaintiff set the suit down for formal proof.

When the matter came before me on the 18th June 2008, the Plaintiff's daughter, Winny Eunice Chetalam, testified on behalf of the Plaintiff. She said that her father has a hearing problem and has given her the Power of Attorney, Exh.1, to conduct this case on his behalf.

She said that her father is, since 31st October 1984, the registered proprietor of the suit piece of land. She produced copies of the Title Deed, Green Card and a Search Certificate to prove that. She further testified that in 1995, the defendant, who is her father's neighbour moved on to her father's land without her father's permission. Her father complained to the defendant's father when he was alive but the defendant has refused to move out of her father's land. She therefore prays for an eviction order against the defendant.

Having perused the plaint and considered this evidence I find that the defendant, without any colour of right, entered the plaintiff's land in 1995 and has since refused to vacate. In the circumstances I grant the Plaintiff's plea and order that the defendant do vacate the suit piece of land immediately failing which he should be evicted. The plaintiff shall have the costs of this suit.

DATED and delivered at Nakuru this 26th day of June, 2008.

D. K. MARAGA

JUDGE