

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT NYERI

Civil Suit 100 of 2001

MARGARET NGIMA NDAGURI PLAINTIFF

Versus

NDAGURI KIHAGI DEFENDANT

JUDGMENT

This suit was initiated by way of originating summons whereby the plaintiff seeks that property No. **RUGURU/ GACHIKA/503** be declared to comprise of matrimonial property and having so declared that the court would order a subdivision of the same in equal shares between the plaintiff and the defendant. The defendant although was served with the originating summons did not file a replying affidavit. The matter proceeded by way of formal proof. The plaintiff in her evidence stated that she was married to the defendant. They separated on 8th September 1990. That a decree of divorce was granted. During the subsistence of their marriage the parties acquired property RUGURU/GACHIKA/503. That the acreage of that property is 61/2 acres. The plaintiff stated that she was the one who purchased that property but registered it in the name of the defendant. She said that she registered it in his name because he was her husband. She produced a copy of certificate of search to show the registered owner of the property to be the defendant. She prayed that the court would subdivide that property in equal shares between the two of them. The suit property was occupied by her, her son and his children. The evidence of the plaintiff was uncontroverted. She stated that she purchased the property which she registered in the defendant's name. She now seeks that the court will order that property to be subdivided in equal shares. I find that that prayer is merited. Accordingly the judgment of this court is as follows:-

- 1. An order is hereby made for the subdivision of LR NO. RUGURU/GACHIKA/503 in equal shares between MARGARET NGIMA NDAGURI and NDAGURI KIHAGI. Such subdivision should be carried out without necessitating the production of the original title.*
- 2. The plaintiff is awarded costs of the suit.*

DATED AND DELIVERED THIS 12TH DAY OF JUNE 2008

MARY KASANGO

JUDGE