



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

Civil Case 419 of 2008 (ELC)

IRENE NADUPOI GITAU

**(Suing on behalf of herself and of all the 114 Stake holders of
parcel number**

L.R. No.8390 Block II Kamiti/Kiambu PLAINTIFF

VERSUS

STEPHEN KAMAU 1ST DEFENDANT

HANNAH WANJIRU KAMAU 2ND DEFENDANT

RULING

**APPLICATION FOR AN INJUNCTION AGAISNT THE 1 AND 2 DEFENDANT DATED
CHAMBER SUMMONS 28TH AUGUST 2008**

I: Background

1. In brief, the 115 plaintiffs herein allege that they were squatters gathered from various places in Nairobi and were settled by the Government of Kenya on land parcel LR No.8390 Block II situated in the Kamiti/Kiambu area.

2. As a precaution, they formed into an informal group known by the name Mungano wa Kamiti Group. They chose, the 1st and 2nd defendants herein namely Stephen Kamau 1st defendant and Hannah Wanjiru Kamau 2nd defendant to be their office bearers. The defendants are related to each other as man and wife.

3. Unfortunately without notifying the other members the two entered into agreement with third parties to sell land to them. The third parties moved onto the land with threats to evict all the plaintiffs from the land.

4. The plaintiff filed suit now before this court. By an application of 28 August 2008 they sought orders to restrain the 1st and 2nd defendant from selling land and or evicting them from the land.

5. The advocate for the plaintiff spoke of adverse possession as the plaintiffs having been on the land for over 12 years should not be evicted. The advocate conceded that government owned land cannot be claimed under Adverse Possession.

6. In reply the advocate for defendant 1 and 2 stated that there was indeed no cause of action. The locus of the plaintiffs was questioned.

II: Finding

7. The plaintiff will prove, after being heard in a trial that they are the beneficial owners of the suit property including the defendant.

8. The defendant stated in reply that they were forced to acquire “money to pay an advocate” for a court case at Kiambu still pending. They did this in desperation and is reasons why they “borrowed” Ksh.20,000/- from a third party. Further the said third party then loaned the money on condition that the wife and the husband be given the land and be members of the group.

9. It was therefore under those terms that the two were brought onto the land.

10. This is a court of Equity. The plaintiffs claim they are under threats of eviction. The court recognize that the plaintiffs are in grave danger of being evicted from their present suit land. All of them claim to have a right to the land and be there as a group. The plaintiffs are nonetheless opposed to having the defendants sell off portion of land to strangers.

11. This court though is of the opinion that the numerous plaintiffs cannot be removed from land which they claim they owned over 12 years ago without a full hearing and or court order.

I grant the application for injunction with costs to the plaintiff to be paid by the defendants till the determination of the suit.

DATED THIS 23RD DAY OF SEPTEMBER 2008 AT NAIROBI.

M.A. ANG’AWA

JUDGE

A.S. Kuloba instructed by A.S. Kuloba & Co. Advocates for the plaintiff/applicant – present

M. Mureithi instructed by Mbugua Mureithi & Co. Advocates for the defendant/Respondent - present