

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Misc Appli 510 of 2006

REPUBLIC.....APPLICANT

VERSUS

NAKURU LAND DISPUTES TRIBUNAL.....RESPONDENT

RULING

In the year 2006 Peter K. Njoroge & Another went before Nakuru Municipality Land Disputes Tribunal in Claim No. 10 of 2006 claiming against Rebecca Lugano that they had bought 25 shares in Kalenjin Enterprises Ltd from her late husband, Samuel Lugano. They further claimed that as the late Samuel Lugano was penalized by the elders for selling Plot No. 517 that did not belong to him but to Francis Kamau Ndunu (the ex-parte applicant in this application) and that the elders had taken Plot No. 472 (now known as Nakuru Municipality Block 29/611 and 1065) and given it to them, they are entitled to those pieces of land.

After considering the case the Tribunal found that Peter Njoroge and his friend did not move out of the ex-parte applicant's Plot No.517 as they had been directed by the elders and have since remained thereon and developed it. The Tribunal further found that the shares sold by the late Samuel Lugano to Peter Njoroge and his friend had nothing to do with Plot No.472 (now known as Nakuru Municipality Block 29/611 and 1065). It therefore ruled against them and asked them to leave Mrs Rebecca Lugano alone. Finally the Tribunal decided that Peter Karanja and his friend having been on Plot Title No. Nakuru/Municipality Block 29/517 (Ronda) since 1982 the company should assist them to get title to it and give the ex-parte applicant an alternative piece of land.

I agree with Mr. Karanja, and let me say for the umpteenth time, that the Tribunals established under the Land Disputes Tribunal Act have no jurisdiction to adjudicate on matters of ownership or title to land. Section 3 of that Act only authorizes them to adjudicate on disputes as to:-

- “(a) the division of or the determination of boundaries to land, including land held in common;
or**
- (b) a claim to occupy or work land; or**
- (c) trespass to land.”**

I also agree with him that contrary to the rules of natural justice the Nakuru Municipality Land Disputes Tribunal in this case condemned the ex-parte applicant unheard. Consequently I allow this application and quash the Nakuru Municipality Land Disputes Tribunal's decision given in Claim No. 10 of 2006 on 22nd August 2006. As Peter Njoroge & Another had not complained against the ex-parte applicant I order that the ex-parte applicant shall be paid the costs of this application by the Tribunal.

DATED and delivered at Nakuru this 13th day of November, 2008.

D. K. MARAGA

JUDGE