

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT NAKURU

Civil Case 431 of 1998

DANIEL CHERUIYOT CHEPSIET PLAINTIFF

VERSUS

CHERUIYOT CHEBOIWO DEFENDANT

JUDGMENT

The plaintiff instituted this suit against the defendant seeking for orders that the defendant declared a trespasser on the plaintiff's parcel of land known as Baringo/Ravine 102/33. He also sought for an order of eviction against the defendant from the said suit premises.

The defendant was duly served with the summons to enter appearance. He entered appearance in person but did not file any defence and despite having been served with a hearing notice, the defendant did not attend court during the hearing of this matter.

At the hearing of the suit, the plaintiff gave evidence in support of his claim of land known as **Baringo/Ravine 102/33** measuring about 5.6 hectares. The plaintiff produced the original copy of the title over the suit premises which was registered in his favour in August 1992. The plaintiff claims that the defendant trespassed upon this land sometimes in 1984. The plaintiff decided to report the matter of trespass to the local chief who instructed the defendant to vacate the land. However, the defendant has adamantly refused to move from the plaintiff's parcel of land. Notwithstanding the fact that the defendant is aware of the suit, the defendant has persisted in his wrong doing. The plaintiff therefore filed the present claim and sought for the above orders.

It is clear from the plaintiff's evidence and the documents produced in support of the claim that the plaintiff has established that he is the registered absolute proprietor of the suit premises from 1982. I am therefore satisfied that the plaintiff has been able to prove his claim of trespass against the defendant. The defendant despite having been served and having entered appearance he did not file any defence.

Accordingly, I hereby grant the plaintiff the orders sought in the plaint by declaring that the defendant is a trespasser on the plaintiff's parcel of land known as **Baringo/Ravine 102/33** and the defendant is hereby ordered to be evicted from the said premises within thirty (30) days from the date of this judgment.

The plaintiff shall also have the costs of this suit.

It is so ordered.

Judgment read and delivered on 16th day of March 2007.

MARTHA KOOME

JUDGE