



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

Civil Case 78 of 2007

1. Land & Environmental Law Division
2. Application of Main Suit ownership of Land

Double allocation

3. Application 25 January, 2007

For an injunction to restrain defendant from interfering with suit property

LR Kitsuru 101/E49

4. Arguments by plaintiff

1. Was first allocated land

5. Arguments by the Defendant No. 2

1. That the Defendant has taken possession and has a right.

2. Has in fact filed application for injunction of 2.2.2007

6. Arguments by Defendant No.1

1. Plaintiff has no locus

7. Findings

i) Case of double allocation

ii) Injunction to issue.

8. Case Law Mawaji v USIU 19 KLR

9. Advocates

Migos Ogamba & Co. Advocates for the plaintiff/applicant - present

Kajwang & Kanjwang & Co. Advocates for the 1st defendant-present

EUNICE LAMBA.....
PLAINTIFF

VERSUS

NATIONAL SOCIAL SECURITY FUND BOARD OF TRUSTEES....1ST
DEFENDANT

FLORENCE MAINA.....2ND
DEFENDANT

RULING

1. Background of Application of 25 January 2007

By Plaintiff/Applicant for an Injunction:

1. The Plaintiff herein Eunice Lamba alleges that she was allocated the suit premises being Kitusuru 101/E49 by the 1st Defendant herein National Social Security Fund Board of Trustees.
2. She was therefore perturbed when she found Florence Maina on the suit land having taken possession of the same.
3. The Plaintiff filed this suit on land for the possession of the said property. She also filed an application for an injunction. The defendant filed an application of January 2007 also for an injunction.

II. Application of 25 January, 2007

3. The Plaintiffs/Applicant case is that she was allocated the suit land. She was therefore the rightful owner herein.

4. The Defendant No. 1

The Defendant No.2 filed her own application for an injunction this court ruled that accordingly to procedure the court should always hear the application of cases in the order they had been filed. The earlier order herein was that the plaintiff application is heard first.

6. The question arises herein is who is the rightful owner of the suit premises. It is indeed very clear that the 1st defendant gave a double allocation. This is a cautious issue to be determined between the parties, namely who then now is the rightful owner.

7. The 2nd Defendant has begun constructing. She does so at her own peril. In the case law Mawaji v USIU 19 KLR the court held that once a court suit has been filed Section 52 of the transfer of property that does not permit any transaction of the suit premises and or transfer.

I: Findings

8. I hereby hold that there is prima facie case herein that an injunction do hereby issue against the 1st and 2nd Defendant from evicting building, alienating or wasting and/or interfering with the plaintiff title and/or interest on the land L.R. Kitusuru101/E49 until the determination of this suit.

9. I award costs to the Plaintiff.

Dated this 24th day of May, 2007 at Nairobi.

M.A. Ang'awa

JUDGE

24.5.2007

Advocates:

Migos Ogamba & Co. Advocates for the plaintiff/applicant - present

Kajwang & Kanjwang & Co. Advocates for the 1st defendant-present

Waruhiu Gathuru & Co. Advocates for the 2nd defendant- present