



REPUBLIC OF KENYA

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

Civil Case 744 of 2004

MASIAYA OLE OLOIJE PLAINTIFF

VERSUS

WILLIAM SIMINTEL 1ST DEFENDANT

JOHN OLE LENKIOK (SECRETARY)

SOLITAI OLE KAYANKA (CHAIRMAN) 2ND DEFENDANTS

REPRESENTATIVES OF OLDONYO OROK GROUP RANCH

LAND EGISTRAR KAJIADO 3RD DEFENDANT

JUDGMENT

I: Background

1. Masiaya Ole Oloiye a male adult files this suit by way of adverse possession. He claims ownership of the land being parcel No. Kajiado/Meto/1021.
2. The said property is situated within the Oldonyo Orok Group ranch. The said ranch sub-divided land and allocated to its members. The plaintiff has been specifically allocated Kajiado/Meto/1021 but through fraud by the said land company represented herein by John Ole Lenkiok and Solitai Ole Kayanka representative of the said Oldonyo Orok group ranch he was deprived of the said property and the same was allocated to the 1st defendant William Siminte.
3. The plaintiff prayed that the register be rectified and his name registered. He had been allocated the said land on 20 May 1993.

II: The defendants case

4, In their replying affidavit John Ole Lenkiok explained to this court that is the plaintiff was allocated within the group. He was not a member but was so accommodated by a relative to join. The plaintiff been allocated Plot No.53 the subject matter of this suit but was unable to meet the required standards and terms of agreement. He was allocated Kajiado/Meto/1108 and took possession of the said land which he hold to date. The 1st defendant took possession of Plot 53 paid for it and was issued with a certificate. Now known Kajiando/Meto/1021.

5. For some unknown reasons the plaintiff returned to claim the plot No.53. He has never resided there and became a busy body in the year 2004. He has tried by all means to go to other tribunals to be given the said land.

6. In the mean time after sub-dividing and describing the land the said group ranch dissolved.

III Should the plaintiff acquire title by way of adverse possession.?

7. I find that the plaintiff hold another piece of land Kajado/Meto/1108 which belongs to him. He is a busy body and has coveted property that does not belong to him but to the 1st defendant. I am satisfied that the 1st defendant is the rightful owner of the parcel of land in question.

8. I further hold that the plaintiff is not entitled to adverse possession. He has indeed misled this court and other qusai judicature body that he is the rightful owner. This court has established that he is not and accordingly dismiss his suit with costs to defendants 1,2,3. That the plaintiff be evicted forthwith from the land.

Dated this 31st day of July 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

D.K. Osoro for Osoro Juma & Co. Advocates for the plaintiff - present

A.N. Kairu hodling brief for Ramesh K. Patel & Co. Advocates for the 1st defendant – present

John Ole Lenkiok 2nd defendant in person - present