



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA
AT EMBU

Civil Case 48 of 2001

PETER NTHIGA.....PLAINTIFF

VERSUS

ROBBINSON IRERI TIMAMU.....1ST DEFENDANT

LAZARO MBUMBUI.....2ND DEFENDANT

JUDGMENT

Plaintiff pleads that he is the sole registered proprietor of parcel No. Embu/Evurore/Nguthi/1621 measuring about 2 hectares. The land was processed through the adjudication and the registration was effected on 11/7/1996. The Defendants have since 1986 unlawfully entered and has remained unlawfully in that land. Defendants filed defence saying they have resided on the land for many years and they have nowhere to go to. First Defendant Robinson Ileri Timamu said in his sworn evidence that he can give plaintiff his land if he was compensated for his developments. He said that when he settled and developed the land he thought it was of his deceased brother. The second Defendant also gave evidence in court. He said he had no other place to go to, that the land was his. He also suggested that developments be assessed. His evidence indicates that he does not know that the land on which he resides is not his. The defendants called witness whose evidence was to the effect that these defendants have occupied the land in dispute for a very long time.

The Plaintiff through his lawyers gave written notice to defendants to quit his land on 2/11/2000. I have considered the evidence and the pleadings placed before the court. The plaintiff acquired the disputed land through the process of land adjudication. This issue has not been challenged by the defendants. Therefore the title deed issued to the plaintiff is in accordance with the law. The Defendants just sat on the plaintiff's land during all this adjudication process and failed to take any action. The defences and testimonies in court does not show why if they had rights to land they failed to protect the same or to take actions under the adjudication system.

I am of the view and I find that the plaintiff as the registered proprietor of the land is entitled to orders he seeks. The Defendants apart from making general statements have no proof that they are entitled by long occupation to the title against the plaintiff. I therefore enter Judgment for plaintiff as prayed in the plaint. As the defendants claim developments on the land they need time to evacuate them. I therefore order the defendants to vacate the land within the next 90 days from today failing which the eviction order shall be executed. No costs are ordered in this case.

It is so ordered.

Dated this 29th October, 2007.

J. N. KHAMINWA

JUDGE

29/10/2007

Khaminwa – Judge

Njue- Clerk

Both parties present

Judgment read in open court.

J. N. KHAMINWA

JUDGE