

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Civil Case 23 of 2006

DANIEL TIRITHIA ITHIRIA.....PLAINTIFF

Versus

PHABIAS NDEGWA WANJOHI.....DEFENDANT

JUDGMENT

The Plaintiff's claim is that Ambrosina Njeri Waititu transferred one acre of property MWICHUIRI/NAROMORU/35 as a gift to the Plaintiff. The Plaintiff exhibited in evidence the agreement between himself and Miss Waititu. The agreement is dated 19th January 2006. The Plaintiff thereafter began to develop that one acre even before notification of the transfer was given to the land buying company Mwichuiri Farmers Ltd. The Defendant came on the land without any reasonable cause and has continued to be there. The Plaintiff seeks his eviction. The Defendant was served with the summons and plaint but failed to enter an appearance within the prescribed period. Interlocutory judgment was entered against him. This case therefore came before court for formal proof. The Plaintiff in further evidence gave copies of the letter written by Miss Waititu to the Mwichuiri Farmers Limited notifying them that she had transferred one acre to the Plaintiff. That letter is dated 28th January 2006. That land buying company responded by their letter dated 6th June 2006 where they confirmed receipt of the letter and confirmed that they had noted that Miss Waititu had transferred one acre to the Plaintiff. They also confirmed that the transfer had been minuted.

The court having considered the evidence adduced by the Plaintiff, is satisfied that the Plaintiff has proved his claim on a balance of probability. Accordingly the court does give judgment for the Plaintiff for eviction of the Defendant from the parcel of land No. **MWICHUIRI/NAROMORU/35**. The Plaintiff is also awarded the costs of this suit.

MARY KASANGO

JUDGE

Dated and delivered at Nyeri this 9th day of October 2007.

M. S. A. MAKHANDIA

JUDGE