

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NYERI

Civil Case 40 of 2006

ROBERT GAKINYA NJAU.....PLAINTIFF

Versus

ROBERT KINGORI KANYI.....1ST DEFENDANT

JOSEPHAT MWANIKI.....2ND DEFENDANT

JUDGMENT

The Plaintiff by his Complaint averred that he is a bonafide purchaser for value of the property known as NYERI MUNICIPALITY/BLOCK 11/953. He stated that he is registered as the owner of that property. The Plaintiff further averred in the complaint that the Defendants, their servants, agents and persons claiming under them had claimed that they had overriding interest in the suit land. By that claim they have maliciously deprived the Plaintiff of its use and quiet enjoyment. The Plaintiff therefore prayed for orders of eviction of the Defendants. The Defendants even though served with the summons and complaint failed to enter an appearance within the prescribed period. Interlocutory judgment was entered on 29th August 2006. The case then came before me for formal proof.

The Plaintiff in evidence stated that he is the registered owner of the suit property. In evidence he produced the certificate of lease. He stated that after buying the property the Defendants refused to vacate the same. The Defendants' refusal was on the basis that the Plaintiff was not their landlord. They therefore adamantly refused to vacate. The Plaintiff further stated that the Defendants do not pay him any rent. He said that on the property there is a shed where the Defendants carry out furniture production. The plot is in the middle of Nyeri town and had he rented the same he would have been able to receive rental of Ksh. 5000/= per month. The Plaintiff therefore prayed for eviction.

Having examined the documentary evidence and the oral evidence of the Plaintiff I find and I hold that the Plaintiff has proved his case on a balance of probability of the prayers sought. The Plaintiff is the registered owner of the suit property and there is no contrary evidence to his assertion that he has a right of occupation. That being the case the judgment by this court is that eviction do issue against the Defendants for the property registered as **NYERI MUNICIPALITY/BLOCK 11/953**. The Defendants are ordered to give vacant possession of that property to the Plaintiff. The Plaintiff is awarded costs of this suit.

Dated and delivered at Nyeri this 5th day of October 2007.

MARY KASANGO

JUDGE