



REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA

AT EMBU

Civil Appeal 11 of 1999

JAMLECK KIURA MURATHI.....APPELLANT

VERSUS

ANGELIUS GICHOBI KARURU.....1ST RESPONDENT

STANLEY NJOGU. J. MARIA.....2ND RESPONDENT

JUDGMENT

This appeal arises out of decision of Provincial Appeal Committee in Case No. 56/98 concerning parcel of land No. Kabare/Kiritine/919. The appeal has been certified as giving rise to issues of law. The grounds of appeal are listed in the memorandum of appeal numbering 6. The summary of grounds is that there was no jurisdiction to determine on the matter of title and that there was no consent under Land Control Act. The dispute arose from the agreement of sale of some land which the Appellant agree to sell to the Respondents. The tribunal decided that the appellant should honour this agreement and ordered that the appellant should transfer this land (2 acres) to the Respondents as soon as the Bank released the Title Deed. The Tribunal also found that the Respondents should continue to utilize the farm and pay Shs.60,000/= for trees in that farm.

The Provincial Appeals Committee upheld this decision hence this appeal.

There was evidence that the mandatory Land Control Board Consent had not been obtained. It is clear that this dispute was concerning sale of land. Therefore the Tribunal has no jurisdiction of determining issues of contracts of sale of land.

Secondly no tribunal or court is empowered to make decisions to enforce contracts of sale of land where Land Board consent has not been granted. I therefore find that the remedy for complainants is to recover their money. They continue to commit offence in pursuance of the sale agreement of sale of land as provided under Land Control Act. The appeal is allowed with no order as to costs.

Dated this 27th November, 2007.

J. N. KHAMINWA

JUDGE

27/11/2007

Khaminwa – Judge

Njue – Clerk

Mr. Muraguri for Respondent

Read in open court.

J. N. KHAMINWA

JUDGE