



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (NAIROBI LAW COURTS)
Civil Case 287 of 2004

1. Land and Environmental Law Division
2. Subject of main suit: Land ownership

LR. Dagoretti/Ritruta/1035

- i) Church bought land without title being transferred from deceased.
- ii) Children of deceased inherit title and obtain new title deed.
- iii) Issue – who is owner of land?
- iv) Church in possession for 23 – 30 years.

3. Civil Practice and Procedure

Direction of court

- i) That case file Hccc287/04 (Originating Summons) filed by church for Adverse Possession
and
- ii) Hccc170/07 filled by child of deceased now holding title of 2006 be consolidated for hearing.
- iii) Hcc768/07 not seen by court – If related be consolidated.

4. Advocates:

J.M. Ohaga of Ochieng Oduondo Advocates for the defendant/applicant – present

Martin D.V. Of Kamere & Co. Advocates for the plaintiff/Respondent – present

BISHOP ZACHARIA KAHUTU.....
PLAINTIFF

VERSUS

BISHOP ZACHARIA KAHUTHU

MATHEW M. DAMBALA (Sued as Trustees of

**KENYA EVANGELICAL LUTHERAN CHURCH.....1ST
DEFENDANT/APPLICANT**

**THE CITY COUNCIL OF NAIROBI.....2ND
DEFENDANT**

RULING

I: Civil Practice and Procedure

1. The parties seeks this court directions on the files before court.

2. The trustee of the Kenya Evangelical Lutheran Church (herein after referred to as the church) alleged to have bought LR No. Dagoretti/Riruta/1035. The owner, a lady gave them the title deed and was paid Ksh.64,000/- as purchase price although the agreements may have been for Ksh.40,000/-. This sum as allegedly paid by installments.

3. The church never finalized the agreement nor transferred the properties to themselves. The children of the seller have now become of age. They inherited the title in 2006. The church had by now filed Hccc287/04 for Adverse Possession. The church filed suit 170/07 for eviction of the church from the land. The church began to construct.

4. There is another suit Hccc768/07 that I have not had sight of.

5. The direction herein by this court is that the Originating Summons in 287/04 will be treated as a plaint.

That the suits be consolidated under order XI Civil Procedure Rules and heard at the same time. The application for direction was by consent agreement on 29 November 2005.

6. That the plaintiff in all the cases would be the:

Bishop Zakaria Kahutu

Martha M. Dambuki

Suing as trustee of the

Kenya Evangelical Lutheran Church Versus Njeri Wa Muthoni (Administratrix of the estate of Naomi Muthoni Ngure.

7. That the proceeding will proceed in Hccc287/04. The application of 13 April 2007 has been over taken by events by these orders

Dated this 21 day of November 2007 at Nairobi.

M.A. ANG'AWA

JUDGE

J.M. Ohaga of Ochieng Oduondo Advocates for the defendant/applicant – present

Martin D.V. Of Kamere & Co. Advocates for the plaintiff/Respondent – present