

REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL SUIT NO. 652 OF 2002

JUDITH WANJIRU KARONGO PLAINTIFF

VERSUS

TOWN CLERK KARURI URBAN

COUNCIL & 3 OTHERSDEFENDANTS

JUDGMENT

The plaintiff Judith Wanjiru Karongo, sued the defendants, jointly and severally, claiming a permanent injunction against them in respect of property known as Kiambaa/Kihara T112. She also sought an order against the first defendant to facilitate the transfer of the suit premises, and a further order that the purported allocation of that plot by the 1st defendant to the 2nd defendant, is null and void, as the property belongs to her, the plaintiff. All the defendants were served with summons to enter appearance, but none of them entered appearance or filed a defence, and so far, interlocutory judgment was entered against them on 5th May 2003. The case came before me for formal proof, wherein the plaintiff testified that the original title to the suit premises was in her husband's name, but he died in July 1993, and the plaintiff became his legal representative, through succession. The original title was T.156, which the Government repossessed for purposes of building a dispensary and the plaintiff was given T 112. This is the land she was given but she discovered on the ground that it had been given to somebody else. She decided to file this suit to claim the land to be transferred to her.

Though she does not live on it, she cultivates it and has planted her crops in it. She produced the title deed of the original land, T 156, which she had registered in her name after her husband's death, yet she was asked by the Karuri Urban Council, to exchange it with T 112.

She produced as evidence, a letter dated 24th August 2001 from the Ministry of Settlement, forwarding to the Land Registrar Kiambu, about 3 pieces of land T.112, being one of them, for registration into people's names, including the plaintiff. She also produced as evidence, extracts of the minutes of Karuri Urban Council, dated 1st November 1989 directing that the land T156 in the name of Stephen Karonga (the plaintiff's late husband) be exchanged with T.112. The land was valued at Kshs.9,000/= as at that time.

From the plaintiff's evidence, I am satisfied that Karuri Urban Council approved to take over of title No. T.156 registered at that time in the deceased's name, and in exchange, gave the deceased, the land T.112, which land belongs to the plaintiff. I therefore find judgment for the plaintiff against the defendants jointly and severally in respect of prayers 12 (a), (b), (c) and (d), in the plaint dated 16th April, 2002 and filed in court on 16th April, 2002.

Dated at Nairobi this 3rd day of July 2003.

JOYCE ALUOCH

JUDGE

3.7.2003

Coram : Aluoch, J

Judith Wanjiru Karongo, the plaintiff in person By Court

Judgment read in presence of the plaintiff.

JOYCE ALUOCH

JUDGE

3.7.2003