

REPUBLIC OF KENYA

IN THE HIGH COURT AT NAIROBI
CIVIL CASE NO. 1412 OF 1999

STEVENSON NGATIA.....PLAINTIFF

-VERSUS

CLEMENT KAMAU GITAU.....DEFENDANT

RULING

By this application filed on 15th July, 1999, the plaintiff seeks orders barring the defendant from carrying out development of plot No. 491 Thome Estate as the same belongs to the plaintiff. The defendant however contended to the contrary in a replying affidavit but did not attend the court to urge his case.

According to the affidavit evidence from the applicant and supported by the company which alienated the plot to the members, the plot in dispute was allocated to the plaintiff while the defendant was allocated a different one. To support his case the applicant produced documents from the company showing that he is the one entitled to the plot but the respondent did not produce anything to support his case.

On preponderance of evidence adduced it is clear that the land belongs to the company which had allocated the plot in dispute to the plaintiff/applicant. The defendant/respondent has no right therefore to be on the plot. As the applicant is likely to suffer a loss which may not be adequately compensated by an award of damages, he is entitled to the order sought herein.

I therefore grant prayer (b) as prayed.

The costs to be in the cause.

Orders accordingly.

Dated and signed at Nairobi this 18th day of June, 2002.

G.P. Mbito

JUDGE