



REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA AT NAIROBI
CIVIL CASE NO. 269 OF 2001

NKOIRISHA OLE NTOMPO KERERU

& FOUR OTHERS PLAINTIFFS

VERSUS

THE CHAIRMAN LORNGOSUA GROUP

RANCH & NINE OTHERS DEFENDANTS

RULING

According to a certificate of incorporation dated 10th December, 1991 Lonngusua Group Ranch has the following group representatives namely:

1. Nkaiyioen Maseke
2. Nkachoni Sikanyi
3. Lengen Kiado
4. Stephen Kasana
5. Kime Chuan Kipareu
6. Tipape Munyee
7. Suakei Mukulele
8. Tulito Kamuana
9. Paetoti Lekumok
10. Daniel Lemomo

This certificate does not show whether there are or who the officials are But under Section 7(3) of the Land (Group Representations) Act, Chapter 287 Laws of Kenya,

“Upon the issue of a certificate of incorporation, the persons named in it as group representatives shall thereupon become the group representatives of the group and a body corporate with the name specified in the certificate, and shall have perpetual Succession, and the persons elected to be the officers of the group shall become the officers of the group”.

From this provision, it appears that the group representatives with the name specified in the certificate, in this case “Lonngusua”, are what becomes a body corporate with perpetual succession.

It is the group representatives which is conferred with powers to sue and be sued under Section 8(1) of the Act, in their corporate capacity and not officers or members of the group ranch in their official or individual names.

Given this background and the clear provision of the law, it is my view that the notice of preliminary objection filed herein on 22nd March, 2001 raises important points of law which goes to the root of the suit to the extent of invalidating it.

Counsel for the respondents agrees that he has sued persons, named in the certificate as officials of the group ranch and/or that the plaintiff has adequately identified the parties and/or in what capacity they have been sued does not counter the provisions of the law which the court has cited above as to who has capacity in this type of case to sue or be sued.

I uphold the preliminary objection and strike out the suit filed herein on 19th February and amended on 30th April, 2001 with costs.

Delivered and dated this 22nd day of May, 2001.

D.K.S AGANYANYA

JUDGE