



**Anyona v Njenga (Environment & Land Miscellaneous Case
02 of 2020) [2021] KEELC 4740 (KLR) (4 March 2021) (Ruling)**

Neutral citation: [2021] KEELC 4740 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU
ENVIRONMENT & LAND MISCELLANEOUS CASE 02 OF 2020**

YM ANGIMA, J

MARCH 4, 2021

BETWEEN

LOUISE NYAMISA ANYONA APPLICANT

AND

DANIEL GATHIHI NJENGA RESPONDENT

RULING

1. The Applicant filed a miscellaneous application dated 14th February, 2020 based upon Sections 152A, 152B, 152G and 152F of the [Land Act](#), 2012 and all other enabling provisions of the law seeking the following orders:
 - a. That this Honourable Court be pleased to order the Respondent to be evicted from all that parcel of land known as Nyandarua/Olkalou Salient/539.
 - b. That the Applicant can be at liberty to appoint a court bailiff or auctioneer to evict the Respondent.
 - c. That this Honourable Court do issue an order directing the OCS, Rurii Police Station to provide the security during the eviction exercise.
 - d. That upon being evicted a permanent order of injunction do issue restraining the Respondent whether by himself, his employees, servants, agents, or otherwise howsoever from re-entering, occupying, carrying on any development, or dealing with all that parcel of land known as Nyandarua/Olkalou Salient/539 in any manner prejudicial to the interests of the Plaintiff.
 - e. That the costs of the application be borne by the Respondent.
2. The said application was based upon the grounds set out on the face of the motion and the contents of the supporting affidavit sworn by the Applicant, Louise Nyamisa Anyona, on 14th February, 2020. The Applicant contended that she was the registered proprietor of the suit property but Respondent



had trespassed and occupied a portion thereof without lawful justification or excuse. It was further contended that despite an eviction notice being served the Respondent had failed to vacate the suit property hence the application.

3. The Applicant annexed various documents to her supporting affidavit including a certificate of official search, a copy of the title deed, a letter from the Assistant County Commissioner – Rurii Division, an eviction notice and affidavit of service.
4. It would appear that the Respondent did not file any response to the application despite service.
5. When the application was listed for directions on 15th July, 2020 it was directed that the same shall be canvassed through written submissions. The record shows that the Applicant filed her submissions on 5th February, 2021 whereas the Respondent did not file any.
6. The Applicant submitted that she had demonstrated her ownership of the suit property and that the Respondent was unlawfully occupying the same. It was further submitted that the relevant steps under the *Land Act*, 2012 had been observed and that the Respondent had not filed any response to the application. The Applicant relied upon the case of *Margaret Karwirwa Mwongera v Francis Kofi* [2019] eKLR and urged the court to allow the application.
7. Section 152E of the *Land Act* stipulates as follows:

“ 1. If, with respect to private land the owner or the person in charge is of the opinion that a person is in occupation of his or her land without consent, the owner or the person in charge may serve on that person a notice, of not less than three months before the date of the intended eviction.

2. the notice under subsection (1) shall;

- a. be in writing and in a national and official language;
- b. in the case of a large group of persons, be published in at least two daily newspapers of nationwide circulation and be displayed in not less than five strategic locations within the occupied land;
- c. specify any terms and conditions as to the removal of buildings, the reaping of growing crops and any other matters as the case may require; and
- d. be served on the deputy county commissioner in charge of the area as well as the officer commanding the police division of the area.”

8. The court is satisfied on the basis of the material on record that the Applicant has satisfied the requirements for the orders of eviction sought. The court is satisfied that the relevant notices were issued and served. The court is thus inclined to grant the orders in the application. Accordingly, the court hereby grants all the orders sought by the Applicant in the notice of motion dated 14th February, 2020.

It is so ordered.

RULING DATED AND SIGNED AT NYAHURURU AND DELIVERED VIA MICROSOFT TEAMS PLATFORM THIS 4TH OF MARCH, 2021.

In the presence of:



Mr. Machage for the Applicant

No appearance for the Respondent

Court Assistant – Carol

Y.M. ANGIMA

JUDGE

04. 03.2021

