



Polyzones Limited v Muli & 2 others (Environment & Land Case 72 of 2019) [2023] KEELC 17130 (KLR) (4 May 2023) (Judgment)

Neutral citation: [2023] KEELC 17130 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE 72 OF 2019**

MN GICHERU, J

MAY 4, 2023

BETWEEN

POLYZONES LIMITED PLAINTIFF

AND

SAMMY FRANCIS MUINDE MULI 1ST DEFENDANT

CHRISTOPHER NDWIGA NJIRU 2ND DEFENDANT

KAJIADO DISTRICT LAND REGISTRAR 3RD DEFENDANT

JUDGMENT

1. The Plaintiff's claim against the Defendants is as follows.
 - a. A declaration do issue that the Plaintiff is the only lawful proprietor of L.R. Kajiado/Kaputiei-North/ 2596, suit land.
 - b. An order do issue cancelling/nullifying the fraudulent green card and all subsequent titles issued following the fraud.
 - c. An order to the third Defendant to reconstruct the green card to the suit land in favour of the Plaintiff.
 - d. Costs of the suit.
2. The Plaintiff's case is as follows. It is the registered proprietor of the suit land which it bought on 15/4/1994. The land is occupied by the Plaintiff and it has never been transferred to anybody.
3. In the month of May, 2016, the Plaintiff's director visited the suit land and found some construction material having been deposited thereon. Apprehensive that someone wanted to fraudulently acquire the land, the Plaintiff's director visited the Kajiado Land Registry and found that the green card had



been tampered with through removal. In its place there was a fraudulent one showing that the first Defendant had transferred the suit land to the second Defendant.

Investigations by the Land Registrar and the police confirmed the fraud and recommended the restoration of the records as pleaded by the Plaintiff in this case.

4. The first and second Defendants did not file a defence or even enter appearance in this case. The Honourable the Attorney General filed a defense dated 11/9/2019 in which the Plaintiff's claim is denied generally. Secondly, the Attorney General denied ever having been served with a notice of intention to sue as required by Section 13A of the *Government Proceedings Act*.
5. In support of its case, the Plaintiff filed the following evidence.
 - a. Witness statement by Patrick Tana Mutisya.
 - b. Copy of authority to plead.
 - c. Copy of title deed to the suit land.
 - d. Copy of the fraudulent copy of register for the suit land.
 - e. Copies of letters to the Land Registrar and DCIO Kajiado.
 - f. Copy of notice of intention to sue to the Attorney General.
 - g. Copy of letter of complaint to the Land Registrar and receipts.
 - h. Copy of CR 12 for the Plaintiff dated 4/8/2016.
 - i. Copy of certificate of incorporation of the Plaintiff dated 21/5/1991.
6. At the trial only the Plaintiff's director testified. His evidence is to the effect that the suit land is no longer under threat as the intruders and trespassers have not been back. All he wants is for that the prayers be granted.
7. I have carefully considered the evidence adduced by the Plaintiff at the trial. I have also considered the written submissions dated 30th March, 2023. I find that the Plaintiff has proved its case against the Defendants jointly and severally to the required standard because its claim is uncontroverted by any of the Defendants. Consequently, I enter judgment for the Plaintiff as prayed for in the plaint.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 4TH DAY OF MAY, 2023.

M.N. GICHERU

JUDGE

