

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT BUNGOMA

CIVIL CASE 39 OF 2008

**BENARD WEPUKHULU WASILWA.....PLAINTIFF/
RESPONDENT**

~VRS~

- 1. HENRY MABONGA WAMBALO.....1ST
DEFENDANT/APPLICANT**
- 2. RICHARD SIMIYU WAMBALO.....2ND
DEFENDANT/APPLICANT**
- 3. DAVID MAKAU MUTHUI.....3RD
DEFENDANT/APPLICANT**
- 4. BENARD SIMEON WABOMBA.....4TH
DEFENDANT/APPLICANT**

RULING

I have looked at the pleadings in Bungoma CMCC no.25 of 2008 and Bungoma SPMCC no.258 of 206 against those in the present case. The Defendant in the two cases in the subordinate court is the Plaintiff in the case before this court. In CMCC 253 of 2008 the Plaintiffs are the 3rd and 4th Defendants in the instant case. In SPMCC no.258 of 2006 the Plaintiffs are the 1st and 2nd Defendants in the instant case. The pleadings and the affidavits and annexures reveal the following. Land parcel no.Chwele/Chwele/1215 was registered in the name of Hebron Wambalo (the deceased) who died in 1987. On 27/6/1990 the 1st and 2nd Defendants in the instant case, expecting to inherit from the estate of the deceased, sold 34ft x 14ft of the said 1215 for Ksh.29,000/= to the instant Plaintiff who went into occupation. The plot was not transferred. Following succession proceedings, the said 1215 was subdivided into, among others, Bokoli/Chwele/1384. This 1384 was sold to the instant 3rd and 4th Defendants who became its registered proprietors on 18/1/2008. The instant Plaintiff lost, as it were, what he bought from the 1st and 2nd Defendants to the 3rd and 4th Defendants.

In short, these three cases are substantially between the same parties and about the same suit land. It will save costs and time if the three matters are heard together so that all the issues that relate to the dispute are finally determine. The parties can amend and/or align their pleadings following the necessary applications following which directions can be taken to allow for expeditious disposal.

These are the reasons why I direct that Bungoma CMCC no.253 of 2008 and Bungoma SPM CC no.258 of 2006 be consolidated into this case. Costs shall abide the suit.

Dated, signed and delivered this 12th day of July 2012.

**A. O. MUCHELULE
JUDGE**