

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT KITALE

LAND CASE NO. 42 OF 2018

CHARLES PKIYACH KIYARA.....1ST PLAINTIFF

JOHN KEMOI KIYARA SIAPUK.....2ND PLAINTIFF

VERSUS

LOMERISIYA DUNGOTOM.....DEFENDANT

JUDGMENT

By way of a plaint dated **20/4/2018** and filed in court on the same date the plaintiffs instituted the present suit seeking judgment against the defendant for orders of a **declaration** that the plaintiffs are the legal owners of the land comprised in **Titles Nos. Chebon/Chebon/1028 and 1088** (hereinafter “the suit lands,”) upon which the defendant has been trespassing, a **permanent injunction, Kshs.562, 500/=** as damages for loss of user, **costs** and **interest**. The plaintiffs’ case is that after a long process involving land adjudication and objections thereto and finally an appeal to the Minister, the defendant was declared owner of only **Title No. Chebon/Chebon/1030**, but that notwithstanding, he has continued to trespass on the suit lands. Though the defendant filed an appearance through his counsel, he failed to call any evidence in support of his defence or cross examine the plaintiff’s witness. Having regard to all the oral and documentary evidence adduced by the plaintiffs, I am persuaded that the plaintiffs have established their case on a balance of probabilities and I hereby enter judgment in their favour as prayed in **prayers nos (a), (b) (c) and (d)** in the plaint dated 20/4/2018. The damages for loss of user and costs shall attract interest at court rates till settlement in full. It is so ordered.

It is so ordered.

Dated, signed and delivered at Kitale via electronic mail on this 5th day of November, 2020.

MWANGI NJOROGI

JUDGE, ELC, KITALE.