



**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL OF KENYA  
AT NAIROBI**

**Civil Appeal 296 of 1997**

**NJOROGE KARANJA**

**FRANCIS NDERU KARANJA .....**  
**APPELLANTS**

**AND**

**KARANJA MWANGI .....**  
**RESPONDENTS**

**(An Appeal from the Judgment of the High Court of Kenya at Nairobi (Justice D.K.S. Aganyanya)  
dated 22nd October, 1997**

**in**

**H.C.C.C. NO. 3030 OF 1993 (O.S.)**

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**JUDGMENT OF THE COURT**

This is an appeal by the unsuccessful plaintiffs from a judgment and decree of the superior court (Aganyanya,J.) given on October 22, 1997 whereby he dismissed the plaintiffs' originating summons seeking a declaration that the respondent holds the suit property namely Loc.6/GIATHAINI/703 in trust for the plaintiffs and other consequential reliefs.

At the hearing of the summons before the superior court the parties gave evidence when they were cross-examined. The defendant in addition called two witnesses. In a reserved judgment the learned judge held that it was only reasonable to accept the respondent's evidences that he was registered as proprietor of the suit property by his father who had alone contributed money to redeem the suit property from previous purchases and the appellants had refused to assist. The learned judge accepted the respondent's version and rejected that of the appellants. In the result, he dismissed the appellants' suit with costs.

We heard the first appellant in support of the appeal and the respondent in opposition thereof. Nothing was shown to us to satisfy us that the learned judge had erred in principle or otherwise in reaching the decision which he did. Upon a careful scrutiny of the evidence, we are satisfied that the learned judge

was right and that we ourselves would have come to the same conclusion. There is no reason to interfere with the findings by the learned judge. We uphold his judgment fully and dismiss the appeal with costs.

Dated and delivered at Nairobi this 26th day of May, 1998.

R.S.C. OMOLO

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JUDGE OF APPEAL

A.A. LAKHA

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JUDGE OF APPEAL

G.S. PALL

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR