

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

E.L.C. CASE NO. 976 OF 2015

(FORMERLY HCCC NO. 2182 OF 1995)

EDITH MATIBA (Suing as legal representative to the Estate

of Wamere Hellen Mwangi Dadet).....PLAINTIFF

VERSUS

DAVID NJOGU GACHANJA.....DEFENDANT

RULING

Through the application dated 18/2/2019, the Plaintiff seeks an order that she is entitled to parcel numbers Ruiru/Ruiru East/Block 7/81 and Ruiru/Ruiru East/Block 7/82 and any funds payable by the Kenya National Highways Authority as compensation for the two plots. The application is made on the ground that this court delivered its judgement on 11/11/2018 in which it found that the Plaintiff was entitled to two plots of the suit land while the Defendant was entitled to retain the other two plots. The other ground cited is that the Defendant has entered into a sale transaction with a third party over one of the suit land being Ruiru/Ruiru East Block 7/3 and that there are significant developments on Ruiru/Ruiru East Block 7/154.

The court has looked at the supporting affidavit and considered the Replying Affidavit sworn by the Defendant on 18/3/2019 in which he admits at paragraph 10 that he wished to sell plot numbers Ruiru/Ruiru East Block 7/3, Ruiru/Ruiru East Block 7/81 and Ruiru/Ruiru East Block 7/82 to Viktah Maina and that the proposed purchaser for plot number Ruiru/Ruiru East/Block 7/154 had agreed to purchase this plot knowing the history of Varsityville and being aware of this suit.

The court has considered the application, together with the affidavits. The court has also looked at the judgement in which it found that the Plaintiff and the Defendant were each entitled to two plots. For clarity and certainty of the decree, the court directs that the decree will be amended to reflect that the Plaintiff is entitled to plot numbers Ruiru/Ruiru East/Block 7/81 and Ruiru/Ruiru East Block 7/82 while the Defendant will retain parcel numbers Ruiru/Ruiru East Block 7/154 and Ruiru/Ruiru East Block 7/3. Each party will bear its own costs of the application.

Dated and delivered at Nairobi this 28th day of March 2019.

K. BOR

JUDGE

In the presence of: -

Ms. E. Kitololo for the Plaintiff

Mr. V. Owuor- Court Assistant

No appearance for the Defendant