



THE JUDICIARY



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MURANG'A
ELCLOS E016 OF 2023

CHARLE NGUGI KURIAAPPLICANT
VERSUS
JULIUS MUREITHI NG'ANG'A.....RESPONDENT

JUDGMENT

- 1) The Plaintiff seeks the following reliefs against the Defendant.
 - (i) **An order that L.R. No. Loc.5/Githunguri/405 has become the property of Charles Ngugi Kuria through adverse possession.**
 - (ii) **The Land Registrar Murang'a do register the suit land in the name of the Plaintiff.**
 - (iii) **That costs be in the cause.**
- 2) The Plaintiff's case is as follows. In the year 1978 the Defendant asked the Plaintiff to take care of the suit land on his behalf. Secondly, the Plaintiff occupied the land and when the Defendant did not come back the Plaintiff confirmed using it as the owner. Thirdly, the land measures 0.3 acres and the Plaintiff has his own land nearby. Since the Defendant is not likely to come back and claim the land, the Plaintiff prays for a declaration that he is the owner of the land through the doctrine of adverse possession.
- 3) In support of his case, the Plaintiff filed the following evidence.
 - (i) **Supporting affidavit dated 2-11-2023.**
 - (ii) **Witness statement by David Karanja Kamau.**
 - (iii) **Plaintiff's copy of the national identify card.**
 - (iv) **Copy of the green card for the suit land which shows that it is 0.8 Ha.**
- 4) The Defendant, though served through the office of the assistant chief Kagunduini sub location where the land is situated did not file any response to the originating summons.
- 5) At the trial on 4-11-2025, the Plaintiff testified and called a witness named David Karanja Kamau. They reiterated the case as per the pleadings. While the Plaintiff said that the

land is 0.3 acres, the copy of register filed as an exhibit shows the size to be 0.8 Ha which would be 1.9768 acres.

- 6) I have carefully considered the evidence adduced by the Plaintiff in this case including the supporting affidavit, witness statements, documents and testimony at the trial. In order to succeed in this case, the Plaintiff ought to prove all the three prerequisites to the declaration that he has become entitled to the suit land through adverse possession. They are occupation without force, without permission of the registered owner and without secrecy. See the case of **Kasuve V. Mwaani Investments Ltd and 4 others[2004]I KLR 184.**

Section 7 of the **Limitation of Actions Act** provides as follows.

“ An action may not be brought by any person to recover land after the end of twelve(12) years from the date on which the right of action accrued to him or, if it accrued to some person through whom he claims, to that person.”

This provision extinguishes the right of the Defendant in this to recover the suit land.

- 7) Secondly, Section 17 further states:

“Subject to Section 18 of this Act, at the expiration of the period prescribed by this Act for a person to bring an action to recover land...the title of that person to the land is extinguished”.

Accordingly, since it is about 47 years since the Defendant came to the land, his title to the suit land is automatically extinguished by operation of law.

- 8) The evidence by the Plaintiff is uncontroverted and it clearly proves all the conditions necessary for the grant of the orders sought.

Consequently, I enter judgment for the Plaintiff against the Defendant as follows.

(1) Land reference No. Loc. 5/Githunguri/405 has become property of Charles Ngugi Kuria through adverse possession.

(2) The Land Registrar Murang’a do register the suit land in the name of the Plaintiff.

(3) Costs in the cause.

It is so ordered.

Dated, signed and Delivered virtually at Murang’a this 17th day of December, 2025.

**M.N. GICHERU
JUDGE.**

Delivered online in the presence of :-

Mwangi Njonjo - Court Assistant
Plaintiff's Counsel – Absent