



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT ELDORET

ELC NO. 716 OF 2012

JOSEPH KIPKURUI SANGA.....PLAINTIFF

VERSUS

JULIUS KIPNGETICH KOSGEL...1ST DEFENDANT

JOSHUA KIPRUGUT KOSKEL.....2ND DEFENDANT

RULING

This matter proceeded for full hearing whereby the Plaintiff and the defendants gave evidence on 5th April, 2018. Parties agreed to try an out of court settlement and they requested for time to negotiate. They latter agreed to file valuation reports in respect of the suit land and the developments thereon.

Two valuation reports were filed but the figures were varying therefore Counsel urged the court to peruse the reports and make a determination.

The 1st valuation report dated 15th March, 2019 by the Plaintiff indicates a figure of Kshs.530,000/= made up as follows;-

Land	Kshs.400,000/=
Semi-permanent houses	Kshs. 90,000/=
Barbed wire fence	Kshs. 20,000=
Assorted trees	<u>Kshs. 20,000/=</u>
TOTAL	= <u>Kshs. 530,000/=</u>

The 2nd Valuation Report by the Defendant dated 21st September, 2017 indicates a figure of Kshs.850,000/= made up as follows:-

La nd	Kshs. 650,000/=
Houses	Kshs. 120,000/=
Assorted trees	Kshs. 50,000=
Fence	<u>Kshs. 30,000/=</u>
TOTAL	= <u>Kshs. 850,000/=</u>

I notice from the Photos provided in the valuation reports that the houses are grass thatched and mud walled. The two corrugated iron sheets

houses are not sizeable. One looks like it was constructed recently while the matter was pending in court.

The valuation reports do not also mention the type of assorted trees, their age and how many they are.

It is also surprising that there is a big variance in the figures by the valuers. In strict sense, a party should not pay for developments if a contract of sale of land is rescinded and more so if a Land Control Board consent is not sought and obtained but in the interest of the spirit of negotiations by the parties, I will allow them to do so and award a figure of Kshs.600,000/= taking into account that the valuation by the defendant was done in 2017 and the Plaintiff's in 2019. This is the middle ground to cater for both interests.

Dated and delivered at Eldoret on this 25th day of July, 2019.

M. A. ODENY

JUDGE

RULING READ IN OPEN COURT in the presence of Mr.Nyachiro for Defendant and in the absence of Mr.Mutai

Mr.Mwelem – court Assistant