



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MILIMANI

ELC NO. 132 OF 2017

JOSEPH MUTURI MUGU & ANOTHER.....PLAINTIFFS

=VERSUS=

JOSEPH PETER NJOROGE.....DEFENDANT

KASARANI RE-SETTLEMENT PROJECT Sued through its registered official

JAMES MAINA.....INTERESTED PARTY

JUDGEMENT

1. The Plaintiffs filed this suit against the Defendant seeking the following reliefs:-

- 1. A permanent injunction do issue against the Defendant whether by himself, his employees, servants or agents or any of them restraining them from continuing trespassing on the Plaintiff land No.339 situated at Kasarani Re-Settlement Project.**
- 2. An order declaring that the 1st Plaintiff is the legal owner of land No.339 situated at Kasarani Re-Settlement Project.**
- 3. The Officer Commanding the nearest police station does supervise and ensure that this court order is implemented for purposes of maintaining law and order to protect the properties of the Plaintiff.**
- 4. General Damages for trespass.**
- 5. Costs of this suit be provided for.**

2. The Defendant who was duly served neither entered appearance nor filed any defence . The hearing therefore proceeded by way of formal proof. The 1st Plaintiff testified that he purchased plot No.339 at Kasarani Resettlement Project (suit property) from the 2nd Plaintiff who was a member of the interested party. The 1st Plaintiff was issued with a Certificate of Ownership of the suit property. In early 2017, the Defendant trespassed into the suit property where he has remained to date and has prevented the 1st Plaintiff from developing the suit property.

3. The 2nd Plaintiff testified that he is the one who sold the suit property to the 1st Plaintiff and that he was a previous member of the interested party.

4. I have considered the evidence adduced by the Plaintiffs which is not controverted. There is a sale agreement between the 1st and 2nd Plaintiff dated 26th October 2016. The Plaintiff also produced a certificate of ownership in respect of the suit property. The evidence of the Plaintiffs having not been challenged, I find that the 1st Plaintiff has proved his case against the Defendant on a balance of probabilities. I enter judgement in favour of the 1st Plaintiff as follows:-

- 1. A declaration that the 1st Plaintiff is the lawful owner of plot No.339 at Kasarani Re-Settlement Project.**
- 2. A permanent injunction against the defendant whether by himself, his employees, servants or agents or any of them restraining them from continuing trespassing on the 1st Plaintiff's land known as Plot No.339 situated at Kasarani Re-Settlement Project.**

3. General damages of Kshs.500,000/= (Five Hundred Thousand).

4. Costs of this suit to be paid by the Defendant.

Dated, Signed and Delivered at Nairobi on 11th this day of December 2019

E.O .OBAGA

JUDGE

In the presence of :-

Mr Kahora for Mr Oduor for Plaintiff

Court Assistant: Hilda

E.O.OBAGA

JUDGE