



**REPUBLIC OF KENYA.**

**IN THE HIGH COURT OF KENYA AT BUNGOMA.**

**ELC CASE NO. 160 OF 2016.**

**ESTHER NANJALA NDALILA.....PLAINTIFF**

**VERSUS.**

**PATRICK WAFULA KATI.....1<sup>ST</sup> DEFENDANT**

**JOSEPH WAFULA KATI.....2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

[1] The plaintiff herein filed this suit on 16<sup>th</sup> December, 2016 and stated that on 18<sup>th</sup> day of December, 2011 he bought a plot measuring 0.06 ha at Sikusi Market from one Nicolas Kati now deceased and the land was transferred to her before the deceased died. She says that she has been in legal possession for the same.

[2] The defendant says that in the year 2012 the defendants invaded the plot and started developing it without the consent and permission of the plaintiff therein. The plaintiff avers that the defendants action amount to provocation that might lead to a breach of peace. The plaintiff therefore prays for an order of eviction.

[3] The Plaintiff produced a list of documents including, an agreement for sale dated 18/12/2015 and 3<sup>rd</sup> December, 2012, a demand notice of 29/9/2016 by the County Government of Bungoma, Banking Slip of 14/12/2015, a Memo from the County Government of Bungoma of 27/10/2014, a Letter of 29/2/2016 and one of 28/7/2016 from the Chief Kabuchai. She equally produced approval plan fee, a clearance certificate No.49914 and a demand letter from the advocates. All these documents showing that the land belongs to her.

[4] The defendant who were served with the summons and the plaint in this case never entered appearance. An interlocutory Judgment was entered in this case on 14/2/2017. The case finally came up for formal proof on 27/9/2017. The plaintiff produced his case and produced all the documents aforesaid.

[5] The defendant has clearly proved that the land belongs to her. She has demonstrated that the defendants entered into her land without any colour of right. She has proved that they should be evicted therefrom.

[6] I therefore allow the plaintiffs claim as prayed. I do order that the defendants do move and vacate out of the suit plot. I also order that if they do not do so, they be evicted by the Court broker with the assistance of the police of the nearest Police station.

Plaintiff shall have the costs of this case.

Judgment read in Open Court.

**Dated at Bungoma this 10<sup>th</sup> day of January, 2018.**

**S. MUKUNYA**

**JUDGE.**

**In the presence of:**

Chemutai - Court Assistant