



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAROK

ELC CAUSE NO. 538 OF 2017

KARIUKI MOCHU.....PLAINTIFF

-VERSUS-

JULIUS KIRONYA TANYASIS.....DEFENDANT

JUDGEMENT

The Plaintiff has commenced the suit herein by way of a Plaint dated 23rd July, 2017 seeking for orders of specific performance against the Defendant to sign transfer forms and all other documents to facilitate the transfer of land **PARCEL NO. NAROK CIS MARA- OLOLPIRONITO/607** in favour of the Plaintiff, an order of permanent injunction against the Defendant, from entering, upon and remaining at the aforesaid parcel of land.

It is the Plaintiff's case that sometimes in 1984 he purchases some 6 acres of land from the Defendant which formed part of land parcel **No. NAROK CIS MARA OLOPIRONITO/607** and he paid full payment and took possession. However, the defendant despite giving consent to sub-divide the land but since 2016 the Defendant has vehemently refused to sign the transfer forms.

That despite service of summons and the plaint the Defendant failed to enter appearance and file defence thus the hearing of the suit proceeded in his absence.

On 14th December, 2017 the suit proceeded for hearing where the Plaintiff testified that he purchased the suit land from the Defendant, sub-division taken but the Defendant refused to sign the transfer forms. The Plaintiff in support of his case produced an agreement of sale for kshs. 19,800/- transfer forms that the Plaintiff signed, consent to transfer that was granted on 9th September, 2015.

I have looked at the pleadings before me and heard testimony of the Plaintiff. It is not disputed that the Plaintiff and the Defendant had entered into a sale agreement for 6 acres of land within land Reference **NO. NAROK MARA- OLOLPIRONITO/607**. Further to this also it is not disputed that the Defendant had obtained the consent of the land control board from this transaction, the evidence of the Plaintiff remains unchallenged. In the circumstances I find that the Plaintiff has proved his case on a balance of probabilities and is thus entitled to prayers sought.

From the above therefore I enter judgement for the Plaintiff against the Defendant in the following terms:-

1. That an order of specific performance do issue against the Defendants directing the Defendant herein to execute transfer forms and all other requisite forms in respect of 6 acres of land parcel No. CIS MARA/ Ololpironito/607 within 30days form the date of this judgement and in default the Deputy Registrar do sign the said transfer terms.
2. An order of permanent injunction do issue against the Defendant, and whomsoever acting on his instructions from entering upon and remaining as within the area comprising of the 6 acres the plaintiff purchased.
3. Costs to the plaintiff.

it is so ordered.

Dated, Signed and Delivered in open court at **NAROK** on this **9th** day of **March, 2018**

Mohammed Noor Kullow

Judge

9/3/18

In the presence of:-

Ms Cheptoo for the plaintiff

N/A for the defendant

Mohammed Noor Kullow

Judge

9/3/18