



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT MERU**

**ELC NO. 115 OF 2013 (OS)**

**MARTHA NCUBIRI MUGA.....PLAINTIFF**

**VERSUS**

**MUTHAMIA RAMARA.....DEFENDANT**

**JUDGMENT**

1. Vide a plaint filed on 29.4.2013, plaintiff has sued defendant claiming that she is entitled to parcel of land No. L.R Igoji/Gikui/280 by way of adverse possession.
2. The case was not defended.
3. Plaintiff testified that defendant sold the suit land to her in 1983. She moved into the land and built a house, a permanent one. She then planted coffee and banana crops.
4. In support of her claim, plaintiff produced a green card as P Exhibit 1 to show who owns the suit land.
5. The plaintiff's claim remains uncontroverted as defendant did not defend the suit.
6. However, there is a hitch in that the copy of green card availed by plaintiff shows that the suit land is 0.37 ha and was registered in the name of defendant on 15.2.1984 but there was compulsory acquisition by the Kenya government of 0.466 ha, vide a Kenya gazette notice of 3013 dated 3.10.80. The entry for date of acquisition is 31.1.1985.
7. The plaintiff hence ought to have adduced evidence to show that there was land available for acquisition by her.
8. A claim for adverse possession will only succeed if the claimant shows that defendant is the actual registered owner of the suit land. In the present case, this is not certain.
9. In the circumstances plaintiff's claim is hereby dismissed.

**DATED, SIGNED AND DELIVERED IN OPEN COURT AT MERU THIS DAY OF 7<sup>th</sup> MARCH, 2018**

**IN THE PRESENCE OF:-**

**Court Assistant:** Janet/Galgalo

Plaintiff present

**HON. LUCY. N. MBUGUA**

**ELC JUDGE**