

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MACHAKOS

ELC. CASE NO. 98 OF 2017

JOSEPH KARIUKI NJUGUNA.....1ST PLAINTIFF/APPLICANT

JULIUS NDUNGU MBUGUA.....2ND PLAINTIFF/APPLICANT

VERSUS

MWANZO DEVELOPMENT CO. LTD.....DEFENDANT/RESPONDENT

RULING

1. In the Notice of Motion dated 9th March, 2018, the 1st Plaintiff is seeking for the following reliefs:

a. That the Deputy Registrar of this Honourable Court be directed to execute transfer forms in respect to property Title Number Land Reference: Mavoko Town Block 2/2623 (Plot No. 381 JKIA Phase 5) in place of the Defendant in favour of the 1st Plaintiff, Joseph Kariuki Njuguna pursuant to a Ruling delivered on 23rd November, 2017.

b. That the Defendant be compelled to pay costs of this Application and the entire suit.

c. That Honourable Court be pleased to grant any other order and relief that it may deem fit and just to grant.

2. According to the Affidavit of the 1st Plaintiff, he purchased a parcel of land known as Mavoko Town Block 2/2623 being Plot No. 381 JKIA Phase 5 (*the suit property*) from the Defendant; that the Defendant refused to transfer the suit land to him and that after filing the Notice of Motion dated 6th March, 2017, a Ruling was delivered in this court on 23rd November, 2017 in his favour.

3. The 1st Plaintiff finally deponed that although the Defendant was served with the order of the court directing him to transfer the land to him, he has refused to do so.

4. In response, the Respondent deponed that the transfer of a title is a process which is governed by the relevant laws; that he is willing to process the transfer of the suit land through the Land Control Board and that it is pre-mature for the Plaintiffs to file the current Application. The parties in this matter did not file any submissions.

5. The orders that the Plaintiffs are praying in the current Application were granted by the court in its Ruling of 23rd November, 2017. Indeed, in the said Ruling, the court allowed the Deputy Registrar of this court to execute the Transfer documents. If indeed the Defendant has declined to comply with the orders of 23rd November, 2017, the Plaintiffs have the option of either commencing contempt proceedings or moving the Deputy Registrar to sign the relevant Transfer documents.

6. The filing of the current Application is not only an abuse of the court process, but a waste of judicial time. The Application dated 9th March, 2018 is therefore dismissed with costs.

DATED, DELIVERED AND SIGNED IN MACHAKOS THIS 7TH DAY OF DECEMBER, 2018.

O.A. ANGOTE

JUDGE