



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 38 OF 2017

MUNYUA GACHUHI.....1ST PLAINTIFF

MBURU NDUU.....2ND PLAINTIFF

VERSUS

MICHAEL NDIWA KIMTAI.....DEFENDANT

R U L I N G

1. The plaintiff in this suit filed an application dated 1/3/2017 seeking interim orders on a temporary injunction restraining the defendant/respondent from effecting the transfer of **Plot No. 56 in Kapkoi Settlement Scheme** into his name pending hearing and determination of this application and the main suit.
2. An interim order of injunction was issued by this court on 2/3/2017 when the matter came up under certificate of urgency. That order has been extended twice in the absence of the respondent who, despite service has never entered appearance or filed any defence to the suit or filed any defence to the suit or the application dated 1/3/2017. That application and the suit are, this far, unopposed.
3. The applicants' case is that they purchased the **Plot No. 56 in Kapkoi Settlement Scheme** in **1991** and that they have been in possession ever since. The applicants have learnt that the respondent has now obtained a discharge and is in the process of registering himself as the owner of the land. They therefore plead that they would be prejudiced in the event the land was so registered in the respondent's name.
4. The applicants have exhibited an agreement dated 19/10/1991 vide which the respondent apparently sold the land to them. They have also exhibited the letter of allotment in the respondent's name and a charge, also in the respondent's name. They aver that these documents were handed over to them by the respondent upon the execution of the agreement dated 19/10/1991.
5. In short there is no explanation by the respondent. I find that the applicants have proved that they have a prima facie case with a probability of success. I therefore grant an order of interim injunction restraining the respondent or his agents from effecting the transfer of **Plot No. 56 in Kapkoi Settlement Scheme** into his name or taking any action to further such transfer pending the hearing and determination of this suit.

Signed, dated and delivered at Kitale on this 30th day of May, 2017.

MWANGI NJOROGE

JUDGE

30/05/2017

Before - Mwangi Njoroge Judge

Court Assistant - Isabellah

Ms. Muniolo for Applicants

Ruling read in open court.

MWANGI NJOROGE

JUDGE

30/05/2017