

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC. SUIT NO. 660 OF 2016

**PATRICK MUIRURI NJOROGE (suing as Administrator
of the Estate of WILLIAM NJOROGE KAGIA (DECEASED)).....PLAINTIFF**

VERSUS

JOHN KANGETHE NDUATI.....1ST DEFENDANT

THIKA DISTRICT LAND REGISTRAR (sued through)

THE HON. ATTORNEY GENERAL.....2ND DEFENDANT

RULING

The Plaintiff sued the Defendants in his capacity as the administrator of the estate of the late William Njoroge Kagia. He seeks a declaration that the Plaintiff is the proprietor of L.R. No. Thika Municipality/Block 24/2405 (“the Suit Property”) and a declaration that the title deed issued to the 1st Defendant by the 2nd Defendant is void. The Plaintiff filed the application dated 17/6/2016 seeking injunctive orders to restrain the 1st Defendant from interfering with the Plaintiff’s quiet ownership of the Suit Property pending hearing and determination of the suit.

The Plaintiff claims that the late Njoroge Kagia is still the registered proprietor of the Suit Property and that the Plaintiff has never transferred it to the Defendant who is a total stranger. He denies executing any transfer on behalf of the late Njoroge Kagia. He attached a copy of a title deed issued to Njoroge Kagia on 20/6/1995. He learnt about the transfer to the 1st Defendant on 9/4/2015 when he applied for an official search over the Suit Property. The Plaintiff claims that the 2nd Defendant proceeded to issue a title deed to the 1st Defendant fraudulently since the original green card was not available at the land’s office. The Plaintiff is still holding the title deed and was in the process of dividing the assets of the estate of the late Njoroge Kagia among his beneficiaries. This process cannot progress in light of the fact that the 1st Defendant now holds title over the Suit Property.

Despite both Defendants being served, only the 2nd Defendant entered appearance and filed a defence.

The court has considered the matter and finds that the Plaintiff has a *prima facie* case against the 1st Defendant and grants the order for injunction as sought. The Plaintiff is awarded costs to be borne by the 1st Defendant.

Dated and delivered at Nairobi this 14th of December 2017.

K. BOR

JUDGE

In the presence of: -

No appearance for the Plaintiff and the Defendants

Mr. V. Owuor- Court Assistant