

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT ELDORET

ENVIRONMENT AND LAND CASE NO. 59 OF 2015

ROSALINE SOI..... PLAINTIFF

VERSUS

DAVI KETER KIPLAGAT.....DEFENDANT

JUDGMENT

By a plaint dated 27th February 2015 the plaintiff herein sued the defendant for :

1. An order compelling the defendant to pay the plaintiff Kshs. 370,000/ being liquidated amount owed to the plaintiff by the defendant.
2. Cost of the suit with interest.
3. Any other relief that this court may deem fit to grant.

The defendant was served with summons to enter appearance but neither did so nor filed a defence. So the matter proceeded for formal proof 28/9/17. The court noticed that the matter was a liquidated claim which could have been heard in the Magistrate's court but decided to hear it since the plaintiff was in court and ready to proceed. The liquidated claim was in respect of a refund of a purchase price of land parcel known as ELDORET MUNICIPALITY BLOCK 28/482 measuring 1/8 of an acre.

It was the plaintiff's evidence that she bought the suit plot from the defendant for a consideration of Kshs 370,000/ as per the sale agreement dated 3/1/09 which she produced as exhibit No. 1. She further produced 3 receipts as exhibits 1 b, c, and d totaling Kshs 240,000/ She also produced an MOU with the defendant as exhibit No.2 which indicated that the defendant had received Kshs. 370,000/ and exhibits 3 and 4 to confirm the acknowledgement. The plaintiff also stated that she went to her lawyers who wrote a demand letter to the defendant which she produced as exhibit No. 5 She therefore prayed that the judgement be entered against the defendant as prayed in the plaint.

Determination

The plaintiff gave evidence and produced documents to prove her case. The defendant was given an opportunity to defend himself but failed to file any papers. He was even served with a hearing notice for the formal proof but did not attend court. The plaintiff's evidence is uncontroverted and I therefore find that she has proved her case against the defendant. I enter judgement for the plaintiff against the defendant as prayed in the plaint. The defendant to pay costs of the suit.

Dated and delivered at Eldoret on this 14th day of December, 2017.

M.A ODENY

JUDGE

Read in open court in the presence of:

Miss Bor for Plaintiff.

Mr. Koech - Court Assistant

Defendant – absent.