



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC NO. 10 OF 2013

JUMA FADHIL OMAR.....PLAINTIFF

=VERSUS=

1. KITSAO NZAI

2. KARISA KAHINDI NZAI.....DEFENDANTS

J U D G M E N T

1. In his Complaint dated 23rd January, 2013, the Plaintiff is seeking for an order evicting the Defendants from parcel of land known as Gede/Dabaso/125.
2. The Plaintiff has averred in the Complaint that he purchased the suit property from Mr. Nzai Kiraga; that the Defendants are the sons of Mr. Nzai and that the Defendants are residing on a portion of the suit land.
3. Although the Defendants were served with the Complaint and the Summons to Enter Appearance, they neither entered appearance nor filed a Defence.
4. The matter proceeded for formal proof on 23rd February, 2016.
5. The Plaintiff, PW1, informed the court that he purchased the suit property from Mr. Nzai in 1982; that the Defendants are unlawfully occupying the suit property and that although the Defendants were directed to pay Kshs.16,400 by the Chief for the trees that they cut down, they have refused to do so.
6. The Plaintiff produced in evidence the Title Deed for the suit property that was issued to him on 31st December 1982.
7. The Plaintiff also produced the Transfer document and the official search showing that he is the registered owner of the suit property.
8. On the basis of the evidence before me, I am satisfied that the Plaintiff has proved his case on a balance of probabilities.
9. For those reasons, I allow the Plaintiff's Complaint dated 23rd January, 2013 in the following terms:-

(a) The Defendants be and are hereby evicted from parcel of land known as Gede/Dabaso/125

(b) The Defendants to pay the Plaintiff the costs of the suit.

Dated, signed and delivered in Malindi this 13th day of May, 2016.

O. A. Angote

Judge