



**REPUBLIC OF KENYA**

**IN ENVIRONMENT AND LAND COURT OF KENYA AT ELDORET**

**E & L CASE NO. 1012 OF 2012 (OS)**

**JOSEPH KIPTEROI CHEBOI.....APPLICANT**

**VERSUS**

**CHARLES NYAKUNDI ONSONGO.....RESPONDENT**

**JUDGMENT**

The plaintiff *Joseph Kipteroi Cheboi* has come to court against the defendant *Charles Nyakundi Onsongo* by way of originating summons claiming to have acquired title of that property known as *Uasin Gishu/Kipkabus Settlement Scheme/432* by adverse possession and therefore, the defendant holds title to the said land in trust for the plaintiff. The originating summons is supported by the affidavit of Joseph Kipteroi Cheboi who states that sometime in June 1994, he purchased that property known as Uasin Gishu/Kipkabus Settlement Scheme/432 from one Charles Nyakundi Onsongo. That he immediately took possession of the said parcel of land whereof he has set up his home that he and his family have since resided therein and has extensively developed the said parcel of land since he took possession in 1994. That though they reduced the sale agreement in writing before their location chief, he has since misplaced the sale agreement entered into and all efforts he has made to trace it have been fruitless. That since then, he has occupied the said parcel of land openly, continuously without force, without secret and without permission. That he has made all efforts to trace the said Charles Nyakundi Onsongo in order for him to transfer the said parcel with no success. That to the best of his knowledge, information and belief all his neighbours know and regard him as the owner of the suit land. That he is counseled by his advocates, which counsel he verily believes to be true that under the law, the court can declare and order him to be registered as the proprietor of the said property. That it is further within his knowledge that there is no other case pending and there have no other cases between himself and the respondents over the same subject matter.

The defendant was served but failed to file a replying affidavit. When the matter came for hearing, the plaintiff testified that he relied on the affidavit

I have considered the originating summons and the testimony of the plaintiff and do find that he has satisfied the condition for adverse possession and do enter judgment on his behalf thus, that he has acquired title to the said land measuring 4.2 Ha by adverse possession and that the said title is extinguished and it is hereby ordered that *Uasin Gishu/Kipkabus Settlement Scheme/432* be registered in his name forthwith.

**DATED AND DELIVERED AT ELDORET ON 24TH DAY OF NOVEMBER, 2016.**

**ANTONY OMBWAYO**

**JUDGE**