



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 62 OF 2015

JOHN KIPKEU KIROP.....1ST PLAINTIF

BENJAMIN KANDA YANO..... 2ND PLAINTIFF

OSCAR KIBET MAGEN..... 3RD PLAINTIFF

VERSUS

MIKE KIPKEMOI KIROP.....DEFENDANT

J U D G E M E N T

INTRODUCTION

1. The three plaintiffs are administrators of the estate of **Chelanga Barsiror Koriet** (deceased) who was owner of an unregistered land situated at Toroko Centre, Kapkondot sub-location in Elgeyo Marakwet County (suitland). The plaintiffs brought this suit against the defendant seeking an eviction order.

2. The defendant who was duly served neither entered appearance nor filed defence. The hearing proceeded by way of formal proof.

PLAINTIFFS' CASE

3. The deceased is grandfather to the plaintiffs. The deceased had four sons. The deceased had purchased the suitland on **23/10/1977**. The deceased had not shared his land amongst his four sons by the time he died. In the year **2013**, the mother to the third plaintiff sold a **quarter (1/4)** an acre to the defendant.

4. The plaintiffs were against the sale because there was no consultation of the family of the deceased. The plaintiff started erecting a structure on the suitland. The plaintiffs asked the defendant to stop constructing on the deceased's land but he did not stop. He went on and there is a six roomed commercial building on the suitland.

ANALYSIS OF EVIDENCE

5. There is no contention that the deceased was the owner of the suitland. The deceased died on **15/6/1979**. His grandsons who are the plaintiffs obtained limited grant of letters of administration on **17/3/2016**. The deceased had purchased the suitland on **23/10/1977**.

6. There is a photograph showing the completed commercial building. The plaintiffs' evidence is not controverted. The defendant bought the quarter acre from **Elizabeth Komen** the mother of the third plaintiff. There was no consultation with other family members.

DECISION

7. I find that the plaintiffs have proved their case on a balance of probabilities. An order is hereby given directing eviction of the defendant from the suitland. The defendant is given one month to voluntarily demolish the building or he be forcefully evicted and the building demolished. The defendant should pay costs of this suit to the plaintiffs.

Dated, signed and delivered at Kitale on this 2nd day of November, 2016.

E. OBAGA

JUDGE

COURT

Judgement signed in court at 14.43 pm in the absence of plaintiffs who were aware of the time and date of delivery of judgement.

E. OBAGA

JUDGE

2/11/2016