



REPUBLIC OF KENYA.

IN THE ENVIRONMENT & LAND COURT AT KITALE.

LAND CASE NO. 90 OF 2009.

CHRISTOPHER WANYAMA WEKESA :::PLAINTIFF.

VERSUS

ANTONY WESAKULILA & 19 OTHERS :::DEFENDANTS.

J U D G M E N T.

INTRODUCTION.

1. The plaintiff is the registered owner of LR. No. Kiminini/Kinyoro Block 3/Matisi/687 (suit land) measuring 0.828 hectares. The plaintiff brought this suit against twenty (20) defendants claiming an order of eviction against them. The 7th, 10th, 12th, 15th, 18th and 19th defendants entered appearance and filed defence. The rest neither entered appearance nor filed defence.
2. A hearing date was taken by consent between the plaintiff's advocates and the advocate for 7th, 10th, 12th, 15th, 18th and 19th defendants. During the hearing the defendants who had filed defence as well as their lawyer were not present. The hearing therefore proceeded ex-parte.

PLAINTIFF'S CASE.

3. The plaintiff testified that he is the registered owner of the suit land, the same having been transferred to him by his father. He testified that the suit land is two acres and was a sub-division of LR. No. Kiminini/Kinyoro Block 3/Matisi/30 which was registered in his father's name.
4. In or around the year 2000 the 20 defendants invaded his land and erected structures on the same. He reported the invasion to the area chief who tried to solve the issue in vain. He wrote a demand letter to the defendants but the defendants did not budge.

ANALYSIS OF EVIDENCE.

5. The plaintiff produced a copy of title deed issued to him on 9/2/1996 [Exhibit 1]. He also produced a copy of mutation from which shows that the suit land was to be hived from LR. No. Kiminini/Kinyoro Block 3/Matisi/30. [Exhibit 2]. An application for consent of the Land Control Board was duly made [Exhibit 3]. Though some of the defendants claimed that the plaintiff obtained title to the suit land by fraud, none came to testify. Even those who claimed that they bought the suit land from the plaintiff's father never came to testify. The evidence of the plaintiff therefore remains uncontroverted.

DETERMINATION.

6. I find that the plaintiff has proved his case against the defendants on a balance of probabilities. An order of eviction is hereby issued against the defendants from LR. No. Kiminini/Kinyoro Block 3/Matisi/687. The defendants shall pay costs of this suit to the plaintiff.

[Dated, signed and delivered at Kitale on this 26th day of January, 2015.]

E. OBAGA.

JUDGE.

In the presence of M/s. Arunga for plaintiff.

Court clerk – Kassachoon.

E. OBAGA.

JUDGE.

26/1/2015.