



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 36 OF 2014

EBEI KORODI CLOPRITA..... PLAINTIFF

VERSUS

MARGARET NALIAKA.....1ST DEFENDANT

BONFACE MATERE.....2ND DEFENDANT

BABU NDUNGU.....3RD DEFENDANT

J U D G M E N T

INTRODUCTION

1. The plaintiff is one of the administrators of the estate of his late brother **Sudo Korodi alias Ngichwae** (deceased). The deceased was a beneficial owner of **Plot No. 113 at Maridadi Settlement Scheme measuring 5 acres** (suit land). The deceased died intestate and letters of administration were given to the plaintiff and one other family member. Upon confirmation of the grant, the property of the deceased vested upon the plaintiff who was to hold it on behalf of the beneficiaries of the estate of the deceased. The defendants were duly served with summons to enter appearance but they neither entered appearance nor filed defence. The hearing therefore proceeded by way of formal proof.

PLAINTIFF'S CASE

2. The plaintiff testified that upon the demise of the deceased, he took out letters of administration for his estate which comprised the suit land. The grant of letters of administration was confirmed and the suit land transmitted to him. The three defendants were on the suit land without any colour of right. He wrote a demand letter to them asking them to move out but they declined to do so. This prompted him to file this present suit in which he seeks a declaration that the suit land belongs to him as beneficial owner on behalf of the estate of the deceased. He seeks a declaration that the defendants are trespassers who should vacate the land.

ANALYSIS OF EVIDENCE

3. The plaintiff produced a confirmed grant [Exhibit 1] and a demand letter [Exhibit 2]. The certificate of confirmed grant shows that he and one **Lodet Korodi** are the administrators of the estate of the deceased. The demand letter was addressed to the three defendants. It is clear from the certificate of confirmation of grant that the suit land was give to the plaintiff to hold it for the benefit of the beneficiaries of the estate of the deceased.

4. The plaintiff's evidence is not controverted. I find that the plaintiff has proved his case against the defendants on a balance of probabilities. I declare that the plaintiff is entitled to unimpeded use of the suit land. The defendants are trespassers on the same and they should vacate the suit land. I however do not find any grounds upon which I can give general damages for trespass. This prayer is rejected. The plaintiff shall have costs of the suit to be paid by the defendants jointly and severally.

Dated, signed and delivered at Kitale on this **29th** day of **July, 2015**.

E. OBAGA

JUDGE

29/7/2015

In the presence of Mr. Ingosi for the Plaintiff.

Court Assistant – Winnie.

E. OBAGA

JUDGE

29/7/2015