



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT

AT MALINDI

ELC CIVIL CASE NO.148 OF 2014

VINCENT MWALENGA.....PLAINTIFF

=VERSUS=

1. OMAR AZIZ

2. BAHIMU ASMA.....DEFENDANTS

J U D G M E N T

1. This matter proceeded for formal proof on 9th June 2015.
2. According to the evidence of the Plaintiff, PW1, he purchased plot number 234 Watamu in 1992 from Mr. Kalama.
3. PW1 informed the court that the suit property was transferred to him on 1st November 1992. PW1 produced the original Title Deed in evidence.
4. According to the evidence of PW1, he was involved in HCCC No 62 of 2011 (JR) in which he sued the Land Disputes Tribunal and the Defendants after the Tribunal awarded the suit property to a third party.
5. It was the evidence of PW1 that the High Court declared the decision of the Tribunal null and void ab initio.
6. The Defendants neither entered appearance nor filed a Defence after they were served with Summons to Enter Appearance.
7. I have considered the pleadings and the evidence of the Plaintiff.
8. The evidence before this court shows that the Plaintiff was registered as the proprietor of plot number 234 on 17th August 1992.
9. Considering that the Plaintiff is the registered proprietor of the suit property, and in the absence of evidence to show that the said title document was procured unlawfully, I find and hold that the Plaintiff has proved his case on a balance of probabilities.
10. Consequently, I allow the Plaintiff's Plaint dated 30th July 2014 in the following terms:

(a) A declaration be and is hereby issued that the Plaintiff is the registered owner of a parcel of land known as plot number 234, CR NO.23302 and is entitled to exclusive and unimpeded right to quiet possession and occupation of the same.

(b) A permanent injunction be and is hereby issued restraining the Defendants, their agents and or principals from trespassing, occupying and or in any other manner whatsoever interfering with the Plaintiff's suit property

known as Title No. CR 23302, plot No.234 Watamu.

(c) The Defendants to pay the costs of the suit.

Dated and delivered in Malindi this **10th** day of **July** 2015.

O. A. Angote

Judge