



**REPUBLIC OF KENYA**

**IN THE ENVIRONMENT AND LAND COURT AT KITALE**

**LAND CASE NO. 62 OF 2014**

**EPUYO LOWOTON ::::::::::::::::::::::::::::::::::::::: PLAINTIFF**

**VERSUS**

**NATIPO LOCHAMPA ::::::::::::::::::::::::::::::::::::::: DEFENDANT**

**JUDGEMENT**

**INTRODUCTION**

1. The Plaintiff brought this suit against the defendant claiming the following reliefs;-

*(a) A declaration that land parcel known as Plot No. 214 “B” Kanamkemer Lodwar within Turkana County belongs to the plaintiff.*

*(b) A permanent injunction restraining the defendant, his agents and/or servants from trespassing upon and/or committing any acts upon the plaintiffs said parcel of land known as Plot No. 214 “B” Kanamkemer Lodwar within Turkana County*

*(c) Costs of the suit together with interest.*

*(d) Any other or further relief that this Honourable court may deem fit and just to grant.*

2. The defendant who was duly served with summons summons to enter appearance and file defence neither entered appearance nor filed defence. The hearing proceeded by way of formal proof.

**PLAINTIFF'S CASE**

3. The plaintiff testified that he bought a plot known as Plot 214 “B” Kanamkemer (suit land) from the defendant in 2004. The suit land had been allotted to the defendant who had not been given an allotment letter by the defunct Lodwar Municipal Council. The allotment letter was directly given to the plaintiff as he had bought the suit land from the defendant.

4. The plot was later surveyed by the survey department. The plaintiff then accumulated building materials on the suit land ready to develop it but the defendant brought people who attempted to prevent him from developing the suit land. The plaintiff went and complained to the Town clerk of the then Lodwar Municipal Council. The Town Clerk wrote to the defendant. The defendant later threatened the plaintiff. The plaintiff reported the threats to Lodwar Police Station. The report was duly booked in the occurrence book.

**ANALYSIS OF EVIDENCE**

5. The plaintiff produced a sale agreement between him and the defendant [Exhibit 1]. The agreement which is signed by both the plaintiff and defendant is duly witnessed. The mode of payment is also indicated on the agreement. The plaintiff also produced a receipt for Kshs.5,000/= paid to Lodwar Municipal Council [Exhibit 2 (a)] as well as letter of allotment issued to him [Exhibit 2 (b)].
6. The suit land was surveyed on 7/2/2012 and a survey report duly given [Exhibit 3]. When the defendant started interfering with the suit land, the plaintiff complained to the town clerk municipal Council of Lodwar who wrote a letter dated 7/10/2005 [Exhibit 5] warning the defendant to desist from interfering with the plaintiff's land. This letter clearly shows that it is the defendant who sold the land to the plaintiff.
7. All the other documents produced by the plaintiff show that he is the owner of the suit land. This evidence has not been controverted. I find that the plaintiff has proved his case on a balance of probabilities.

### **DETERMINATION**

8. A declaration is hereby given that Plot No. 214 "B" Kanamkemer Lodwar in Turkana County belongs to the plaintiff. A permanent injunction is hereby issued restraining the defendant, his agents and/or servants from trespassing upon and/or committing any acts upon the plaintiff's land known as plot 214 "B" Kanamkemer Lodwar Turkana County. The plaintiff shall have costs of this suit.

Dated, signed and delivered at Kitale on this 4th day of December, 2014.

**E. OBAGA**

**JUDGE.**

In the presence of Mr. Bororio for plaintiff.

Court Clerk – Isabellah.

**E. OBAGA.**

**JUDGE.**

**4/12/2014.**