



REPUBLIC OF KENYA



KENYA LAW
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**Anyoka v Mokaya & another (Environment & Land Case 107 of 2021)
[2024] KEELC 13447 (KLR) (21 November 2024) (Ruling)**

Neutral citation: [2024] KEELC 13447 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
ENVIRONMENT & LAND CASE 107 OF 2021**

JM KAMAU, J

NOVEMBER 21, 2024

BETWEEN

PRISCAH BOSIBORI PETER ANYOKA PLAINTIFF

AND

CECILIA NYANGARA MOKAYA 1ST DEFENDANT

JOSEPH MOKAYA 2ND DEFENDANT

RULING

1. This is a very old matter spanning a period of over a decade. This Court delivered its Judgment in this case on 21/11/2023, exactly a year ago. The Plaintiff's claim against the Defendants' was for;
 - a. A declaration that 1.25 acres or thereabout of that parcel of land known as Nyansiongo/Settlement Scheme/524 and currently occupied by the Plaintiff including the section forcefully annexed by the Defendants in 2010/11 is her property.
 - b. An order to issue directing the Land Registrar, Nyamira District to cancel Land Title No. Nyansiongo/Settlement Scheme/524 and issue the Plaintiff with a separate Title for her portion of the suit property.
 - c. An order to issue directing the 2nd Defendant to pay the Plaintiff Kshs. 37,200/= being Special Damages for trespassing into and damaging the Plaintiff's entire maize crop.
 - d. An order to issue directing the 2nd Defendant to pay the Plaintiff General Damages for trespass on her portion of land parcel No. Nyansiongo/Settlement Scheme/524.
 - e. An order to issue directing the Defendants jointly and severally to pay mesne profits for preventing the Plaintiff from putting to use a section of her parcel of land.



- f. An order to issue directing the Defendants to pay the Plaintiff all monies received from KP & L CO. LTD as compensation for erecting an electric power line over her land.
 - g. A permanent injunction to issue barring the Defendants, their Agents, Employees, Servants, personal representatives or whosoever from ever trespassing into the Plaintiff's portion of Nyansiongo/Settlement Scheme/524 or in any way interfering with her peaceful occupation, enjoyment and access to said portion.
 - h. Costs of the suit and interest thereon from the date of filing suit till payment in full.
 - i. Other and better relief which the Honourable Court may deem just to grant in the circumstances.
2. The Judgment of the Court was as follows;
1. The Land Registrar, Nyamira do ascertain the land belongs to the Plaintiff on the ground and file a Report in court showing the dimensions and delimitations of each of the Plaintiff's land Nyansiongo Settlement Scheme/523 before issuing her with a Title Deed to the same since it is clear that she bought land from the person who sold part of the land to the 1st Defendant but who did not transfer the land to the plaintiff.
 2. The land registrar and county surveyor, Nyamira do visit the parcel of land known as Nyansiongo Settlement Scheme/523 on a date to be communicated to the Plaintiff for purposes of ascertaining the boundary of the said parcel of land.
 3. A report attaching a sketch map a RIM to be filed in court within the next 45 days from the date of this judgment.
 4. There are no orders as to costs since this is a family dispute.
3. Pursuant to the above order and particularly that the land Registrar do visit the parcel of land known as Nyansiongo Settlement Scheme/523 on a date to be communicated to the Plaintiff for purposes of ascertaining the boundary of the suit parcel of land and that the said 2 Government officials do file in Court a Report attaching the R.I.M. within 45 days of the Judgment, the Land Registrar did file a Report albeit belatedly on 16/1/2024. The Land Registrar, Mr. Martin M. Osano concluded the exercise on 10/7/2024 having given all the parties Notice of the same. He also carried with him the Registry Index Map. The Land Registrar concluded his 3 paragraphs Report as follows;-
- “.....the surveyor after picking the points on the ground, using the Registry Index Map and guidance from the parties to this suit. Land parcel number Nyansiongo Settlement Scheme/523found to be measuring 1.08 Hectares on the ground which the Green Card indicates the same to be 1.01Hecrares.....parties were advised of our findings and we left the ground after the exercise.”
4. I then asked the parties to file their comments on the Report. Although the Plaintiff in her written comments dated 11/10/2024 urges this court to make another order for the taking of the measurements in respect of the portion of land occupied by the Plaintiff and thereafter issue her with a Title Deed in respect of the portion of land occupied by the said Plaintiff, I am afraid this Court is now functus officio. The Court must abide by its Judgment and what remains now is for the Land Registrar to issue the Plaintiff with a Title Deed to the said parcel of land. It is so ordered.

RULING DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 21ST DAY OF NOVEMBER, 2024.



MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant: Brenda

Plaintiff's Counsel: Ms. Nyakweba

Defendants' Counsel: Ms. Nyaboke

