



Case Number:	Land Case 104 of 2014
Date Delivered:	09 Dec 2020
Case Class:	Civil
Court:	Environment and Land Court at Kitale
Case Action:	Judgment
Judge:	Mwangi Njoroge
Citation:	Pascal Wafula Wambulwa v Jotham Monyo [2020] eKLR
Advocates:	-
Case Summary:	-
Court Division:	Environment and Land
History Magistrates:	-
County:	Trans Nzoia
Docket Number:	-
History Docket Number:	-
Case Outcome:	Suit allowed
History County:	-
Representation By Advocates:	-
Advocates For:	-
Advocates Against:	-
Sum Awarded:	-
<p>The information contained in the above segment is not part of the judicial opinion delivered by the Court. The metadata has been prepared by Kenya Law as a guide in understanding the subject of the judicial opinion. Kenya Law makes no warranties as to the comprehensiveness or accuracy of the information.</p>	

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KITALE

LAND CASE NO. 104 OF 2014

PASCAL WAFULA WAMBULWA.....PLAINTIFF

VERSUS

JOTHAM MONYO.....DEFENDANT

JUDGMENT

1. The plaintiff vide a plaint dated **16/6/2014** and filed in court on **18/6/2014** instituted the present suit seeking for judgment against the defendant for a declaration that the plaintiff is the sole legal owner of the land comprised in Title No. **TRANS NZOIA/KIMONDO KIMONDO BLOCK 6/NALULINGO/267** and that the defendant is a trespasser in the said land and for an order that the defendant do move out the land comprised in Title No. **TRANS NZOIA/KIMONDO KIMONDO BLOCK 6/NALULINGO/267** failing which he be forcefully evicted therefrom together with anybody claiming under him, costs, interest and any other relief that the court may deem fit to grant.

2. The plaintiff, **Pascal Wafula Wambulwa**, testified as **PW1**, testified on **31/1/2019** and called two witnesses, that is, **Ben Wanyama Situma Assistant Surveyor (PW2)**, who testified on **4/2/2019** and **Ronald Sawenjai Walubengo (PW3)** who testified on **4/2/2019** and **18/2/2019** and adopted his written statement recorded on **1/3/2018** as his evidence-in-chief. They were all cross-examined by Mr. Teti for the defendant.

3. On **17/11/2020** this matter came up for hearing and neither the defendant nor his advocate appeared when the matter was called out, and the court, satisfied that a hearing notice had been served and an affidavit of service filed in court, deemed the defendant's case closed and set the matter down for judgment on **9/12/2020**.


4. I have considered the pleadings and the evidence of the plaintiff in this case. In the absence of the defendant's evidence only the plaintiff's evidence stands uncontroverted. Even the rigorous cross-examination of the witnesses by Mr. Teti, counsel for the defendant did not shake the evidence of the plaintiff and his witnesses. What came out is that the plaintiff was a member of the Trans Nzoia Investment Co Ltd, that he was given No. **TRANS NZOIA/KIMONDO KIMONDO BLOCK 6/NALULINGO/267** while the defendant was given No. **TRANS NZOIA/KIMONDO KIMONDO BLOCK 6/NALULINGO/262** and that the surveyor had verified that the defendant was in occupation of the plaintiff's plot and he has failed to vacate that plot.

5. I therefore find that the plaintiff has established this claim against the defendant on a balance of probabilities and I hereby grant the plaintiff judgment against the defendant as prayed in **prayers Nos. (a), (b) and (c)** in the plaint dated **16/6/2014**.

Dated, signed and delivered at Kitale via electronic mail on this 9th day of December, 2020.

MWANGI NJORGE

JUDGE, ELC, KITALE.

 While the design, structure and metadata of the Case Search database are licensed by [Kenya Law](#) under a [Creative Commons Attribution-ShareAlike 4.0 International](#), the texts of the judicial opinions contained in it are in the [public domain](#) and are free from any copyright restrictions. Read our [Privacy Policy](#) | [Disclaimer](#)