

Kenyatta University
School of Law
LPL 203 Civil Procedure
Group Assignment (C.A.T 2)

MR RICH KEYA and MRS ROSA KEYA, husband and wife, are the registered owners of parcel of land known as Githurai/2/3. They have in their possession the original title deed in their names. They have fenced the land and have put up a permanent house in which they reside with their 2 children. On 12th February, 2017 MR RICH KEYA saw a big truck carrying construction materials being driven into their compound. The driver informed MR RICH KEYA that he was an employee of one MR JORETH KOLI and he was under instructions to bring various construction materials on the land, among them Stones and Ballast. MR RICH immediately contacted MR JORETH in order to find out why he was delivering construction materials to his land. MR JORETH informed MR RICH that he had actually purchased that land from one MR KIMS ONYI who had informed him that he, MR KIMS, was the owner of the land. MR JORETH states that he has been issued with a title deed in his name thus he is the right proprietor of the land.

MR JORETH has threatened to forcefully evict MR RICH from the land if he does not voluntarily vacate. He has also threatened to demolish the permanent house on the land. MR JORETH has also gone ahead to demolish one side of the fence to pave way for entry of his trucks.

MR RICH believes that the title deed being held by MR JORETH was fraudulently obtained thus invalid. MR RICH inherited the land from his late father and he has in his possession a copy of his late father's Will confirming that the land was inherited from the father. MR RICH has also kept safely all receipts indicating that he spent Kshs 89,000.00 to put up the fence which MR JORETH has demolished.

Upon MR RICH visiting the Registrar of lands, he was surprised to find out that MR JORETH presented a transfer of land to the Registry, allegedly signed by MR RICH transferring his interest in the land to MR JORETH. The Registrar further informed MR RICH that MR JORETH had indicated to him that the land was vacant and no one was residing in it.

MR RICH does not own any other land thus the eviction would render him and his family homeless.

Apprehensive that he will be evicted from his land and possibly lose the right over his land, MR RICH has instructed you to file a suit to protect his interest in the land. MR RICH would also like you to seek interim orders to stop MR JORETH from evicting him and his family from the land.

1. Draw up the relevant **pleadings** and **application** in the matter.
2. Citing relevant rules and authorities, briefly (*in not more than one page*) discuss the principles that would guide the court while deciding your application.