



**Kimani & 3 others (As Personal Representatives of the Estate of Kimani Thuo Kimani - Deceased)  
v Kibe & another (As the Personal Representatives and Beneficiaries of the Estate of Kibe Kimani)  
(Environment & Land Case 92 of 2019) [2023] KEELC 16536 (KLR) (23 March 2023) (Judgment)**

Neutral citation: [2023] KEELC 16536 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 92 OF 2019  
OA ANGOTE, J  
MARCH 23, 2023**

**BETWEEN**

**ANNE WANJIKU KIMANI ..... 1<sup>ST</sup> PLAINTIFF  
DAVID NGUGI KIMANI ..... 2<sup>ND</sup> PLAINTIFF  
PETER KANG'ETHE KIMANI ..... 3<sup>RD</sup> PLAINTIFF  
MOSES THUO KIMANI ..... 4<sup>TH</sup> PLAINTIFF  
AS PERSONAL REPRESENTATIVES OF THE ESTATE OF KIMANI THUO  
KIMANI - DECEASED**

**AND**

**HANNAH GATHIAYA KARU ALIAS HANNAH GATHUYA  
KIBE ..... 1<sup>ST</sup> DEFENDANT  
BENSON MWANGI KIBE ..... 2<sup>ND</sup> DEFENDANT  
AS THE PERSONAL REPRESENTATIVES AND BENEFICIARIES OF THE  
ESTATE OF KIBE KIMANI**

**JUDGMENT**

1. The Plaintiffs instituted this suit vide a Complaint dated March 12, 2019 and sought for the following orders:
  - a. A declaration that the late Kimani Thuo Kimani was the beneficial owner of the Suit Property title number Dagoretti/Ruthimitu/233 having bought the same for value from the late Kibe Kimani and his beneficiaries;



- b. A mandatory Order of specific performance directed at the Defendants to release the original title and transfer the suit property parcel number Dagoretti/ Ruthimitu/233 to the Plaintiffs within 30 days of the Judgement delivered;
  - c. That in the event the Defendants do not comply with the order in (b) above, the Registrar of this Honourable Court be authorized to sign the transfer forms and ALL the documents necessary to facilitate transfer of title number Dagoretti/ Ruthimitu/233 to the Plaintiffs;
  - d. That in the event the Defendants do not comply with the order in (b) above, the Land Registrar be ordered to cancel the title in respect of title number Dagoretti/Ruthimitu/233 in Plaintiffs possession. Further, the Land Registrar be ordered to dispense with the production of the said original title when transferring title number Dagoretti/ Ruthimitu/233 to the Plaintiffs;
  - e. A prohibitory order directed at the Defendants not to interfere with the Plaintiffs' quiet and peaceable enjoyment of the Suit Property parcel number Dagoretti/ Ruthimitu/233;
  - f. In the alternative to prayer (a) above, the Plaintiffs be declared the owners of the Suit Property by way of adverse possession having lived on the Suit Property since 1966;
  - g. That costs of this suit be awarded to the Plaintiffs; and
  - h. That this Honourable Court does issue such further orders as it may deem fit.
2. It was the Plaintiffs' case that the property title number Dagoretti/ Ruthimitu/233 measuring 2.1 acres (the suit property) is currently registered in the Defendants' names, having been so registered on December 16, 2011; that the late Kibe Kimani was a stepbrother to the late Kimani Thuo's father, and was thus his uncle and that their family constructed their family home on the suit property and have been in quiet possession of the suit property since 1966.
  3. The Plaintiffs averred in the Plaint that the late Kimani Thuo Kimani and his deceased children are buried on the suit property; that there arose a resulting trust and that the Defendants reside in Muguga and have never been in possession of the suit property
  4. It is the Plaintiffs' case that the late Kimani Thuo Kimani purchased the entire suit property for value from the late Kibe Kimani before he died; that he purchased one acre on January 16, 1966 for Kshs 1,350/- which was paid in full in cash in exchange for immediate possession of the entire property and that the remaining 1.1 acres was purchased by the late Kimani Thuo Kimani from the beneficiaries of the late Kibe Kimani for the sum of Kshs 12,000 for which payments were made between April 20, 1977 and February 15, 1981.
  5. The Plaintiffs averred that Kibe Kimani died on July 8, 1975 before transferring one acre of the suit property that he had sold to the late Kimani Thuo Kimani; that thereafter, the sale and payment of the 1.1 acres was transacted by his sons Peter Thuo Kibe and Stephen Kimani Kibe (now deceased) with the consent of the widows of the late Kibe Kimani, who are the Defendants to this suit and that before the death of Kimani Thuo, the late Kibe Kimani promised that he would subdivide the land and effect the transfer of the one acre to him but he passed on before doing so.
  6. The Plaintiffs averred that the Defendants applied for and were granted letters of administration intestate on May 13, 2010, which was confirmed on March 24, 2011; that in the schedule to the certificate of confirmation of grant, the Defendants were listed as beneficiaries of the suit property despite the fact that they were aware that the land was sold to Kimani Thuo Kimani; that the late Kimani Thuo Kimani died on December 13, 2011 and that on December 16, 2011, the Defendants transferred the suit property to themselves.



7. They aver that they moved the court on April 4, 2012 vide Summons to Revoke or Annul the grant in Succession Cause No CMCSC No 89 of 2010 at Kiambu and that the court stayed the implementation of the certificate of confirmation of grant pending determination by the Environment and Land Court on the question of whether the applicant's husband had bought the suit land from the deceased. The Plaintiffs averred that in the alternative, they are entitled to the suit property by adverse possession, having lived on the suit property since 1966.
8. The Defendants opposed the suit vide a Defence dated April 25, 2019. They averred that the late Kibe Kimani was not an uncle to the late Kimani as Thuo Kimani was a step son to Kibe Kimani; that Kimani Thuo, who was landless, was given temporary shelter by Kibe Kimani after he was banished by family members of his biological father when he married his first cousin, Nyambura Kimani and that when Kimani Thuo's daughter died, he pleaded with the family of the late Kibe Kimani seeking a burial site on the suit property which she was granted.
9. The Defendants averred that they have been visiting the suit land and managing it; that although the Defendants reside in Muguga, they have all the legal documents to prove possession of the suit property; that Kimani Thuo died without lodging any complaint against the family of Kibe Kimani to any authority and that the sale of the land never took place as alleged by the Plaintiffs.

### **Hearing and Evidence**

10. PW1, Ann Wanjiku Kimani, relied on her statement in which she averred that she is the wife of the Late Kimani Thuo Kimani; that she lives on the suit land with her co-wife and their children, and that they have constructed their matrimonial homes on the suit property and have enjoyed quiet possession of the same since 1966 without interruption.
11. PW1 averred that the Defendants live in Muguga and have never been in possession of the suit land; that prior to her husband's death, he had purchased the entire suit property for value from the late Kibe Kimani, as set out in the Plaint and that after the death of Kibe Kimani, her husband pursued the Defendants to transfer the suit property in his name to no avail.
12. PW1 testified that her late husband was granted immediate vacant possession of the suit property after purchase, which they live on to date; that the late Kimani Thuo Kimani is also buried on the suit property; that they have been paying rates for the suit property and that the Nairobi City County water meter is registered in the name of Kimani Thuo Kimani.
13. PW1 produced in evidence the letter of authority dated February 26, 2019; a copy of the title deed to the suit property issued on December 16, 2011 in the name of the Defendants; copies of the land rates and water bills in respect of the suit property and copies of the agreements with diverse dates between January 16, 1966 and February 15, 1981.
14. The other exhibits that were produced by PW1 included copies of the certificate of death for Kimani Thuo Kimani and letters of administration thereof; a copy of the certificate of grant in respect of the estate of Kibe Kimani; a copy of the ruling delivered by Justice W. Musyoka on January 20, 2017 and a copy of the official search dated January 30, 2019 in respect of the suit property.
15. DW1, the son of the late Kibe Kimani, relied on his statement in which he averred that him and Hannah Gathiaya Karu alias Hannah Gathiaya Kibe were the owners of the suit property, having been registered as such vide succession case number 89 of 2010 in the matter of the Estate of the late Kibe Kimani in the Chief Magistrate's Court at Kiambu.



16. It was DW1's testimony that the documents presented by the Plaintiffs in respect to the sale of the suit land were fake because his father never told him that he had sold the land to the late Kimani Thuo and that he knew the late Kimani Thuo as a squatter having been chased by his father.
17. DW1 informed the court that the Plaintiffs never raised objections upon publication of Kenya Gazette Notice No 7620 dated June 22, 2010 nor did they challenge the procedure of administration of the Estate of their late father when the Defendants were given the letter of administration dated August 11, 2010; and that it was only when the Defendants gave the Plaintiffs notice to vacate that they rushed to this court. It was the evidence of DW1 that the land has always been owned by his father since 1958.
18. DW1 produced a bundle of documents including the death certificate of the late Stephen Kimani Kibe (son of the late Kibe Kimani) dated July 2, 2013, death certificate of the late Kibe Kimani, a copy of the Green Card of the suit land, Certificate of Confirmation of Grant dated March 24, 2011, the copy of the Title Deed for Dagoretti/ Ruthimitu/ No. 233 in the name of the Defendants and the Ruling of the court in Succession Cause No 706 of 2012.
19. In cross-examination, DW1 admitted that the late Kimani Thuo bought one acre from his father, which he occupied since 1962 when he was allowed on the land. DW1 asserted that he was six years old in 1966 and in 1975, he was 15 years old; that he had never lived on the suit property, and did not manage the land and that they agreed on the burial of the late Kibe Kimani on the suit property on humanitarian grounds.
20. DW2, Hannah Gathiaya Karu alias Hannah Gathiaya Kibe relied on her statement. She stated that they are the registered proprietors of the suit land; that the documents produced by the Plaintiffs as evidence that her husband sold them land are fake and that Kibe Kimani was given temporary shelter in an act of kindness by her late husband.
21. DW2 testified that her late husband and Kimani's father were brothers; that her husband sold one acre of the land to Kimani Thuo; that they never sold the remaining acre of land to the Defendant's father and that the last time she went to the land was when she was burying her mother-in-law and that she last went on the land in 1965 before her husband died.

### Submissions

22. Counsel for the Plaintiffs submitted that the late Kimani Thuo bought one acre from the late Kibe Kimani and the remaining 1.1 acres was bought from the beneficiaries of the Estate; that the purchase of 1.1 acres was done in 1972 when the Law of Succession Act was not in operation and that the beneficiaries had authority and capacity to transact in the property under Kikuyu Customary law.
23. Counsel relied on the case of *Re Maangi [1968] EA 637,639(K)*, where Farrell J held that Section 9 of the Indian Probate and Administration Act, which excluded the application of the Act to Africans was discriminatory.
24. Counsel submitted that with respect to the allegations of fraudulent documents by the Defendants, they failed to discharge the burden of proof by substantiating the allegations of fraud; that the documentary evidence they presented confirms that the late Kimani Thuo Kimani was a bona fide purchaser of the suit land, and that the estate of the Late Kimani Thuo Kimani is the beneficial owner of the suit property.
25. The Plaintiff's Counsel submitted that the suit property was illegally transferred to the Defendants after misleading the court and that section 80 of the Land Registration Act provides that the court may



order rectification of the register by directing that any registration be cancelled or amended if the court is satisfied that such registration was made by fraud or mistake.

26. Counsel for the Plaintiff further submitted that the Plaintiffs are entitled to the suit property by way of adverse possession as they have lived on it since 1966. It was their submission that the late Kimani Thuo Kimani and his family entered the suit land in 1966 upon purchasing the suit property and that they have been in occupation since then.
27. It was submitted that the late Kimani Thuo died in 2011, leaving the Plaintiffs and their families on the suit land to date and that the Defendants have never attempted to remove the Plaintiffs. They relied on the provisions of Section 7 of the *Limitation of Actions Act* and the decisions in *James Maina Kinya vs Gerald Kwendaka [2018] eKLR*, *Celina Muthoni Kithinji vs Safiya Binti Swaleh & 8 Others [2018] eKLR* and *Cecilia Karura Ngayu vs Barclays Bank of Kenya & Another [2016] eKLR*.
28. The Defendants submitted that the late Kimani Thuo indeed purchased one acre from the late Kibe Kimani; that Peter Thuo Kibe and Stephen Kimani Kibe did not have authority to sell on behalf of the rest of the beneficiaries the other portion of the suit property and that it was necessary for the land to undergo succession before subdivision of the land could be undertaken and subsequent transfer of the one acre to the beneficiaries of the late Kimani Thuo. They relied on the case of *Zacharia Wambugu Gathimu & Another vs John Ndung'u Maina*.

### **Analysis and Determination**

29. Having considered the Plaintiff, the Defence, oral testimony, evidence and submissions of the parties to this suit, the following issues arise for determination.
  - a. Whether the late Kimani Thuo Kimani bought the first acre of the suit property in 1966
  - b. Whether Kimani Thuo lawfully bought the remaining portion of the suit land between 1977 and 1981
  - c. Whether Kimani Thuo acquired the suit property through adverse possession
  - d. Whether the Plaintiffs' documentary evidence is fraudulent
  - e. Whether the Court should allow the Plaintiff's prayers as prayed.
30. The subject matter of this suit is a dispute over ownership of title number Dagoretti/ Ruthimitu/233. It is not disputed that as at 1958, the late Kibe Kimani was the registered legal proprietor of the suit land. It is also not disputed that in 1966, he allowed his nephew (the son of his step-brother), the late Kimani Thuo Kimani, and his family to settle on the suit land.
31. The Plaintiffs' case is that the late Kimani Thuo Kimani purchased one acre of the suit land immediately preceding his entry into the suit land in 1966 at a consideration of Kshs. 1,350 paid to Kibe Kimani. It is also their case that the late Kimani Thuo purchased the remaining 1.1 acres from the sons of the then deceased Kibe Kimani, Peter Thuo Kibe and Stephen Kimani Kibe, with payments being made between 1977 and 1981.
32. While the Defendants initially denied the sale of the first one acre, both DW1 and DW2 admitted that the late Kimani Thuo indeed bought the first one acre from the late Kibe Kimani. The Plaintiffs produced in evidence the letter dated January 16, 1966, evidencing the sale. It is not disputed that the initial one acre was never transferred to the late Kimani Thuo.



33. It is a well settled principle in law that upon payment of the purchase price in full, a resulting trust ensues where the vendor is taken to hold the purchased property in trust for the purchaser. The Court of Appeal in [Twalib Hatayan Twalib Hatayan & Another vs Said Saggar Ahmed Al-Heidy & Others \[2015\] eKLR](#) defined a resulting trust as follows:
- ' A resulting trust is a remedy imposed by equity where property is transferred under circumstances which suggest that the transferor did not intend to confer a beneficial interest upon the transferee (see Black's Law Dictionary) (supra). This trust may arise either upon the unexpressed but presumed intention of the settlor or upon his informally expressed intention. (See Snell's Equity 29th Edn, Sweet & Maxwell p.175). Therefore, unlike constructive trusts where unknown intentions maybe left unexplored, with resulting trusts, courts will readily look at the circumstances of the case and presume or infer the transferor's intention. Most importantly, the general rule here is that a resulting trust will automatically arise in favour of the person who advances the purchase money. Whether or not the property is registered in his name or that of another, is immaterial (see. Snell's Equity at p.177) (supra).'
34. In this case, as it is not disputed that the late Kimani Thuo paid the full purchase for the first one acre of the suit land, this court finds that the Plaintiffs are entitled to that portion of the land, a resulting trust having crystallized.
35. With respect to the second portion of the suit land, the Defendants have disputed that it was sold to Kimani Thuo by the sons of Kibe Kimani, Peter Thuo Kibe and Stephen Kimani Kibe (now deceased) for a consideration of Kshs. 12,000 paid between 1977 and 1981. However, the Plaintiffs adduced in evidence acknowledgments of payments from the sons of Kibe Kimani which were made between 1977 and 1981.
36. The Plaintiffs have argued that the [Law of Succession Act](#) was not in operation at the initiation of the purchase of the second portion of the suit land in 1977 as the Act came into force in 1981. It is their averment that distribution of the late Kibe's estate was conducted lawfully under Kikuyu Customary law.
37. It is not in dispute that the late Kibe Kimani died in 1975, before the [Law of Succession Act](#) came into operation in 1981. Section 2(2) of the [Law of Succession Act](#) provides that:
- ' The estates of persons dying before the commencement of this Act are subject to the written laws and customs applying at the date of death, but nevertheless the administration of their estates shall commence or proceed so far as possible in accordance with this Act.'
38. African customary law and the Indian Probate and Administration Act of 1881 were the substantive laws that governed distribution of property before the enactment of the [Law of Succession Act](#). Two schools of thought have discussed these systems in law. On one hand, some courts have held that under Section 9 of the Indian Probate and Succession Act, 1881, this Act did not apply to Africans and that distribution of African property was undertaken in accordance with customary law. (see [In Re Estate of Shem Omuhonja \(Deceased\) \[2020\] eKLR](#) and [Benard Ouma Akama & 2 Others vs Jeremiah Odera & 2 Others \(2019\) eKLR](#)).
39. On the other hand, some courts have held that the estates of Africans could be distributed under the Indian Probate and Administration Act, 1881 because exclusion of Africans from its application was discriminatory. This was held by Farrell J in [Re Maangi \[1968\] EA 637, 639 \(K\)](#), and quoted by the Court of Appeal in [Roman Karl Hintz vs Mwang'ombe Mwakima \[1984\] eKLR](#).



40. In *Re Maangi* case, Farrel J held that section 9 in so far as it had the effect of precluding the application of the Indian Probate and Administration Act to Africans, was discriminatory within the terms of section 26 of the Constitution. The learned judge then directed that letters of administration intestate should issue to Mrs Alice Marthi Maangi, an African, the widow of Mr Muturi Maangi, an African Inspector of Police.
41. *In Re Estate of Seth Namiba Ashuma (Deceased) [2020] eKLR*, the court held as follows:
- ' Being registered land meant that administration and distribution of the property had to be subjected to the written law as opposed to unwritten customary law. Substantive customary law applies to land held under customary law tenure, but for registered land, the applicable law would be the legislation governing such land, and in the event of death, the administration of such land and the process that would lead up to the transmission of such land would be governed by statute law. Prior to the coming into force of the Law of Succession Act in 1981, the intestate estates of Africans were administered either under the relevant customary law or the Indian Probate and Administration Act of 1881 or both. The Indian Probate and Administration Act of 1881, no doubt, would apply where some of the assets were subject to some form of statutory registration, as transmission of which property would required some court order, usually in the form of a grant of representation. To have the land transmitted from the dead to living, an African would then need to move the court, under the Indian Probate and Administration Act of 1881, for administration of the registered land.'
42. Were this court to opine that the suit property ought to have been distributed under the Indian Probate and Administration Act, which view the court adopts considering that the mother title was registered in 1972 under the Registered Land Act, it is clear that letters of administration were not sought under the Act and the sons of Kibe Kimani thus had no authority to purport to sell the second portion of the suit land.
43. The Plaintiffs have, in the alternative asserted that the estate of the late Kimani Thuo Kimani acquired title to the suit property through adverse possession, as they have been in exclusive possession of the suit land since 1966. Having already found that the Plaintiffs have a beneficial interest in the first one acre of the suit property that was sold to the late Kimani Thuo in 1966, the question that remains is whether the Plaintiffs acquired title to the remaining portion of the suit land measuring 1.1 acres by way of adverse possession.
44. The doctrine of adverse possession finds its footing in Section 7 of the Limitation of Actions Act:
- ' An action may not be brought by any person to recover land after the end of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.'
45. The term 'adverse possession' was defined in *Gabriel Mbui vs Mukindia Maranya [1993] eKLR* as follows:
- ' It is possible to define 'adverse possession' more fully, as the non-permissive physical control over land coupled with the intention of doing so, by a stranger having actual occupation solely on his own behalf or on behalf of some other person, in opposition to, and to the exclusion of all others including the true owner out of possession of that land, the true owner having a right to immediate possession and having clear knowledge of the assertion



of exclusive ownership as of right by occupying stranger inconsistent with the true owners enjoyment of the land for the purposes for which the owner intended to use it.'

46. The Court of Appeal in *Mtana Lewa vs Kahindi Nala Mwangandi* [2015] eKLR considered what adverse possession entails as follows:

' the possession of the adverse possessor should neither be by force or stealth nor under the licence of the owner. Such possession must be adequate in continuity, in publicity and in extent to show that possession is adverse to the title owner.'

47. The Court of Appeal in *Gideon Mwangi Chege vs Joseph Gachanja Gituto* [2015] eKLR quoted the case of *Kimani Ruchine vs Swift, Rutherford & Co Ltd* (1980) KLR 10, where Kneller J (as he then was) stated that:

' The plaintiffs have to prove that they have used this land which they claim as of right: Nec vi, nec clam, nec precario (No force, no secrecy, no evasion). So the Plaintiffs must show that the company had knowledge (or the means of knowing, actual or constructive) of the possession or occupation. The possession must be continuous. It must not be broken for any temporary purpose or by any endeavours to interrupt it or by any recurrent consideration;' see *Wanyoike Gathure v/s Berverly* (1965) EA 514, 519, per Miles J.'

48. The Court of Appeal in *Richard Wefwafwa Songoi vs Ben Munyifwa Songoi* [2020] eKLR referenced its earlier decision in *Wambugu vs Njuguna, (1983) KLR 173*, where it held that adverse possession contemplates two concepts: possession and discontinuance of possession. The court also found that the proper way of assessing proof of adverse possession is whether or not the title holder has been dispossessed or has discontinued his possession for the statutory period, and not whether or not the claimant has proved that he or she has been in possession for the requisite number of years.

49. The Appellate court in *Richard Wefwafwa Songoi vs Ben Munyifwa Songoi*[2020] eKLR, thereafter listed that a claimant for adverse possession must show:

- a. On what date he came into possession.
- b. What was the nature of his possession?
- c. Whether the fact of his possession was known to the other party.
- d. For how long his possession has continued and
- e. That the possession was open and undisturbed for the requisite 12 years.

50. In this matter, it is not disputed that the late Kimani Thuo and his family came into possession of the suit property in 1966. This was after Mr Thuo paid the purchase price of a portion the suit property.

51. The fact of possession of the suit property by the family of the late Kinuthia Thuo was well known to Kibe Kimani and to his family. DW1 and DW2 both testified that the late Kibe Kimani was allowed to enter possession of the suit land as temporary shelter as he was landless. It is not disputed that such possession has been without interruption. Indeed, DW2 averred that she only visited the suit property during the burial of family members. The Defendants also confirmed that the late Kimani Thuo and his daughter were buried on the suit land.



52. It is evident that the Plaintiffs' occupation has been open and undisturbed for a period exceeding twelve years. Since 1966, it was only in 2011 that the Defendants issued a notice to the Plaintiffs to vacate the suit land.
53. Based on these facts, this Court makes a finding that the Plaintiffs, who represent the estate of the late Kimani Thuo Kimani, have acquired title to the remaining portion of the suit land through the doctrine of adverse possession.
54. In conclusion, this court finds that the Estate of the late Kimani Thuo Kimani has a beneficial interest in the suit land, first in the one acre that was bought by the late Kimani Thuo in 1966, in respect to which a resulting trust ensued. Second, the Plaintiffs are entitled to remainder of the suit land through the doctrine of adverse possession, having enjoyed peaceful and exclusive possession of the land since 1966, contrary to the interests of the title holder.
55. For those reasons, the Plaintiffs' suit is allowed as follows:
- a. A declaration be and is hereby issued that the late Kimani Thuo Kimani is the beneficial owner of one acre of the Suit Property title number Dagoretti/Ruthimitu/233 having bought the same for value from the late Kibe Kimani.
  - b. A declaration be and is hereby issued that the Estate of the late Kimani Thuo Kimani are beneficial owners of the remaining portion of the suit property measuring 1.1 acres by way of adverse possession having lived on the suit property since 1966.
  - c. A mandatory order of specific performance be and is hereby issued directing the Defendants to release the original title and transfer the suit property parcel number Dagoretti/Ruthimitu/233 to the Plaintiffs within 30 days.
  - d. In the event the Defendants do not comply with the order in (c) above, the Deputy Registrar of this court is hereby authorized to sign the transfer forms and ALL the documents necessary to facilitate the transfer of title number Dagoretti/Ruthimitu/233 to the Plaintiffs;
  - e. A prohibitory order is hereby issued directed at the Defendants not to interfere with the Plaintiffs' quiet and peaceable enjoyment and possession of the suit property parcel number Dagoretti/ Ruthimitu/233;
  - f. That costs of this suit are awarded to the Plaintiffs.

**DATED, SIGNED AND DELIVERED IN NAIROBI VIRTUALLY THIS 23<sup>RD</sup> DAY OF MARCH, 2023.**

**O. A. ANGOTE**

**JUDGE**

In the presence of;

Mr. Kimani for the Plaintiff

Benson Mwangi in person

