



Tabot v Attorney General; Kalimbula Investments Limited (Interested Party) (Environment & Land Case 288 of 2018) [2023] KEELC 16846 (KLR) (18 April 2023) (Judgment)

Neutral citation: [2023] KEELC 16846 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 288 OF 2018**

**A OMBWAYO, J
APRIL 18, 2023**

BETWEEN

KIPTARUS TABOT PLAINTIFF

AND

HON ATTORNEY GENERAL DEFENDANT

AND

KALIMBULA INVESTMENTS LIMITED INTERESTED PARTY

JUDGMENT

1. Our environment is everything and if we do not protect our beautiful environment then we will end up destroying our lives. God put us in a clean and healthy environment 6 million years ago, early man did not interfere with his environment which was then known as the Garden of Eden, but later man started cutting down trees to access land for cultivation, settlement, timber and firewood, and soon the world is headed to a concrete jungle. The Governments of the world are to blame for the concrete jungle and desertification because they authorize the illegal acquisition of the forest land. Soon, human beings will be struggling with a very unhealthy Environment due to climate change caused by their negative activities towards the said environment.
2. In Kenya, the Eastern Mau Forest was initially gazetted vide proclamation number 57 of 1941 as a forest area and subsequently declared as a certified forest as per Legal Notice number 174 of 1964. The Enderit Forest block is adjacent the Mau Narok Township and covers an approximate area of 5.324 Ha. Land parcel number LR 2942 is registered under Registration of Titles Act (repealed) as Enderit Forest block and has defined boundaries.
3. The plaintiffs are referring themselves to as landless people allegedly having been displaced from various parts of Rift Valley region. The plaintiffs claim that in 1997, the government excised and demarcated land bordering the eastern side of the Mau Forest complex and named it the Sururu Settlement Scheme.



The government issued the plaintiffs with title deed upon payment of the requisite fees. The plaintiff took possession and developed the land. However, the same government violently evicted them in the year 2004. The plaintiffs have now turned to this court praying for the following orders: -

- a. A declaration that the plaintiffs are the legal and lawful allottees and/or registered absolute owners of the following parcels of land in Sururu Settlement Scheme.
 - b. A declaration that the land comprised in the above titles are no longer forest land within the meaning of the forest act, cap 385 laws of Kenya.
 - c. A declaration that the violent eviction of the plaintiffs from their respective parcels by the defendant through their agents, servants and/or employees and subsequent burning and/or destruction of their houses on 27th of August, 2004 is a violation of Article 40 and Article 27 of *the Constitution* of Kenya, 2010 and therefore unconstitutional, illegal null and void ab initio.
 - d. A perpetual order of injunction directed at the defendants by themselves, agents' servants and/or employees stopping them from allocating or alienating the applicant's plaintiffs' properties and to return and/or allow back each of the applicants plaintiffs to their respective parcels of land as listed in paragraph (a) above.
 - e. An order for general damages for their unfair eviction from their homes and destruction of their property.
 - f. That in the alternative to prayer (e) above the plaintiffs/applicants be indemnified/compensated by being given an alternative parcel of land similar in value and measurement to those listed in prayer (a) above of their monetary value.
 - g. An order for costs against the defendants.
4. The prayers are in the originating summons amended on 12th October 2021. The grounds in the originating summons are that:-
1. The plaintiffs are the lawful allottees settled on Sururu Settlement Scheme.
 2. That the plaintiffs are the absolute registered proprietors of the suit properties.
 3. The eviction of the plaintiffs contravenes Article 40 of *the Constitution* of Kenya, 2010 and is illegal, null and void.
 4. The plaintiffs have been discriminated.
 5. The government having settled and issued titles to the plaintiffs, the defendants are estopped from challenging their validity.
 6. The defendants have committed a crime punishable both under municipal and under international law.
 7. The plaintiffs are citizens whose private properties are protected under *the constitution*.
5. The Attorney General filed an affidavit in reply through D.K Mbugua the then acting Chief Conservator of Forest who stated that in 1997, the Government excised a part of the gazetted Mau Forest Reserve measuring 35,301 hectares for purposes of establishing settlement schemes to settle landless people. That the excised area was divided into several settlement schemes namely:
- Sururu Settlement Scheme
- Likia Settlement Scheme



Teret Settlement Scheme
Nesuit Settlement Scheme
Sigotik Settlement Scheme
Ngongongeni Settlement Scheme
Kapsita Settlement Scheme
Baraget Settlement Scheme

6. The respondent contended that pursuant to the excision, the land designated for settlement was subsequently degazetted in the year 2001 vide legal Notice No. 142 of 8th October 2001. This degazettment was the subject of Nairobi High Court Misc. Civil Application No.421 of 2002-Republic -vs- Minister for Environment & 5 others Ex parte Kenya Alliance or Resident Associations and 4 others which is pending hearing and determination. However, on the 22nd April, 2002 the Court issued an order whose effect was to stay the decision by the Respondents of altering the boundaries, alienating, processing and surveying the portions of land pursuant to Legal Notices Nos. 140-153 of 2001 and published on 19th October, 2001.
7. The historical background of Eastern Mau Forest discerned from maps and plans in his custody as well as those with the Director of Survey show the Forest as delineated on boundary plan No.175/2 which was originally gazetted as a forest reserve pursuant to proclamation No. 56 on the 18th June, 1941.
8. It is deponed that the Eastern Mau Forest initially covered approximately 160,639 acres or 65,009 hectares but over the years the acreage has reduced as a result of de-gazettement for settlement of landless Kenyans by the Government.
9. He states that before the gazettement of Eastern Mau Forest in 1941, a portion of the land comprising of 3,456 acres had been surveyed in or about 1921 and registered as LR No.2942 as per survey plan F/R No.12/109. That as per survey plan F/R No.43/67 registered on the 11th December, 1935, land reference No. 2942 was amalgamated with another parcel giving a combined total acreage of 13,330 acres.
10. According to the deponent, land parcel No.2942 is registered under the Registration of Titles Act Chapter 281 Enderit Forest Block. That further the land parcel has clearly and well-defined boundaries which are cadastrally surveyed meaning that it has fixed boundaries with beacons. That the said Enderit Forest Block lies to the Southern side of the Sururu Settlement Scheme which was one of the nine (9) schemes excised from the Eastern Mau Forest in year 2001.
11. That the Enderit Forest Block is to the south of the settlement schemes and does not form part of the excised settlement area and it is well beyond the settlement cut line which is defined by beacons fixed on the ground.
12. He produced a topographical map No.133/1 drawn at the scale of 1:50,000 and revised in 1975 and which shows the Eastern Mau Forest boundaries as well as the general topographical area. He states that in or about December, 2003, the said Forest neighboring Sururu Settlement Scheme was unlawfully invaded by large group of people who upon entering the Enderit forest apportioned themselves parcels of land and proceeded to clear vegetation as well as erected structures for settlement which act have led to an immense destruction of the natural forest which is a vital water catchment area.



13. He states that as a result of the invasion of the forest by the people, the matter was reported to the provincial Administration by his department which has the mandate to protect, conserve and manage all gazetted forests in the county.
14. Consequently, in or about June, 2004 the 5th respondent as the Administrator of Nakuru District Convened a public baraza and gave a notice to all the people who had invaded the forest land to vacate the land and that the notice to vacate that was issued expired in the month of August 2004 and it is upon expiry of the notice that the invaders were forcibly evicted by a contingent of both regular and administration police and forest guards on the 27th August, 2004.
15. When the matter came up for hearing John Kimngei Saina took oath and testified that he was given his land in 1996 and that at the time it was a forest but they did not know that it was a forest. They did not know that it was gazetted. He knows that the surveyor went to the land and found that it was forest land. They were issued with titles and therefore the parcel of land belongs to him legally. He constructed a main house, store, children house, and chicken house. This houses were grass thatched, mud walled. He ploughed the land and planted maize. They were 1,000 people in number who were allocated the land. In August 2004, on a date he cannot remember the government attacked them and burnt down their houses and evicted them from the land.
16. PW2, Bernard Simiyu Otubo Wanyonyi a land surveyor gave evidence that he was ordered by the court to do a survey and file a report which he did as ordered. The report is dated 13th October 2019. He visited the area on 28th August 2109. He confirmed that the settlement was in a forest area. The Attorney General did not call any witness.
17. The plaintiff's counsel submits that the plaintiffs have valid genuine title deed hence should be allowed to return to the land. The plaintiffs further argue that the evictions were not lawful because it was a forced eviction. The respondents did not follow the laid down procedure to be followed during forced eviction.
18. The plaintiffs argue that they are entitled to general damages and are asking Kshs500,000 for each plaintiff. The plaintiffs pray for alternative parcels of land in lieu of the evicted area.
19. I have considered the pleadings and the evidence on record including the submissions and do find that the parcels of land in dispute were created from L.R 2942 also known as Enderit Forest Block adjacent to L.R 24989 also known as Sururu Settlement Scheme. Pw2 a land surveyor did a survey of the land and found that the map's relevant to the case were F/Y 43/67, 10/108 & 12/108 showing the boundaries for Enderit Forest Block. The surveyor further found that the Sururu Settlement Scheme was represented by F/R 301/131. The surveyor inspected the excision of the gazetted land as held by the conservator of Forests with regard to the Sururu Settlement Scheme. He secured the RIM showing the subdivision of LR 24989 being the Sururu Settlement Scheme.
20. According to the surveyor, the physical boundaries between the settlement scheme and the forest is marked by the Enderit River that runs South west from a beacon named Maji 3 to another further down known as Range which marks the extreme end of the Sururu Settlement Scheme. The parcels of land allegedly belonging to the plaintiffs were found to be nowhere in the available R.I.M but it was found that the parcels of land fall in the gazetted forest reserve namely Enderit Forest Reserve.
21. The Enderit reserve forest initially was protected by the Forests Act 2005 before its repeal, but now it is protected by the *Forest Conservation and Management Act*, No. 34 of 2016 which repealed the forest Act 2005 and has placed very stringent conditions for variation or allocation of forest land.



22. Section 34 (1) of *Forest Conservation and Management Act*, No. 34 of 2016 provides that any person may petition the National Assembly or the Senate, for the variation of boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest.
23. Subsection (2) provides that a petition under subsection (1) shall demonstrate that the variation of boundaries or revocation of the registration of a public forest or a portion of a public forest does not
 - (a) endanger any rare, threatened or endangered species; or
 - (b) adversely affect its value as a water catchment area; and prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.
24. Subsection (3) provides that a petition made under subsection (1) shall be considered in accordance with the provisions of the Petitions to Parliament (Procedure) Act and the Standing Orders of the relevant House.
25. Subsection (4) provides that the Cabinet Secretary shall, within thirty days of the petition being committed to the relevant Committee, submit a recommendation on whether the petition should be approved subject to:-
 - (a) the petition being subjected to an independent Environmental Impact Assessment; and (b) public consultation being undertaken in accordance with the Second Schedule.
26. Subsection (5) provides that if the relevant Committee, reports that it finds that the petition — (a) does not disclose a ground for the variation of the boundaries of a public forest or the revocation of Variation of boundaries or revocation or the registration of a public forest or a portion of a public forest, no further proceedings shall be taken; or if it discloses a ground for the variation of the boundaries of a public forest or the revocation of the registration of a public forest or a portion of a public forest, the National Assembly or the Senate shall vote on whether to approve the recommendation. (6) If the resolution under subsection (5) (b) is supported by a majority of the members of the National Assembly or the Senate, present and voting, the Cabinet Secretary shall publish a notice in the Gazette.
27. This Act aims at conserving Kenya's forests and managing them sustainably. This includes fighting deforestation and increasing carbon sequestration.
28. Previously, alteration of boundaries and allocation of forest land was checked by the regime of the Forest Act Cap 385 that was repealed by the Forest Act 2005.
29. The Forest Act cap 385 was an Act of Parliament that provided for the establishment, control and regularization of central forests, forests and forest areas in the Nairobi area and on unalienated Government land.
30. Section 4 of the Act provided that;

‘The Minister may from time to time, by notice in the gazette declare any unalienated Government land to be a forest area; declare the boundaries of a forest and from time to time alter those boundaries and declare that the boundaries shall cease to be a forest area.....’
31. Section 28 of the Forest Act No 7 of 2005 provided for excision of Government Forests as follows:-
 28. Variation of boundaries or revocation of State or local authority forests (1) A notice under this Part which it is proposed— (a) to vary the boundaries of a State or a local authority forest; or (b) to declare that a forest shall cease to be a State or local authority forest, shall



only be published where the proposal is recommended by the Service in accordance with subsection (2) and is subsequently approved by resolution of Parliament. (2) The Service shall not recommend any such proposal unless— (a) it has been approved by the forest conservation committee for the area in which the forest is situated; (b) it is satisfied that such variation of boundary or cessation of forest proposed by the notice— (i) shall not endanger any rare, threatened or endangered species; (ii) does not adversely affect its value as a water catchment area; and (iii) does not prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes. (c) the proposal has been subjected to an independent Environmental Impact Assessment; and (d) public consultation in accordance with the Third Schedule has been undertaken and completed in relation to the proposal.

32. The above provisions provide for the allocation of government forests for private purposes.
33. The plaintiffs were not allocated land under any of the aforesaid provisions. The facts herein depict a case where people invade the Gazetted forests with the assistance of the land registrar who issues them with land title deeds without following the laid down procedure and therefore a perpetuation of an illegality.
34. In the case of Timothy Ingosi and 87 Others vs KfS and 2 others(2016) eKLR, this court held:-

The sad situation in this case is that due process was not followed. In my view, without altering the boundaries of the forest by degazettement the and following the due process, the land in dispute was not available for allocation and therefore the title deeds issued over the suit land were and remain null and void.
35. The Minister concerned was sposed to delineate the suit land from the Kapkurere Forest, it is my humble view that by dint of the provisions of the Government Land Act, Cap 280, (now Repealed) and the Physical Planning Act, Cap 286 Laws of Kenya, the said land was to become unalienated Government land after delineation.”
36. The title deeds were issued illegally unlawfully and un-procedurally as the land remains a protected forest land. Section 26 of the Land Registration Act provides: -
26. Certificate of title to be held as conclusive evidence of proprietorship.
- (1) certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except—
- (a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or
- (b) the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.
- (2) A certified copy of any registered instrument, signed by the Registrar and sealed with the Seal of the Registrar, shall be received in evidence in the same manner as the original.
37. Article 40 (6) of the constitution provides:-



26. Certificate of title to be held as conclusive evidence of proprietorship.
- (6) The rights under this Article do not extend to any property that has been found to have been unlawfully acquired.
38. This court finds that the suit property was government land already alienated to be a forest and title registered in the name of Enderit forest and therefore the repealed Government *Land Act* was to come into application for its allocation.
39. In NBI, HC. Misc. Appl. 1732 of 2004, James Joram Nyaga & Another –v- Attorney General & Another [2007] eKLR the court referring to section 3 and 7 of the GLA observed thus:
- “The above section clearly limits the power of the Commissioner to executing leases or, conveyances on behalf of the President and the proviso to the section specifically limits the power to alienate unalienated land to the President. We find and hold that the Commissioner of Lands had no authority to alienate the disputed plot to the Applicants as he purported to do vide the letter of 18th December, 1997. That was the preserve of the president. It follows that the Commissioner of Lands could not have made any grant under the Government Lands Act Cap. 280 Laws of Kenya nor could he pass any registerable title under the Registration of Titles Act Cap. 281 of the Laws of Kenya.”
40. In the same case the court having found that the land in dispute was government land over which the Commissioner of Lands had no power to pass any title, the court dismissed the Applicant’s Originating summons in which they were seeking, inter alia, a declaration that they were the lawful owners of the property in dispute.
41. Further in the case of Milankumarn Shar & Two others –vs- City Council of Nairobi & Others, Nairobi HCCC No. 1024 of 2005 the Court found that the Commissioner of Lands did not have authority under Section 3 of the Government Lands Act to make any grant or disposition of any estate, interest or right in or over a portion that was a part of a public road and therefore not unalienated Government Land.
42. The learned Judges in this case quoted with approval the case of Paul Nderitu Ndung’u & 20 Others –V- Pashito Holdings Limited & Another (Nairobi HCCC No. 3063 of 1996) where it was held that the Commissioner of Lands had no legal authority to allocate the two pieces of land which had been reserved for a Police Post and a Water Reservoir as they had already been alienated. In the Paul Nderitu Ndung’u case Justice Mbogholi Msagha said:
- “Under the Government Lands Act (Cap 280, Laws of Kenya) the Commissioner of Lands can only make grants or dispositions of any estates, interests or rights in over unalienated government land. (Section 3). In the instant case, the two parcels of land among others had been alienated and designated for particular purposes. It was not open for the Commissioner of Lands to re-alienate the same. So the alienated was void ab initio.”
43. In the case of Elijah Makeri Nyangw’ra –vs- Stephen Mungai Njuguna & Another (2013) eKLR where the court held that the title in the hands of an innocent third party can be impugned if it is proved that the title was obtained illegally, unprocedurally or through a corrupt scheme. Hon Justice Munyao Sila in the case while considering the application of section 26(1) (a) and (b) of the *Land Registration Act* rendered himself as follows:-
- “the law is extremely protective of title and provides only two instances for challenge of title. The first is where the title is obtained by fraud or misrepresentation to which the person



must be proved to be a party. The second is where the certificate of title has been acquired through a corrupt scheme.”The Court in the case of Arthi Highway Developers Limited vs West End Butchery Limited & 6 Others [2015] eKLR stated that:

“It was common knowledge, and well documented at the time, that the land market in Kenya was a minefield and only a foolhardy investor would purchase land with the alacrity of a potato dealer in Wakulima market. Perhaps the provisions of the new Constitution 2010 and the [Land Registration Act, 2012](#) will have a positive impact for land investors in future.”

44. It should be noted that at one time in the history of Kenya there was unprecedented land grabbing which is known in other parlance as large scale land based investment depending on which side you are in, meant to sanitize the illegal act. The courts had to stamp their authority to root out this vice in order to protect the public interest and individuals who would otherwise lose their land through these schemes.
46. In Republic vs Minister For Transport & Communication & 5 Others Ex Parte Waa Ship Garbage Collector & 15 Others Mombasa HCMCA No. 617 of 2003 [2006] 1 KLR (E&L) 563 Maraga, J (now Chief Justice emeritus) expressed himself as follows:

“Courts should nullify titles by land grabbers who stare at your face and wave to you a title of the land grabbed and loudly plead the principle of the indefeasibility of title deed...It is quite evident that should a constitutional challenge succeed either under the trust land provisions of [the Constitution](#) or under section 1 and 1A of [the Constitution](#) or under the doctrine of public trust a title would have to be nullified because [the Constitution](#) is supreme law and a party cannot plead the principle of indefeasibility which is a statutory concept. A democratic society holds public land and resources in trust for the needs of that society. Alienation of land that defeats the public interest goes against the letter and spirit of section 1 and 1A of [the Constitution](#).”

47. Similarly, Nyamu, J (as he then was) in Mureithi & 2 Others (For Mbari Ya Murathimi Clan) vs Attorney General & 5 Others Nairobi HCMCA No. 158 of 2005 [2006] 1 KLR 443 held:

“Should the Land Acquisition Act give shelter to the land grabbers of public land or are the courts going to invent equally strong public interest vehicle to counter this. Should individual land rights supersede the communal land, catchments and forests? How for instance are the Courts going to deal with the land grabbers who stare at your face and wave to you a title of the grabbed land and loudly plead the principle of the indefeasibility of title? Are the Courts going to stay away and refuse to rise to the greater call of unravelling the indefeasibility by holding that such a title perhaps issued in order to grab a public utility plot such as hospital by an individual violates the public or national interest and therefore a violation of [the Constitution](#). I venture to suggest that such titles ought to be nullified on this ground and, thrown into the dustbins.”.....In my view there could be other constitutional challenges to reckless and unaccountable alienation of public land and other public resources based on the principle or concept of what is necessary in a democratic society. Sections 1 and 1A of [the Constitution](#) captures the vision of a democratic society. Take for example the human rights jurisprudence, one of the permissible limitations to the fundamental rights is what is necessary in “a democratic society.” This phrase also appears in most of the fundamental rights and freedoms provisions in chapter 5. These words have received almost internationally accepted meaning in so far as the human rights area



is concerned. To my mind, section 1 and 1A are wider and cover the concepts of good governance accountability and transparency...A democratic society holds public land and resources in trust for the needs of that society. Alienation of land that defeats the public interest goes against the letter and the spirit of s 1 and s 1A of *the Constitution* in my view...The doctrine of public trust as defined above is certainly a ready enemy of alienation of natural resources and land grabbing now and in the future and should serve as a perpetual protection to public land, forests, wetlands, riparian rights, riverbeds and “kayas” just to name a few. The doctrine shall constitute the cutting edge of any actual or threatened allocation of public resources including public land.”

48. Further in the same vein in *Chemei Investments Limited vs The Attorney General & Others* Nairobi Petition No. 94 of 2005 at para. 64 it was held:

“*The Constitution* protects a higher value, that of integrity and the rule of law. These values cannot be side stepped by imposing legal blinders based on indefeasibility. I therefore adopt the sentiments of the court in the case of *Milan Kumar Shah & 2 Others vs. City Council of Nairobi & Another* (supra) where the Court stated as follows, “We hold that the registration of title to land is absolute and indefeasible to the extent, firstly, that the creation of such title was in accordance with the applicable law and secondly, where it is demonstrated to a degree higher than the balance of probability that such registration was procured through persons or body which claims and relies on that principle has not himself or itself been part of a cartel which schemed to disregard the applicable law and the public interest.”

49. Also in the case of *Dr. Joseph Arap Ngok vs Justice Moiwo ole Keiwua & 5 Others*, Civil Appeal No. Nai. 60 of 1997 the court stated thus that:

“Section 23 (1) of the Act gives an absolute and indefeasible title to the owner of the property. The title of such an owner can only be subject to challenge on grounds of fraud or misrepresentation to which the owner is proved to be a party. Such is the sanctity of title bestowed upon the title holder under the Act. It is our law and law takes precedence over all other alleged equitable rights of title. In fact the Act is meant to give such sanctity of title, otherwise the whole process of registration of Titles and the entire system in relation to ownership of property in Kenya would be placed in jeopardy.”

50. If violation of such sanctity which is guaranteed by the State is proved, then section 24 of the same Act states as follows:

“Any person deprived of land or of any interest in land in consequence of fraud or through the bringing of that land under the operation of this Act, or by the registration of any other person as proprietor of the land or interest, or in consequence of any error or misdescription in any grant or certificate of title or any entry or memorial in the register, or any certificate of search, may bring and prosecute an action at law for the recovery of damages against the person upon whose application the land was brought under the operation of this Act, or the erroneous registration was made, or who acquired title to the interest through the fraud, error or misdescription.

51. I do find that the plaintiffs did not hold valid titles as the suit properties are still gazetted forest land. The titles were obtained unprocedurally.

52. It is not disputed that the plaintiffs were violently evicted from the suit property. Though they illegally settled on the Forest land they should have been accorded a humane eviction from the suit property.



The plaintiff ought to have been given notice of the eviction. The defendant did not produce any notice of eviction hence ought to pay for the resultant damages. The plaintiff's thatched houses were destroyed, but the plaintiffs' equally destroyed a natural resource being the forest by cutting down trees.

39. I do find that the plaintiffs could have been entitled to compensation in terms of general damages had they not destroyed the forest and should restore the forest as it was before the invasion. I do further find that the cost of restoration of the destroyed forest surpasses the cost incurred by the plaintiffs in the destruction of their properties and therefore I do decline to order that the defendants do compensate the plaintiffs. In any event the plaintiffs cannot benefit from an illegality and acts that cause climate change by deforesting for agricultural farming, logging and other commercial purposes that cause the loss of millions of hectares of forest land every year in Kenya and the whole world, much of which has become too degraded to regrow and recover especially the Mau forest.
53. The world's forests have the ability to capture and store carbon dioxide from the atmosphere, which makes them crucial in the fight against the climate crisis. But we continue to destroy our forest every single day due to ever-increasing global demands and urban development. The Amazon rainforest, the largest and most biodiverse forest on the planet, has recently experienced a 15-year record high levels of deforestation. Despite more than 140 countries having pledged to halt and reverse deforestation, there's much more that needs to be done by the states to protect the forests. I do not intend to put the plaintiffs back to the forest hence I dismiss the prayers that the plaintiffs be placed back in forest land. I also dismiss the prayer for alternative land as the same has no basis. I do order each party to bear own costs because both participated in the illegality of encroaching in the forest land. Orders accordingly.

JUDGMENT DATED, SIGNED AND DELIVERED VIA EMAIL AT NAKURU THIS 18TH DAY OF APRIL 2023.

A. O. OMBWAYO

JUDGE

