



Cheptoo & 8 others v Fund & 2 others (Environment & Land Case E223 of 2020) [2023] KEELC 19150 (KLR) (26 July 2023) (Judgment)

Neutral citation: [2023] KEELC 19150 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E223 OF 2020
LC KOMINGOI, J
JULY 26, 2023**

BETWEEN

**JOSEPH CHEPTOO 1ST PLAINTIFF
EVANS KIPROP 2ND PLAINTIFF
ALICE CHEBET 3RD PLAINTIFF
KEVIN KIPNGETICH 4TH PLAINTIFF
VIVIAN JEPKEMBOI 5TH PLAINTIFF
FAITH JEROTICH 6TH PLAINTIFF
JC (SUING ON BEHALF OF LK (MINOR) AS A PARENT AND NEXT
FRIEND 7TH PLAINTIFF
JC (SUING ON BEHALF OF B.C (MINOR) AS A PARENT AND NEXT
FRIEND 8TH PLAINTIFF
JC (SUING ON BEHALF OF J.K (MINOR) AS A PARENT AND NEXT
FRIEND 9TH PLAINTIFF**

AND

**NATIONAL SOCIAL SECURITY FUND 1ST DEFENDANT
DAVID GACHONDE 2ND DEFENDANT
REBECCA JEPCHUMBA BOI 3RD DEFENDANT**

JUDGMENT

1. By a plaint dated 9th December 2020,the Plaintiffs pray that judgement be entered against the Defendants jointly and severally for;



- a. A permanent injunction do issue restraining the Defendants from processing or issuing title certificate/deed and or lease certificate to land parcel No.LR 97/0720/544(hereinafter referred to as the “suit property”) in favour of the 2nd Defendant and or any other party and or creating any interest on the parcel to any other party.
 - b. A permanent injunction do issue restraining the Defendants by themselves, servants, employees, agents, representatives or any other person acting under their instructions or their interests from evicting, demolishing, entering, interfering, threatening the Plaintiffs with entry, peaceful occupation and possession, and from otherwise dealing, entering, remaining in, trespassing or in any other manner whatsoever interfering with the Plaintiff’s peaceful occupation, possession and use of the parcel of land known as LR 97/0720/554.
 - c. An order restoring the 1st Plaintiff as the registered owner in title certificate/deed and or lease certificate to land Parcel No.LR 97/0720/544.
 - d. Costs of this suit together with interest thereon at such rates and for such period.
 - e. Any other such other or further relief as this Honourable Court may deem appropriate.
2. The 1st Plaintiff’s case is that in or about November 2004, he bought the land known as LR 97/0720/554 from Likam Ole Kiambu and one Ole Kisho. Subsequently, the 1st Defendant claimed to be the owner. This forced the Plaintiff to register with the 1st Defendant, pay it ksh.315,000/= and ksh.12,000/= being survey fees.
 3. He avers that the 3rd Defendant who is now his ex-wife was registered as owner of the suit land to hold it in trust for the 1st Plaintiff and their children, the 2nd to 9th Plaintiffs.
 4. He contends that the 1st Defendant had agreed that the 1st Plaintiff would pay ksh.550,000/= in monthly installments of ksh.42,000/= and thereafter installments of ksh.5,083/= upto the year 2019 as purchase price. He avers that he made the payments solely and wholly by July 2016 and even overpaid by ksh.12000/=.
 5. He also contends that on 23rd March 2012, he wrote to the 1st Defendant seeking clearance but to his shock, he was served with the letter dated 31st March 2016 indicating that the suit property had been sold to the 2nd Defendant due to his non-compliance.
 6. He avers that he had earlier taken a bank loan to develop the suit property and has put up a primary school and a secondary school that are running and are worth over ksh.35 million. He accuses the 3rd Defendant of failing to co-operate with him to assert the rights of the Plaintiffs in the suit property. It is his case that he is now threatened with eviction by the 1st and 2nd Defendants.

The 1st Defendant’s case.

7. The 1st Defendant filed its statement of defence dated 15th October 2021.It contends that it has never sold the suit property to the Plaintiffs thus they are illegally in possession.

The 2nd Defendant’s case.

8. The 2nd Defendant filed a statement of defence and counterclaim dated 10th November 2021.He contends that he owns the suit property by virtue of allocation and purchase from the 1st Defendant. In his counterclaim, he prays for orders as follows;



- a. A declaration that the 2nd Defendant (Plaintiff in the counterclaim) is a bona fide purchaser of land parcel known as LR No.97/0720/554.
- b. A permanent injunction restraining the Plaintiffs (Defendants in the counterclaim) whether by themselves, their relatives, servants, agents, employees and/or anybody acting for them that is to say from entering, trespassing on, invading, offering for sale, selling, transferring, letting, alienating or in any manner interfering with the 2nd Defendant's (Plaintiff in the counterclaim's) ownership, use, peaceful and quiet enjoyment of the parcel of land known as land parcel No.LR No.97/0720/544.
- c. Mesne profits from 2.3.2016 until payment in full.
- d. An award for general damages for trespass.
- e. General and exemplary damages.
- f. An order of eviction be issued against the Defendants (Plaintiffs in the Counterclaim) and any other person claiming proprietorship of the land parcel LR No.97/0720/544 or any of the subdivisions thereon whether through them or under them.
- g. Cost of the suit.
- h. Interest on (c) ,(d) ,(e) and (g) at court rates from the date of filing the suit until payment in full.

The 3rd Defendant's case.

9. The 3rd Defendant filed a statement of defence dated 22nd October 2021. She avers that during her relationship with the 1st Plaintiff with whom they blessed three children being the 7th to 9th Plaintiffs, they purposed to acquire the property known as LR No.97/0720/554 and entered into an agreement with the 1st Defendant. She contends that they were to pay in instalments but having separated with the 1st Plaintiff, she did not make further payments and eventually lost interest in the property. She further states that she is not aware whether the 1st Plaintiff had any subsequent arrangements with the 1st Defendant on acquiring the subject property.

Evidence of the Plaintiffs.

10. The Plaintiff called one witness. PW1, Joseph Cheptoo the 1st Plaintiff. His undated witness statement at page 19 of the Plaintiff's bundle of documents testified on 21st April 2022 was adopted as part of his evidence in chief.
11. He told the Court that the 3rd Defendant was his wife but they separated in the year 2008 having lived as husband and wife from 2002 to 2008 and that their children are his co-Plaintiffs. He added that he has brought this suit on their children's behalf.
12. It was his testimony that in the year 2004, they went with the 3rd Defendant to the 1st Defendant to register a plot; the suit property which he had bought from Likam Ole Kiambu and Ole Kisho who had given him a certificate. He further testified the 3rd Defendant was registered as owner of the suit property by the 1st Defendant to hold it trust for him and their children and he was registered as the next of kin. They then paid ksh.315,000/= in installments. They were also to pay survey fees of ksh.12,000/= as well as rates. He was the one making the payments. He would deposit the installments in the 1st Defendant's accounts and they would be issued with receipts.



13. He pointed out receipt No.036206 for kshs.500, which he paid for registration and other receipts at page 1 to 9 of the Plaintiffs' bundle. He testified that the 1st Defendant extended the period for paying the installments to 120 months and he was to complete in 2019 but he completed making payments in 2016. He then communicated to the 1st Defendant that he needed documents for the plot. He got correspondence dated 30th March 2016 stating that the suit plot had been sold to the 2nd Defendant.
14. It was his testimony that he tried to talk with officials of the 1st Defendant but they did not solve the issue. He stated that he has put up iron sheet structures and developed a school that has students. He further stated that the 3rd Defendant refused to follow up the issue with the 1st Defendant.
15. When he was cross-examined, he stated that he did not have an application for the plot in Court but he has the sale agreement with the 1st Defendant. He further stated that he relies on his statement and receipts which are in the name of the 3rd Defendant. He added that he has nothing to show that he was the next of kin and that his name does not appear as owner in the 1st Defendant's records. It is the 3rd Defendant's name that was registered as owner and the receipts are in her name but he was the one making payments. He pointed out that the receipt at page 8 of the Plaintiff's bundle is in his name.
16. He also stated that the 1st Defendant has not demolished his structures on the suit land. Referred to ELC Suit No.939 of 2016, he stated that it is pending. He also averred that he bought the suit property from one Ole Kiambu and Ole Kisho but he did not attach the sale agreement with the two sellers.
17. PW1 also stated that he has another plot which he bought from the 1st Defendant. He stated that the letter at page 15(b) of his bundle is addressed to the 3rd Defendant by the Plaintiff. Referred to prayer no.3 of the plaint, he stated that he has nothing to show that he has made developments on the plot and as per the 1st Defendant's documents, the 2nd Defendant is the owner of the suit plot.
18. He stated that the three Plaintiff minors are his children with the 3rd Defendant but there is no document to show that the 3rd Defendant was to hold the suit property in trust for the children. Referred to the 2nd Defendant's counterclaim, he stated that he has receipts to show payments for the plots. He also stated that there are no receipts from 2006 to 2008.
19. When he was re-examined, he reiterated that he was the next of kin and they agreed that the 3rd Defendant was to hold the suit property in trust for the children. He further stated that the period of paying was extended from 2009 for another 120 months thus the account in respect of the suit land is still open.
20. When referred to ELC 939 of 2016, he stated that the 1st Defendant said that it would give him the suit plot. He also stated that there is a school located at the suit plot known as Tassia Joy Educational Centre.

Evidence of the Defendants.

21. The Defence called three witnesses. DW1 Tobias Ombado the 1st Defendant's Tenant Scheme Purchase Loans Officer testified on 21st April 2022. His witness statement dated 22nd March 2022 was adopted as part of his evidence. Documents in the 1st Defendant's bundle of documents dated 15th October 2021 were produced as D.Exhibit 1-10.
22. He told the court that the 1st Plaintiff has never been existed as the owner of the suit plot and has not been issued with any receipts in his name by the 1st Defendant.



23. When he was cross-examined, he stated that the 1st Defendant has all the records for all the plots in the scheme and that the suit plot was registered in the 2nd Defendant's name as he has paid the full purchase price of the plot.
24. He stated that before the suit plot was transferred to the 2nd Defendant, it was in the 3rd Defendant's name and there was no document indicating that she was holding the suit plot in trust for anybody. He further stated that the 3rd Defendant did not pay the full purchase price so the suit plot was sold.
25. DW1 also stated that for transactions involving plots with the 1st Defendant, the 1st Defendant gives out an offer and an agreement is entered into between the 1st Defendant and the purchaser. He further stated that he has been a purchase scheme officer from the year 2014 and there have been no changes with regard to purchase of the 1st Defendant's plots. He pointed out that the 1st Defendant registers the purchaser upon payment of ksh.500/= and issues a receipt. The purchaser then goes with the sale agreement and makes payments in instalments. If a purchaser defaults in instalments, he /she is informed of the default.
26. When referred to the transaction with regard to the suit plot, he stated that the 1st Defendant had no correspondences with the 1st Plaintiff. He further stated that there was an agreement for sale with the 3rd Defendant but she defaulted in making payments and the 2nd Defendant was registered on 25th November 2015. Subsequently, he made payments for the 1st installment on 15.12.2015.
27. DW2 David Gachonde the 2nd Defendant testified on 21st April 2022. His witness statement dated 10.11.2021 was adopted as his evidence. Documents in his bundle of documents dated 10.11.2021 were produced as Exhibits D1 to D14.
28. He told the court that he had earlier acquired a plot from the 1st Defendant but the plot was not available. Subsequently, he made an application for re-allocation of an alternative plot. He was re-allocated the suit plot by the 1st Defendant's letter dated 25th November 2015. He then made payments as required by way of a banker's cheque dated 10th December 2015 and by a letter dated 2nd March 2016, the 1st Defendant gave him all the documents relating to the suit plot.
29. He stated that he never took possession as the 1st Plaintiff was on the plot. He went back to the 1st Defendant on learning that the suit plot was occupied by someone else and he was given a letter dated 24th September 2016 reiterating his ownership but the 1st Plaintiff did not vacate the suit plot.
30. When he was cross-examined, he stated that he has a letter of allotment from the 1st Defendant and that he paid the amount due. He stated that he met the 1st Plaintiff once when he went to the suit plot in the company of the chief and the 1st Defendant's surveyor but he has not gone back to the suit plot nor filed a suit to evict the 1st Plaintiff. He further stated that he paid the 1st Defendant by banker's cheque of ksh.277.912/=
31. DW3, Rebecca Jepchumba Boit the 3rd Defendant testified on 21st April 2022. Her witness statement dated 22nd October 2021 was adopted as part of her evidence in chief. She told the court that she was the purchaser of the suit plot and that she did not hold it in trust for anybody. She testified that she paid ksh.500/= registration fee. It was her testimony that she does not own the plot. She also testified that she parted ways with the 1st Plaintiff in 2008 and she did not follow up on the suit plot and she is not interested in it.
32. When cross-examined, she stated that from 2005, the next payments for the plot was made in March 2009. She further stated that she did not instruct the 1st Defendant to transfer the suit plot to the 2nd Defendant or anybody else and that she does not have the agreement for sale.



33. DW3 also stated that she was to pay ksh.550,000/= but she did not make the payment therefore the plot does not belong to her and she has no claim over it though it was in her name.
34. She stated that she was married to the Plaintiff between the year 2002 and 2008 and that they tried to buy the suit plot. They filled a form at the 1st Defendant's offices but cannot recall the contents. She further stated that she has never gotten a letter from the 1st Defendant about any default and that she did not hold the plot in trust for anybody.
35. After the close of the oral testimonies, the parties tendered final written submissions.

The Plaintiff's Submissions.

36. They are dated 12th September 2022 and raise the following issues for determination;
 - a. Whether the 3rd Defendant holds the suit property in trust for the Plaintiffs.
 - b. Whether or not there were breach of terms of the agreement for sale of the suit plot
 - c. Who should pay costs?
37. The Plaintiffs submit that it is common ground that all the purchase money for the suit parcel was advanced by the 1st Plaintiff. They argue that it is trite law that there is a resulting trust in favour of the person who pays for the purchase price of land though registered in another. They rely on the case of Jelutabi African Adventure Limited & another v Christopher Michael Lockley [2017]e KLR.
38. They further submit that the rights of a registered owner of property are set out under Section 24, 25 and 26 of the Land Registration Act, 2012 but they are subject to overriding interests as provided by Section 28 of the Land Registration Act as not requiring noting in the register. They add that such overriding interests include trusts such as the one created between the Plaintiff and the 3rd Defendant and the 1st Defendants should actualize it by transferring the suit property to them.
39. They also submit that dispossessing them and transferring the suit property to the 2nd Defendant without prior notice amounts to breach of contract. They point out that they had 120months to complete payment which had not lapsed as at 31st March 2016; it would expire in September 2019.
40. They also argue that the 1st Plaintiff has never received any communication from the 1st Defendant with regards to the alleged non-compliance of terms of the suit land being sold to another party hence the transfer to the 3rd Defendant is invalid.
41. It is also their submission that the 1st Defendant did not explicitly justify to the Court how it kept accepting money in the same account without notifying the Plaintiff of any changes and that it also filed to demonstrate how it transferred the property to the 2nd Defendant when time to make deposits had not lapsed.
42. They cite the case of Elijah Kipkorir Barmalel& Another v John Kiplagat Chemweno & 3 others [2010]e KLR to submit that it was incumbent upon the 1st Defendant to serve the Plaintiff a notice before rescinding the sale agreement.

The 1st Defendant's Submissions.

43. They are dated 27th June 2022. The 1st Defendant submits that the Plaintiffs are obligated to prove their case on a balance of probabilities but they have not since they failed to produce a letter of offer or a sale agreement pursuant to Section3 (3) of the Law of Contract Act as read with Section 38(1) of



the *Land Act*. It relies on the case of Muriungi Kanoru Jeremiah v Stephen Ungu M'warabua [2015] E KLR as well as the case of Alice Wanjiru Rugiu v Messiac Assembly of Yahweh [2021] e KLR .

44. It submits that the evidence of receipts produced by the Plaintiff cannot be used as a basis to prove ownership of the suit property as they do not show what the payments were for and in any case, they are in the name of the 3rd Defendant who stated that she has no interest in the suit plot.
45. It relies on the case of Juletabi African Adventure Limited & Another v Christopheher Michael Lockley [2017] e KLR (supra) and the case of Kazungu Fondo Shutu & another V Japhet Noti Charo & another [2021] e KLR to submit that the claim of trust is not supported by any evidence as such the same is legally untenable.
46. It is also its submission that even if it was to be assumed that there is a trust relationship between the Plaintiff and the 3rd Defendant in relation to the suit property, the same would not aid the Plaintiff's case since the 3rd Defendant failed to comply with the terms of sale, as a result of which the 1st Defendant repossessed the suit plot.
47. The 1st Defendant also argues that since the suit property is registered in the name of the 1st Defendant, pursuant to Section 24 of the *Land Registration Act*, the 1st Defendant has absolute ownership rights of the suit property and in exercise of the said rights, it sold the suit plot to the 2nd Defendant.
48. It points out that prayer no.2 of the Plaintiff is directed to the Land Registrar who is not a party herein thus awarding the same would violate the rules of natural justice. It puts forward the case of Peter Kinyua Kimemia & 3 others v Embakasi North Constituency Development Fund Account manager & 2 others [2021] e KLR.

The 2nd Defendant's Submissions.

49. They are dated 23rd June 2022. The 2nd Defendant submits that the Plaintiff failed to prove their case in line with Section 107(1) and Section 109 of the *Evidence Act*. He further submits that he is entitled to prayers sought in his counterclaim having clearly established by evidence that he was re-allocated the suit land by the 1st Defendant and that he complied with the terms set by the 1st Defendant after acceptance of the re-allocation.
50. He relies on the case of Rukaya Ali Mohammed v David Gikonyo Nambachia & Another Kisumu HCCA NO.9/2004 to submit that once he was allocated the suit plot, it was not available for allocation to any other person.
51. He further submits that he is entitled to mesne profits from 2nd March 2016 until payment in full having demonstrated that he is the bonafide owner of the suit land.

The 3rd Defendant's Submissions.

52. They are dated 27th June 2022. They raise the following issues for determination;
 - a. Whether the Plaintiffs are entitled to being granted a permanent injunction restraining the Defendants from dealing with Parcel Number 97/0720/554.
 - b. Whether the 3rd Defendant has an interest in the suit property and is holding the property in trust for the Plaintiffs.
53. The 3rd Defendant submits that the Plaintiffs failed to meet the legal threshold for the grant of a permanent injunction as enunciated in the case of Giella v Cassman Brown (1973) EA 358. She points out that in failing to provide title for the suit property, and in relying on the 3rd Defendant to



substantiate their claim of ownership the Plaintiffs have shown that they have no locus standi to file this suit.

54. She further submits that under the principles of 'Nemo dat quod non habet' she has established that she is in no position to give a title that she does not have, thus the Plaintiffs are equally not in a position to be awarded the 1st and 2nd prayers in their plaint.
55. She also argues that she has no locus standi to be made a party to this suit as she is stranger to the suit property thus the Plaintiffs' case should not be taken on merit. She Puts forward the Supreme Court case of Michael Osundwa Sakwa v Chief Justice & President of the Supreme Court of Kenya & another 2016 e KLR as well as the case of Khelef Khalifa El-Busaidy v Commissioner of Lands & 2 others [2002]e KLR.

Issues.

- a. Whether there was sale of the land known as LR 97/0720/544 to the 3rd Defendant and whether she complied with the terms of the purchase.
- b. Whether the 3rd Defendant held the said property in trust for the Plaintiffs.
- c. Whether the 2nd Defendant has made a case for grant of the orders sought in his counterclaim.
- d. Who should bear costs of this suit?

Analysis And Determination.

56. I have considered the pleadings and the evidence of record.

I have also considered the written submissions and the authorities cited. The issues for determination are;

- a. Whether there was sale of the plot known as LR 97/0720/544 to the 3rd Defendant and whether she complied with the terms of the purchase.
- b. Whether the 3rd Defendant held the said property in trust for the Plaintiffs.
- c. Whether the 2nd Defendant has made a case for grant of the orders sought in his counterclaim.
- d. Who should bear costs of this suit?
 1. The Plaintiffs lay claim on the property known as LR 97/0720/544. They argue that it was purchased in 2005 by the 1st Plaintiff and the 3rd Defendant from one Ole kiambu, Ole Kishu and the 1st Defendant. It is not contested that at the time, the 1st Plaintiff and the 3rd Defendant were in a marriage relationship but it ended in 2008. The Plaintiffs argue that the 3rd Defendant was registered owner of the suit property in trust for them.
 2. The Plaintiffs contend that the 1st Defendant had agreed that the 1st Plaintiff would pay ksh.550,000/= in monthly installments of ksh.42,000/= and thereafter ksh.5,083/= upto the year 2019 as the purchase price. He contended that he had paid for the property wholly by 2016.
 3. DW1 told the court that the 1st plaintiff has never been registered as the owner of the suit property. The 1st Defendant has also never issued any receipts in the name of the 1st plaintiff.



4. PW1's claim that he has been making payments towards the purchase of the suit property has not been proved. The receipts he produced are in the name of the 3rd Defendant. PW1 has not produced any letter of offer from the 1st Defendant, offering to him the suit property for sale. There is no sale agreement between him and the 1st Defendant.

5. Section 107 (1) of the Evidence Act provides that;

“Whoever desires any court to give judgment as to any legal right or liability dependant not on the existence of facts which he asserts must prove that the facts exist”.

Section 109 of the Evidence Act provides that;

“The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person”.

I find that the 1st plaintiff has failed to prove that he made payments towards the full purchase of the suit property.

62. DW1 confirmed that there was a letter of offer to the 3rd Defendant but she defaulted. He gave details of the process of purchase of the 1st Defendant's plots. A prospective buyer pays a registration of Kshs.500/=. The same was paid and a receipt issued in the name of the 3rd Defendant.

63. By a letter dated 31/3/2016 the 1st plaintiff was informed that the plot was repossessed because the 3rd Defendant had not completed payment.

DW3 told the court that she lost interest in the plot after she parted ways with PW1. She denied that she held the suit property in trust for the 1st plaintiff and their children.

I find that the definition of trust given by the Court of Appeal in *Twalib Hatayan Twalib Hatayan & another Vs. Said Saggar Ahmed Al Hcidy & Others* (2015) eKLR does not fit in the instant case.

64. The trust being claimed by the 1st plaintiff is not supported by any evidence.

In the case of *Juletabi African Adventure Limited & Another Vs. Christopher Michael Lock ley* (2017)eKLR the Court of Appeal held as follows:

“It is settled that the onus lies on a party relying on the existence of a trust to prove it through evidence. That is because;

“The Law never implies, the court never presumes, a trust, but in case of absolute necessity. The courts will not imply a trust save in order to give effect to the intention of the parties. The intentions of the parties to create a trust must be clearly determined before a trust is implied”.

65. DW3, the 3rd Defendant failed to comply with the terms of the sale hence the 1st Defendant repossessed the suit plot.

DW3 told the court that she lost interest in an acquiring the suit property upon separating with the 1st plaintiff and subsequently stopped making payments for the said property. She also stated that she did not hold the plot in trust for the plaintiffs or anybody else.

66. I find that the 3rd Defendant did not hold the suit property in trust for the plaintiffs.



67. DW1 told the court that the suit property is now registered in the name of the 2nd Defendant who has paid the full purchase price.
68. DW2, the 2nd Defendant confirmed that he is now the registered owner of L.R. NO.97/0720/544. He produced a copy of the banker's cheque and a copy of the bank statement to show payment towards the purchase of the suit property.
69. It is also DW2's case that he has not been able to gain possession of the suit property since he acquired the same as the 1st plaintiff is still in occupation.
70. I find that the 2nd Defendant is entitled to damages to trespass since the 1st plaintiff became a trespasser from the time the 2nd Defendant made the full purchase price.
- I award Kshs.100,000/= which I think is adequate to compensate the 2nd Defendant.
71. The upshot of the matter is that the plaintiff's case fails. I find that they failed to prove their case as against the Defendants on a balance of probabilities.

The plaintiff's case is dismissed with costs to the defendants.

72. Consequently the 2nd Defendants counter claim succeeds except on the prayer of mesne profits since the court was not guided on the same. I also decline to award general and exemplary damages.
73. In conclusion I enter Judgement in favour of the 2nd Defendant as against the Plaintiff's as follows:
- a. A declaration is hereby issued that the 2nd Defendant (Plaintiff in the counter claim) is the bonafide purchaser of land parcel Known as LR. NO. 97/0720/544.
 - b. That a permanent injunction is hereby issued restraining the plaintiffs (Defendants in the counter claim) whether by themselves, their relatives, servants, agents, employees and/or anybody acting for them from entering, trespassing or invading offering for sale, selling, transferring, letting, alienating or in any other manner interfering with the 2nd Defendant's ownership, use peaceful and quiet enjoyment of that parcel of land known as LR. NO.97/0720/544.
 - c. General damages for trespass Kshs.100,000/=
 - d. The Plaintiffs are hereby given one hundred and fifty (150) days to vacate Parcel No. LR. NO. 97/0720/544. Failure to which the 2nd Defendant shall be at liberty to use lawful means to evict them.
 - e. The costs of the suit be borne by the plaintiffs.

DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 26TH DAY OF JULY, 2023.

L. KOMINGOI

JUDGE.

IN THE PRESENCE OF:

Ms. Waweru for Mr. Katwa Kigen for the plaintiffs

Mrs P.K. Mbaabu for the 1st Defendant.

N/A for the 2nd Defendant.



N/A for the 3rd Defendant.

Court Assistant – Mutisya.

