



REPUBLIC OF KENYA



KENYA LAW
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**Tuka v Karanja & 3 others (Environment & Land Case 83 of 2015)
[2023] KEELC 18862 (KLR) (17 July 2023) (Judgment)**

Neutral citation: [2023] KEELC 18862 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 83 OF 2015**

**LA OMOLLO, J
JULY 17, 2023**

BETWEEN

CLEOPHAS OSESO TUKA PLAINTIFF

AND

RUTH WANJIRU KARANJA 1ST DEFENDANT

IDDI ISSA NASURU 2ND DEFENDANT

HUSSEIN JAHI YUSUF AHMED 3RD DEFENDANT

THE LAND REGISTRAR NAKURU 4TH DEFENDANT

JUDGMENT

Introduction

1. The Plaintiff commenced this suit vide a Complaint dated 16th March, 2015. Subsequently, the complaint was amended on 23rd September, 2015 and further amended on 14th October, 2019.
2. The Plaintiff avers that he is the registered owner of Land Parcel No. Ndundori/Lanet Block 5/460(New Gakoe) measuring 0.0450 hectares and further avers that he purchased it from Mohamed Jaweed Kan Din Jajdin.
3. The Plaintiff also avers that he was issued with a title deed to the suit property on 30th March, 1999 and immediately took possession.
4. The Plaintiff further avers that between the years 2004 and 2013 he was away in the United States of America on missionary assignments as a Catholic Church priest.
5. It is his averment that in January, 2014, he visited the property with a view of developing the same when he discovered that it was being developed without his consent.



6. It is also the averment of the Plaintiff that upon getting a copy of the green card from the Lands Registry, he discovered that on 2nd December, 2013, the 1st Defendant had fraudulently transferred the suit property to herself with the knowledge, consent or authority of the 2nd and 4th Defendants.
7. The Plaintiff avers that on 3rd February 2011, the 2nd Defendant fraudulently transferred the suit property to himself/herself in collusion the 3rd and 4th Defendants.
8. The Plaintiff also avers that on 17th July, 2007, the 3rd Defendant aided by the 4th Defendants fraudulently transferred the property in his favour.
9. The Plaintiff set out the particulars of fraud on the part of the Defendants and avers that he is seeking orders of cancellation of the registration of the property in the names of the Defendants and the rectification of the records at the Lands Registry to restore his name to the property.
10. The Plaintiff prays for judgement against the Defendants for;
 - a. A declaration that the Plaintiff is the lawful/legal owner of the property all that parcel of land known as Ndundori/Lanet Block 5/460 (New Gakoe).
 - b. Cancellation of registration of the property in the name of the Defendants either jointly and or severally in favour of the Plaintiff.
 - c. Rectification of the register to restore the name of the Plaintiff as the registered owner of the property all that parcel of land known as Ndundori/Lanet Block 5/460 (New Gakoe) to the exclusion of the Defendants either jointly or severally.
 - d. Vacant possession or orders of eviction of the Defendants jointly and or severally either by themselves, servants or agents from the property all that parcel of land known as Ndundori/Lanet Block 5/460 (New Gakoe).
 - e. Permanent orders of injunction restraining the defendants jointly or severally either by themselves, servants or agents from in whatsoever manner dealing in the property prejudicial to the Plaintiff.
 - f. Costs of the suit.
 - g. Interest on (f) above at court rates.
 - g(i). In the alternative, the Defendants be severally or individually jointly condemned compelled to compensate the Plaintiff in monetary terms for the loss of his property at the prevailing market rates to be ascertained through valuation by a government valuer.
 - h. Any such other or further orders this honorable court deems fit to grant in the circumstances.
11. The 1st Defendant filed her Statement of Defence on 15th July, 2015. The Statement of Defence was subsequently amended on 3rd February, 2020.
12. The 1st Defendant denies the averments in the Further Amended Plaintiff and states that she purchased the suit land from the 2nd Defendant on 19th July, 2013 and is the current registered owner.
13. The 1st Defendant also states that prior to purchase, she viewed the land and found it vacant after which she conducted a search and confirmed that that the property was registered in the name of the 2nd Defendant.



14. The 1st Defendant further states that she entered into a land sale agreement with the 2nd Defendant, paid the requisite sums of money before taking possession of the suit property.
15. The 1st Defendant denies knowledge of the other entries on the green card and admits that sometime in October, 2013 someone went to the suit property to claim it but went away without taking any serious measures to prove his claim.
16. The 1st Defendant seeks orders that that the Plaintiff's suit be dismissed with costs.
17. The 4th Defendant filed its Statement of Defence on 4th March, 2020 in which it denies the averments in the Plaint and seeks orders that the Plaintiff's suit against it be dismissed with costs.

Plaintiff's Evidence

18. Cleophas Oseso Tuka testified as PW1. He prayed that his witness statements dated 16th March, 2015 and 14th October, 2019 be adopted as part of his evidence, which prayer was granted.
19. He produced the documents in his list of documents dated 16th March, 2015, 23rd September, 2015, 14th October, 2019 and 6th March, 2020 as exhibits. The said documents were marked as follows;
 - a. The sale agreement dated 11th March 1999 as Exhibit P1.
 - b. Copy of the title deed for Ndundori/Lanet Block 5/460 (New Gakoe) as Exhibit P2.
 - c. Copy of the green card as Exhibit P3.
 - d. Photographs as Exhibit P4(a), (b) & (c).
 - e. Demand letters dated 28th March, 2014 as Exhibit P5(a), (b) and (c).
 - f. Plaintiff's Kenyan passport as Exhibit P6.
 - g. Notice of institution of a suit dated 19th September, 2019 as Exhibit P7.
20. He testified that he purchased the suit property on 11th March, 1999 after conducting due diligence.
21. He also testified that at the time of the purchase, the suit property was registered in the name of Mohammed Jaweed -as shown on the green card.
22. He further testified that he paid the full purchase price and was issued with a title deed on 30th March, 1999.
23. It was his evidence that he was only able to fence the land using poles and barbed wires adding that he did not authorize anybody to sell the land on his behalf.
24. It was also his evidence that he did not sign any documents of transfer and yet the green card shows that on 17th July, 2007, the land was transferred to Hussein Jahi Yusuf- the 3rd Defendant.
25. It was further his evidence that he was not in the country during the time of the purported transfer to the 3rd Defendant- Hussein Jahi Yusuf. He added that he does not know Salim and he never authorized him to cultivate the suit parcel.
26. He testified that he does not know the Defendants and that he only came to know about them after conducting an official search.



27. He also testified that he has never appeared before the Land Control Board to obtain consent to transfer the suit parcel and also testified that he has not surrendered his original title deed. He further testified that he had in court the original title deed that was issued to him.
28. It was his evidence that he would like the court to give him back his parcel of land but since someone else is occupying it, he would like compensation at market rates.
29. He asked that the prayers sought in his further amended plaint dated 14th October, 2019 be allowed.
30. In his witness statements, the Plaintiff states that after purchasing the suit property from Mohammed Jaweed Kan Din Jajdin, the property was transferred by Tawfiyq Commercial Agencies to him.
31. He also states that between the years 2004 and 2013, he was away in the United States for missionary work and when he went to the suit property, he found persons unknown to him carrying out development without his consent.
32. He further states that when he applied for a copy of the green card, he discovered that the suit property was now registered in the name of Ruth Wanjiru Karanja.
33. He explains that the registration in favour of Ruth Wanjiru Karanja was done on 2nd December, 2013 and that the previous registered owners were Iddi Issa Nasuru registered as the owner on 3rd February, 2011 and Hussein Jahi Yusuf registered as the owner on 17th July, 2007.
34. Upon cross examination by counsel for the 1st Defendant, the Plaintiff confirmed that the suit property was sold to him by Mohammed Jaweed for kshs. 90,000/= in the year 1999 and that they signed the sale agreement.
35. The Plaintiff also confirmed that he paid the purchase price by Cheque No. 002592 whose copy he did not have in court.
36. The Plaintiff further confirmed that there were witnesses to the agreement and the agent, one Imam Abubakar, was also a witness.
37. The Plaintiff confirmed that Imam Abubakar was the agent selling the land on behalf of Mohamed Jaweed but also stated that Mohamed Jaweed was present and that he signed the sale agreement.
38. The Plaintiff also confirmed that he took possession of the land, fenced it but did not do any other activity on it.
39. The Plaintiff stated that he asked a neighbor to watch over the suit land for him but the said neighbour later moved away. He added that he did not know any other neighbour because there were not many people living in the area at the time
40. The Plaintiff also stated that he was the only one who used to check on the suit property and after he left the country there was no one to watch over it.
41. The Plaintiff further confirmed that he went to the United States of America in the year 2004 after purchasing the suit property in the year 1999.
42. The Plaintiff stated that he came back in the year 2013 after a period of nine years and that he does not know the 1st Defendant adding that he had never met her. The Plaintiff also stated that he does not know the 2nd and 3rd Defendants.



43. The Plaintiff further admitted that he purchased the suit property but was not living on it and confirmed that he did not sue the vendor Mohammed Jaweed because he did nothing wrong. He also confirmed that he did not sue the agent because he has no claim against him.
44. The Plaintiff further confirmed that he conducted a search before he purchased the suit property but he did not have the said copy of the search certificate in court. He stated that Mohammed Jaweed had the title deed in his name but he did not have a copy of the said title with him.
45. The Plaintiff further stated that apart from the title deed, he signed other documents which he could not remember. He further stated that he did not remember any transfer documents and neither did he have copies of the transfer documents.
46. The Plaintiff further confirmed that he did not remember if Mohammed Jeweed signed the consent to transfer. He stated that he did not have a copy of the receipt for stamp duty payment and did not have a copy of the consent to transfer.
47. He reiterated that he was issued with the title on 30th March, 1999 but only fenced the suit parcel and did not develop it any further.
48. PW1 admitted that he does not know that the 1st Defendant lawfully purchased the suit property, that he was not aware of her sale agreement or that she had a title deed to the suit land.
49. PW1 also admitted that he had a green card which he got from the Lands Office and that his name appears on it even though he does not know how the land was transferred to other parties.
50. The Plaintiff further admitted that the green card shows that the land now belonged to the 1st Defendant. He stated that he noticed that there was a problem around the year 2014 and 2015 when he went to the suit property and found a residential house being constructed.
51. The Plaintiff confirmed that he asked the people he found on the land and they told him that the suit property belonged to a certain lady.
52. The Plaintiff also confirmed that he did not ask them to leave and neither did he report to the chief or police station but he instead contacted his lawyer to follow up.
53. The Plaintiff further confirmed that according to the green card, the 1st Defendant was issued with a title in the year 2013.
54. The Plaintiff admitted that the case was filed in 2015 when he discovered that something peculiar was happening. He also admitted that he did not know about laches and that he was not late in instituting action.
55. He further admitted that he signed some documents which could include the consent. He also confirmed that the photographs shown to him show that a house is being built but he could not tell what stage the building had reached because he had not gone to the property.
56. The Plaintiff confirmed that he had not investigated the said issue since he was not an investigator and confirmed, however, that further he had cited fraud in his plaint.
57. The Plaintiff also confirmed that the search shows two other persons who are Iddi Issa & Hussein. He explained that these persons names appear before the name of the 1st Defendant. He added that he has been defrauded by Hussein and the other persons whom it is alleged that he transferred/sold the suit land to.



58. The Plaintiff further confirmed that it is the DCI who investigate fraud but since the matter is in court, he did not report the matter to the DCI.
59. The Plaintiff admitted that he did not do forensic investigations in the matter and reiterated that he wanted his land back. He stated that the 1st Defendant was in possession of land that he owns.
60. The Plaintiff also admitted that the sale could not be legal because he was not involved in the sale and transfer to the 1st Defendant.
61. On the issue of compensation, the Plaintiff admitted that he had not done any valuation and that his estimation was one million which he expected to be paid by the person in occupation.
62. The Plaintiff confirmed that there was fraud because he had shown that he still has in his possession the original title of the suit property.
63. Upon cross examination by counsel for the 4th Defendant, the Plaintiff admitted that he purchased the suit property on 11th March, 1999.
64. The Plaintiff also admitted that after the sale, he signed certain documents with the agent and was issued with his title deed two weeks after.
65. The Plaintiff further admitted that he did not know if the agency still existed but added that two to three years ago, the agency was in existence.
66. The Plaintiff confirmed that he did not check with the agency to get copies of the documents as he had only gone to the lands office to do a search on 17th October, 2013.
67. The Plaintiff also confirmed that he was asked for a copy of his Identity Card and PIN when he conducted the search.
68. The Plaintiff further admitted that he has previously been involved in the purchase of some other property adding that it was not recent. He explained that he bought the suit land for Kshs. 80,000/= and that he also paid some other amounts before he was given the title deed. He went on to state that the amounts paid might have included stamp duty.
69. The Plaintiff reiterated that he was away for nine years, did not authorize any transactions and that he had the original and copy of the title deed of the suit property.
70. The Plaintiff also admitted that the Lands Office kept the records and issued title deeds but when he went to see the Land Registrar, he was told that they could only act on an order of the court.
71. Upon re-examination, the Plaintiff stated that he realized that someone was on his land in the year 2015 and that prior to the year 2015, he did not know that the land had been transferred.
72. The Plaintiff also stated that he only came to know of the previous transactions in the year 2013 after conducting a search adding he was not involved in any transactions with the Defendants.
73. The Plaintiff further stated that it would not be possible to transfer the land if he still had the original title.
74. The Plaintiff's case was then closed.



Defendant's Evidence.

75. Ruth Wanjiru Karanja testified as DW1. She testified that she is the 1st Defendant and that she had filed in court a witness statement on 15th July, 2015. She asked the Court to adopt it as part of her evidence which prayer was granted.
76. The 1st Defendant also sought also to rely on the list of documents dated 14th July, 2015. The said documents were produced and marked as follows;
 - i. The Sale Agreement dated 19th July, 2013 as Exhibit D1.
 - ii. The Title deed issued on 3rd February, 2011 in the name of Iddi Issa as Exhibit D2.
 - iii. Search Certificate dated 17th July, 2013 in the name of Iddi Issa as Exhibit D3.
 - iv. Green Card opened on 22nd November, 1995 as Exhibit D4.
 - v. Title Deed issued on 2nd December, 2013 in the name of Ruth Wanjiru as Exhibit D5.
 - vi. Search Certificate dated 15th July ,2015 in the name of Ruth Wanjiru Karanja and payment receipt dated 10th July 2015 as Exhibit D6 (a) and (b).
 - vii. Photographs of the developments on the suit parcel as Exhibit D7 (a) to (e).
77. In her testimony, the 1st Defendant stated that land parcel No. Dundori/Lanet Block 5/460 (New Gakoe) belonged to her and explained that she purchased it in the year 2013. She went on to explain that prior to the said purchase, she had asked her friends and land brokers to assist her in finding a suitable parcel of land for purchase.
78. The 1st Defendant also testified that she was shown several parcels of land and she chose the suit parcel after it was shown to her by a broker whom she met through her friend.
79. The 1st Defendant further testified that her friend one Samuel Njoroge and the broker took her to one Salim who in turn took them to visit the suit parcel.
80. It was the evidence of the 1st Defendant that when she visited the suit parcel, there was maize and beans growing on it, it was not fenced and that there was no building or development on it.
81. It was also the evidence of the 1st Defendant that the parcel measures 50 by 100 adding that Salim was the caretaker of the suit parcel and was also farming on it.
82. It was her further evidence that when she asked Salim about the owner of the suit property, Salim informed her that the land was on sale for Kshs. 700,000/= but did not take her to the owner of the suit property as the owner was away.
83. It is her testimony that the owner asked Salim to show her a copy of the title and a copy of his Identity Card.
84. The 1st Defendant also testified that when she did a search, she found out that the registered owner of the suit property was one Iddi Issa Nasuru who is the 2nd Defendant in the present suit.
85. The 1st Defendant further testified that they agreed that the owner was to come to Nakuru from Mombasa and when he did, they went to an advocate's office where they agreed on a purchase price of Kshs. 700,000/=.



86. It was also the evidence of the 1st Defendant that she paid the money through the bank, then she applied for the consent, Iddi signed the transfer forms and she was issued with the title deed after two weeks.
87. It was also the evidence of the 1st Defendant that she took occupation of the suit property in the year 2013, dug a pit latrine, fenced the property and put building materials on it.
88. It was her further evidence that she had since built a house on the property and lives there with her family.
89. The 1st Defendant testified that after constructing the foundation and building the wall, the contractor called her and informed her that someone had visited the suit parcel claiming that it belonged to him.
90. The 1st Defendant also testified that she informed the contractors to tell the said person to wait for her but upon arriving at the construction site there with her friend Njoroge, she did not find the said person.
91. The 1st Defendant further testified that she arrived at the suit property twenty minutes after the phone call and waited but the said person who was claiming ownership of the suit parcel did not come back and neither did he leave any message or phone number.
92. It was the evidence of the 1st Defendant that she thought it wise to talk to Salim and inform him of the happenings and he informed her that he had not heard anything. She confirmed that she did not, however, talk to the 2nd Defendant.
93. It was also the evidence of the 1st Defendant that no one showed up after that but in the year 2015, she was served with documents that relate to the suit property and the present suit.
94. It was further the evidence of the 1st Defendant that she did not know the Plaintiff and that it is not true that she had fraudulently obtained the suit property as she only met the 2nd Defendant when she was purchasing the suit property.
95. The 1st Defendant testified that when she received the court documents, she got in touch with the 2nd Defendant and Salim to tell them about the suit but they did not take action and neither has she followed up with them since.
96. The 1st Defendant also testified that she has seen the green card that was produced by the Plaintiff which shows the Plaintiff's name at entry No. 4 while her name is at entry No. 10.
97. The 1st Defendant further testified that apart from the 2nd Defendant, she did not know anyone else whose name appears on the green card and therefore it was not true that they colluded together with the other Defendants to defraud the Plaintiff.
98. It was the evidence of the 1st Defendant that it was not true that she knew that the parcel was owned by the Plaintiff adding that she agrees with the entries on the green card and the statement of the Land Registrar that the parcel of land belongs to her.
99. It was also the evidence of the 1st Defendant that she heard the prayer of the Plaintiff for compensation and according to her, she cannot compensate the Plaintiff because she had not fraudulently taken the parcel from him.
100. It was further the evidence of the 1st Defendant that had she known that the parcel belonged to the Plaintiff or that it had problems, she would not have bought it and further no document showed that it was probable.



101. The 1st Defendant testified that she had never gone to the Chief or the elders with regard to the land and neither had she ever been to the police to answer to charges of fraud.
102. The 1st Defendant also testified that she completed construction in the year 2015 and is currently living on the land and that there has never been any injunction issued against her.
103. The 1st Defendant concluded her evidence by praying that the court dismisses this suit and awards her costs.
104. In her witness statement, the 1st Defendant stated that Salim who showed her the suit property was an uncle to the 2nd Defendant.
105. The 1st Defendant also stated that upon perusal of the documents filed by the Plaintiff, they appeared to be fraudulent and reiterated that she was the legal and registered owner of the suit property and a bona fide purchaser for value without notice.
106. Upon cross examination by counsel for the Plaintiff, the 1st Defendant confirmed that she purchased the suit property on 19th July, 2013 and was issued with the title on 2nd December, 2013.
107. The 1st Defendant also confirmed that she waited for two months before she started development on the suit parcel in September adding that the person who showed up to claim the suit suit visited in October.
108. The 1st Defendant further confirmed that she was only able to talk to the 2nd Defendant after being served with court processes and that she did not know how the 2nd Defendant acquired the suit parcel.
109. The 1st Defendant admitted that the consent and the transfer were done on 19th July, 2013 adding that the documents she gave to the advocate before she signed the sale agreement were: a photo, Identity Card and Pin Certificate.
110. The 1st Defendant also admitted that she did not have the said documents in court explaining that they were with her lawyer.
111. She further admitted that she paid all the money to the lawyer and does not remember seeing the stamp duty receipt. She explained that the 2nd Defendant came with the original title deed, ID copy, his PIN Certificate and the photographs.
112. The 1st Defendant admitted that she did not appear before the Land Control Board and that her friend Samuel Njoroge was present at the lawyer's office and can testify that he saw her sign the transfer forms.
113. The 1st Defendant also admitted that she was present when the Plaintiff testified and she saw him produce an original title deed and a sale agreement.
114. The 1st Defendant confirmed that the title deed in the name of the Plaintiff was issued on 30th March, 1999 and among the documents that were given to their lawyer, was the original title deed.
115. The 1st Defendant admitted that she did not understand how the Plaintiff could still have in his possession the original title deed if the parcel was transferred.
116. The 1st Defendant reiterated that the 2nd Defendant surrendered his title. She explained that Salim who was an uncle to the 2nd Defendant was tilling the land and she paid the 2nd Defendant for the crops that were growing on the suit land at the time.
117. The 1st Defendant confirmed that she paid for the crops in cash and confirmed that she would not be calling Salim as a witness in this suit.



118. She also confirmed that Samuel Njoroge was not a resident in the area but was her friend whose advice she depended on while purchasing the suit land.
119. The 1st Defendant further confirmed that it is not true that the Plaintiff is the legal owner of the suit parcel because the title had changed hands from him and that she wanted the court to look into the matter further as she was not willing to give up the land and its development.
120. The 1st Defendant admitted that Exhibits D7 (a) – (e) are photographs that she took of the suit property and that one would have to visit the parcel to confirm what is on it.
121. The 1st Defendant also admitted that she took the photographs using her phone and that she had more photographs in her phone.
122. Upon the court seeking clarification, the 1st Defendant admitted that she had not thought about the possibility of the court finding in the favour of the plaintiff and had therefore not engaged the plaintiff in a possible out of court settlement.
123. On re-examination, the 1st Defendant stated that the transfer process was handled by a lawyer and that she saw 2nd Defendant's title which was an original.
124. The 1st Defendant also stated that she saw the Plaintiff holding a title in his hand and she could not confirm if its original as she was served with a copy.
125. She further stated that she did not know if the three titles had been subjected to forensic audit and that she was in agreement with contents of the green card that was served upon her by the Plaintiff.
126. The 1st Defendant stated that she had not done any wrong in relation to the parcel and that if there is a mistake or wrong, it was not on her and the person who created the wrong should be punished.
127. Samuel Njoroge testified as DW2. It was his evidence that he has known the 1st Defendant for a period of over fifteen years and that he knew that a suit had been instituted against her in respect of a parcel of land.
128. It was also his evidence that he filed a statement on 15th July, 2015 and prayed that it be adopted as part of his evidence.
129. It was his testimony that that he was present when the 1st Defendant was looking for land and that they were taken to the suit land by one Salim who was at the time growing maize on it but the land had no developments.
130. DW2 testified that the suit property belonged to the 2nd Defendant adding that he did not know him before the transaction.
131. DW2 also testified that the suit property had a title deed and that they conducted an official search to confirm ownership.
132. DW2 further testified that they went to a lawyer, an agreement was drawn and payment was made. He testified that thereafter, the 1st Defendant took occupation of the suit property and put up a perimeter wall.
133. It was his evidence that the 1st Defendant lives on the parcel adding that when she was fencing the property in the year 2013, someone went to the parcel to claim it.
134. It was also his evidence that the contractors on the property called the 1st Defendant who in turn called him and they went to the suit property but they did not find the said person.



135. It was further his evidence that they waited but the said person did not show up and did not leave a message. He went on to narrate that the said person came back in the year 2015 to serve the court papers.
136. DW2 testified that no one had ever claimed the land, they had never been to the Chief in an attempt to resolve any dispute. He also denied ever knowing the Plaintiff adding that he first saw him in court.
137. DW2 stated that the entries in the green card are correct and also confirmed that the Plaintiff's name was on the green card. He stated that the other persons whose names appeared on the green were not complaining about DW1's ownership.
138. DW2 also testified that he was present when the Plaintiff testified and confirmed that he could not explain how two people could have original titles to the same parcel of land.
139. DW2's testimony was that there was nothing wrong they had done with respect to the transaction relating to purchase of the suit parcel.
140. Upon cross examination by counsel for the Plaintiff, DW2 admitted that he was present when the agreement for sale of the suit parcel was signed.
141. DW2 also admitted that the lawyer explained the transfer process before the transfer forms were signed adding that the transfer forms and other documents were signed on the same day. He could not remember the other documents.
142. DW2 further stated that while at the lawyer's office, he did not sign any documents and he could also not remember how much they paid for the transfer. He explained that the lawyer who took charge of the process.
143. DW2 stated that he did not remember whether the 1st Defendant appeared before the Land Control Board and added that the 1st Defendants title is the legal one.
144. DW2 confirmed that he was present when the Plaintiff testified and admitted that he did not know how it can happen that the Plaintiff had his original title.
145. DW2 also admitted that he did not know that the original title must be surrendered during the transfer process. He denied that he is a broker and also denied that he knew Salim before the transaction.
146. DW2 confirmed that in the year 2013, someone went to the suit land and lay claim to it. He also confirmed that in the year 2015, they were served with the papers relating to this suit.
147. DW2 confirmed he was aware that the Plaintiff had the original title deed but they did not carry out the investigations to establish how the Plaintiff still retained possession of the Original title.
148. DW2 also confirmed that they asked Issa (the 2nd Defendant) and he said that the parcel was sold to him by Hussein (the 3rd Defendant) and that they did not make any other follow ups because they believed that the Lands Office had the documents.
149. The 1st Defendant's case was closed.
150. Upon application by counsel for the Plaintiff, the court closed the 2nd and 3rd Defendants cases, who despite service failed to enter appearance.
151. The 4th Defendant's case was closed on 18th January, 23 without them calling any witness.



Issues For Determination.

152. The Plaintiff filed his submissions on 10th February, 2023, the 1st Defendant filed her submissions on 27th February, 2023 while the 4th Defendant filed its submissions on 24th February, 2023.
153. The Plaintiff's submissions are on whether he is entitled to the prayers sought in the Plaint.
154. The Plaintiff submits that the 1st Defendant alleged to have purchased the suit property from the one Iddi Issa Nasuru (2nd Defendant) who did not enter appearance and could not therefore explain how he acquired the suit property.
155. The Plaintiff also submits that his ownership of the suit property had not been disputed by any other person registered before him and that at the time the suit property was allegedly sold, he was out of the country on missionary duties.
156. The Plaintiff further submits that the 1st Defendant pleaded that she was a bonafide purchaser for value and it was therefore incumbent upon her to establish that she had conducted due diligence before buying the suit property.
157. The Plaintiff relies on Section 26 of the [Land Registration Act](#) and submits that a title deed can be cancelled if there is evidence that the same was obtained fraudulently or through misrepresentation.
158. The Plaintiff also relies on Section 80 of the [Land Registration Act](#) and submits that the court has powers to order for rectification of a register by directing that any registration be cancelled and/or amended if it is satisfied that the said registration was obtained by fraud or omission or made by mistake.
159. The Plaintiff submits that his title deed was issued in March, 1999 while that of the 1st Defendant was issued in December, 2013 further submits and that it is trite law that a new title deed for a parcel of land can only be obtained upon surrender of the original title deed as two titles cannot exist at the same time.
160. The Plaintiff further submits that in the circumstances of this case, there is no evidence on how the suit parcel of land was transferred to the 3rd Defendant in the absence of the original title deed and therefore good title did not pass to the 1st and 2nd Defendants and since he had acquired the title to the suit property before the 3rd Defendant, it can only be construed that he is the rightful owner of the suit property.
161. The Plaintiff relies on the case of Lawrence P. Mukiri Mungai, Attorney of Francis Muroki Mwaura v Attorney General & 4 Others [2017] eKLR and submits that he had proved his case on a balance of probability sought that orders sought in his Further Amended Plaint be granted.
162. The 1st Defendants submits on the following issues;
 - a. Fraud
 - b. Bonafide Purchaser
 - c. Equity
163. The 1st Defendant submits that the Plaintiff did not prove the listed particulars of fraud on the part of the Defendants as the burden of proof lies on the one who alleges. On this point the 1st Defendant relies on the case of Demutila Nanyama Pururmu vs Salim Mohammed Salim (Eld HCA No. 138 of 2018) and Sections 109 and 112 of the [Evidence Act](#).



164. The 1st Defendant also relied on the case of Vijay Morjaria vs Nansingh M. Dabar (citation not given) and submits that she was a bona fide purchaser for value without notice because she had conducted due diligence before purchasing the property.
165. The 1st Defendant also relied on the cases of Khadija Mohammed vs Amina Abdi Duba & another Malindi HCA No. 83 of 2019, Falcon Global Logistics Co. Ltd vs Management Committee of Eldama Ravine Boarding Primary School (Eldoret HC ELC No. 117 of 2014), Eunice Grace Njambi Kamal & another vs Hon. Attorney General & 5 Others Civil Suit No. 976 of 2012 in support of her arguments that she is bonafide purchaser for value without notice.
166. In her submissions, the 1st Defendant reiterates her evidence in court, reiterates that the Plaintiff has not proved fraud and also submits that the Plaintiff was guilty of laches.
167. The 1st Defendant relies on the case of Amina Karama vs Njagi Gachangua & Others (Embu ELC No. 09 of 2020) and submitted that delay defeats equity.
168. The 1st Defendant further relies on the case of Ibrahim Mungara vs Francis Ndegwa (citation not given) and submits that the Plaintiff was the equitable owner of the suit property at one time but that she is the legal owner of the property as a bonafide purchaser for value without notice.
169. The 1st Defendant then sought that the Plaintiff's suit be dismissed with costs.
170. The 4th Defendant in its submissions, reiterated the contents of the pleadings and identified the following issues for determination;
 - a. Whether the Plaintiff's pleadings in the Plaint disclose a cause of action against the Land Registrar.
 - b. Whether the allegations of fraud have been discharged.
 - c. Whether the Plaintiff is entitled to the reliefs sought.
171. On the first issue, the 4th Defendant submitted that the Plaintiff's Further Amended Plaint did not disclose any cause of action against it and so the suit had no substantive or legal weight was therefore an abuse of the court process.
172. The 4th Defendant relies on the judicial decisions of Susan Rokih vs Joyce Kandie & 6 Others [2018] eKLR and DT Dobie & Co. (K) Ltd v Muchina [1982] KLR in support of its arguments.
173. On the second issue, the 4th Defendant relies on the judicial decisions of M'bitio Ntiro vs Mbae Mwirichia & Another [2018], Gladys Wanjiru Ngacha vs Theresa Chepsaat & 4 Others [2013] and submits that the Plaintiff in his Plaint alleged that its acts with respect to the suit property were illegal and fraudulent but it failed to prove its allegations of fraud.
174. On the third issue, the 4th Defendant submits that the right to indemnity under Section 81 of the [Land Registration Act](#) arises where a person suffers damage by reason of any rectification of the register under that Act or by reason of any error in a copy of, or extract from the register or document or plan certified under the Act.
175. The 4th Defendant then sought that the Plaintiff's suit be dismissed with costs.



Analysis And Determination.

176. After considering the pleadings, evidence and rival submissions filed in this suit, the tow issue that arises for determination is whether the Plaintiff is entitled to the orders sought in his Further Amended Plaintiff and who should bear the costs of this suit.

A. Whether Plaintiff Is Entitled To The Orders Sought In His Further Amended Plaintiff

177. The orders sought have been set out in the preceding paragraphs but in order to put things into perspective, I reproduce them as hereunder:

- a. A declaration that the Plaintiff is the lawful/legal owner of the property all that parcel of land known as Ndundori/Lanet Block 5/460 (New Gakoe).
- b. Cancellation of registration of the property in the name of the Defendants either jointly and or severally in favour of the Plaintiff.
- c. Rectification of the register to restore the name of the Plaintiff as the registered owner of the property all that parcel of land known as Ndundori/Lanet Block 5/460 (New Gakoe) to the exclusion of the Defendants either jointly or severally.
- d. Vacant possession or orders of eviction of the Defendants jointly and or severally either by themselves, servants or agents from the property all that parcel of land known as Ndundori/Lanet Block 5/460 (New Gakoe).
- e. Permanent orders of injunction restraining the defendants jointly or severally either by themselves, servants or agents from in whatsoever manner dealing in the property prejudicial to the Plaintiff.
- f. Costs of the suit.
- g. Interest on (f) above at court rates.
- (i). In the alternative, the Defendants be severally or individually jointly condemned compelled to compensate the Plaintiff in monetary terms for the loss of his property at the prevailing market rates to be ascertained through valuation by a government valuer.
- h. Any such other or further orders this honorable court deems fit to grant in the circumstances.

178. The Plaintiff's case is that he purchased Land Parcel No. Ndundori/ Lanet Block 5/460 (New Gakoe) from Mohamed Jaweed on 11th March, 1999 and was issued with a title deed on 30th March, 1999.

179. It was also the Plaintiff's case that he fenced the suit property and proceeded to the United States of America for missionary work in the year 2003 and came back to Kenya in the year 2013.

180. It is further the Plaintiff's case that when he came back to the country, he went to the suit property and found construction going on and upon doing a search, he found out that the suit land had been transferred from his name to the 3rd Defendant who then transferred it to the 2nd Defendant and it eventually ended up in the hands of the 1st Defendant as the registered owner.

181. The Plaintiff denies transferring the suit land to the 3rd Defendant and he therefore prays that the orders sought in his Further Amended Plaintiff be granted.



182. In support of his case, the Plaintiff produced an agreement dated 11th March, 1999 drawn by Tawfiyq Commercial Agency between the Plaintiff and Mohamed Jaweed for the sale of land parcel No. Block 5/460 (New Gakoe) for a consideration of Kshs. 80,000/=.
183. A copy of the title deed for Dundori/Lanet Block 5/460 (New Gakoe) measuring approximately 0.0450 issued to the Plaintiff, Cleophas Oseso Tuka on 30th March, 2022 was produced. The Plaintiff had in court the original title deed.
184. A copy of the green card for land parcel No. Dundori/Lanet Block 5/460 (New Gakoe) measuring approximately 0.0450 Hectares was produced with entries that were as follows;
- a. Entry No. 1 dated 22nd November, 1995 indicates that the property was registered in the name of Al Islamiya Estates Limited.
 - b. Entry No. 2 dated 1st December, 1995 indicates that the suit property was transferred to Mohamed Jaweed Kan Din Jajdin with the title deed issued on the same day as per entry No. 3.
 - c. Entry No. 4 dated 30th March, 1999 indicates that the suit property was transferred to Cleophas Oseso Tuka and the title deed issued on the same day as per entry No. 5.
 - d. Entry No. 6 dated 17th July, 2007 shows that the property was transferred to Hussein Jahi Yusuf Ahmed and was issued with the title deed on the same day as per entry No. 7.
 - e. Entry No. 8 dated 3rd February 2011 indicates that Iddi Issa Nasuru was registered as the owner with a title deed issued on the same day as per entry No. 9.
 - f. Entry No. 10 dated 2nd December, 2013 indicates that the property was transferred to Ruth Wanjiru Karanja and the title deed issued on the same day as per entry No. 11.
185. The Plaintiff also produced photographs of the suit land together with demand letters issued to the 1st to 3rd Defendants.
186. In his evidence, the plaintiff categorically stated that he does not know the 3rd Defendant- Hussein Jahi Yusuf Ahmed- and that he neither sold nor transferred the suit parcel of land to him.
187. The copy of the Plaintiff's passport No. A480248 issued on 23rd May, 2003 with the expiry date of 22nd May, 2005 was also produced. The said passport was renewed on 2nd November, 2008.
188. The Visa endorsed in the passport shows that it was issued on 2nd February, 2004 with an expiry date of 1st February, 2009.
189. A stamps on the said passport shows that the Plaintiff exited Kenya on 10th February, 2004 and gained entry into the United States of America on 11th February, 2004.
190. Among the other stamps on the passport is one dated 4th May, 2006 by the Immigration Officer Kenya and another stamp dated 31st May, 2006 which shows entry into the United States of America.
191. A further endorsement on the passport is a Canadian Visa issued on 16th June, 2004 with an expiry date of 16th June, 2005. The stamps on the said visa show that he exited Nairobi on 30th May, 2006 and gained entry into Canada on 5th November. The year on the Canadian stamp is not legible.
192. Another Canadian Visa is endorsed on the said passport issued on 6th July, 2005 with the date of expiry indicated as 30th September, 2005.



193. There is also another Canadian visa endorsed on the said passport that shows that it was issued on 23rd August 2006 and set to expire on 22nd February, 2007.
194. The Plaintiff also produced another passport No. A1199457. Some of the stamps on the said passport show that he exited Kenya on 25th February, 2010 and gained entry into the United States on 26th January, 2011.
195. There are other stamps showing that he exited Kenya on 14th January, 2008 and 8th March, 2010 and was admitted in the United States of America on 9th March, 2010, 30th June, 2010, 5th January, 2011 and 27th January, 2011.
196. There in another visa endorsement on the said passport issued in New York on 1st June 2010. It shows that the Plaintiff exited Kenya on various dates including 5th January, 2012, 29th January, 2012 and 28th October, 2013.
197. These passports and numerous stamps of entry and exit are intended to show that the Plaintiff was mostly living outside of the country after he purchased the suit parcel.
198. The 1st Defendant's case on the other hand was that she had purchased the suit property from Iddi Issa Nasuru on 19th July, 2013.
199. It is also the 1st Defendant's case that before she bought the suit property, she conducted due diligence that included going to see the suit property.
200. It is further the 1st Defendant's case that upon purchase, she was issued with a title deed and commenced construction. She stated that she is currently in occupation of the suit property.
201. She argued that even though the Plaintiff was still in possession of his original title deed, she is an innocent purchaser for value and is therefore protected.
202. In support of her case, the 1st Defendant produced a copy of the Sale Agreement dated 19th July, 2013 entered into between herself and Iddi Issa Nasuru (the 2nd Defendant. It is for the sale of land parcel No. Dundori/Lanet Block 5/460 (New Gakoe) for a consideration of Kshs. 700,000/=.
203. The 1st Defendant produced a copy of the title deed for Dundori/ Lanet Block 5/460 (New Gakoe) measuring 0.0450 Hectares and issued on 2nd December, 2013.
204. A copy of the certificate of search issued on 17th July, 2013 was also produced in evidence to show that the suit parcel was registered in the name of Iddi Issa Nasuru on 3rd February, 2011.
205. A copy of the green card of the suit property was also produced. Its entries have already been set out earlier in this judgement. The 1st Defendant also produced photographs of the developments on the suit land.
206. It is not disputed that the Plaintiff was registered as the owner of the suit property as at 30th March, 2009. It is also not disputed that he has in his possession the original title deed of the suit property. It is also on record and in his pleadings that he denies having sold the suit property to Hussein Jahi Yusuf Ahmed- the 3rd Defendant and also denies any knowledge of him. In support of this denial, he states that he was out of the country during the alleged sale as evidenced from the numerous endorsements on his passport.
207. From the entries contained in the Plaintiff's passport, which I have elaborately set out in the preceding paragraphs, it is clear that the Plaintiff was in and out Kenya during the years 2003 to 2013.



208. The Plaintiff has particularized fraud on the part of the Defendants. The burden was on him to prove that the suit land was fraudulently transferred from him to Hussein Haji Yusuf – the 3rd Defendant.
209. The Court of Appeal in the decision of *Kinyanjui Kamau v George Kamau Njoroge* [2015] eKLR held as follows;
- “It is trite law that any allegations of fraud must be pleaded and strictly proved. See *Ndolo v Ndolo* (2008) 1 KLR (G&F) 742 wherein the Court stated that:
- “...We start by saying that it was the respondent who was alleging that the will was a forgery and the burden to prove that allegation lay squarely on him. Since the respondent was making a serious charge of forgery or fraud, the standard of proof required of him was obviously higher than that required in ordinary civil cases, namely proof upon a balance of probabilities; but the burden of proof on the respondent was certainly not one beyond a reasonable doubt as in criminal cases...”
210. The particulars of fraud against the 1st Defendant, the Plaintiff alleged that the 1st Defendant caused the suit property to be registered in her name without the consent of the Plaintiff and without performing due diligence.
211. In the particulars of fraud against the 2nd Defendant, the Plaintiff reiterates that the 2nd Defendant caused the suit property to be registered in his name when the property was owned by the Plaintiff and that he failed to apply for the Land Control Board consent.
212. The particulars of fraud against the 3rd Defendant are similar to the particulars of fraud against the 2nd Defendant.
213. The particulars of fraud against the 4th Defendant are that he caused the registration of the suit property in the names of the 1st, 2nd and 3rd Defendants without notifying the Plaintiff and without the surrender of the original title deed among other particulars.
214. During the hearing the Plaintiff indicated that he had in his possession the original title deed that had been issued to him and denied having sold the suit property to the 3rd Defendant from whose title the 2nd and 1st Defendant obtain theirs.
215. In summary, the Plaintiff’s evidence in support of his case is hinged on two things:
- a. He was living outside the country at the time of the said transactions and could therefore not have sold the suit land to the 3rd defendant.
 - b. He has in his possession the original title deed which ought to have been surrendered to the Land registrar during the process of transfer to the 3rd Defendant if it is indeed true that he was party to the sale and transfer to him.
216. During his evidence, the Plaintiff stated that according to the Green Card, on 17th July, 2007 the suit property was transferred to Hussein Jahi Yusuf during which period he was out of the country. This is supported by the evidence in his passport. There is a visa issued by the United States of America to the Plaintiff on 2nd February, 2004 which was to expire on 1st February, 2009.
217. Further, there is a stamp on his passport which shows entry into the United States of America on 31st May, 2006 having exited Kenya on 30th May, 2006.



218. The Next endorsement on the Plaintiff's passport is dated 25th August, 2007. It is stamped on a Canadian Visa that was issued on 25th July, 2007. This visa was set to expire on 24th January, 2008.
219. It is my view that the entries on the passport are proof that at the time of the transfer of the suit property from the Plaintiff's name to the 3rd Defendant, he was not in the country having exited Kenya on 30th May, 2006. Any transaction in respect of the parcel of land leading to registration to the 3rd Defendant could not have been done by him. This is proof of fraudulent, unprocedural and illegal dealings in respect of the Plaintiff's land.
220. The 2nd and 3rd Defendants are parties to this suit but chose not to participate in the trial and/or give evidence in support of acquisition of title to the suit land by them. As things stand, the evidence of the Plaintiff negating the title of the 2nd and 3rd Defendant remains unchallenged.
221. The 4th Defendant participated in the hearing but chose not to call any witness. Its case was subsequently closed when they failed to attend court on the date set for hearing of its case. In its submissions it alleges that no cause of action has been established against it. Nothing can be further from the truth. The Plaintiff in his further amended plaint has particularized fraud on the part of the 4th Defendant. The plaintiff gave evidence of his shock on discovery that his land had been transferred and registered in the name of the 1st Defendant after an alleged transfer by him (the Plaintiff) to the 3rd Defendant who then allegedly transferred the land to the 2nd Defendant who in turn allegedly sold and transferred it to the 1st Defendant.
222. The 4th Defendant does not explain how the Plaintiff continues to hold an original title deed which is ordinarily surrendered during the transfer process.
223. The 4th Defendant also failed to tender any evidence at all on the documents on whose strength the suit land was transferred from the Plaintiff to the 3rd Defendant. This is information that is ordinarily contained in the parcel files which are in the custody of the 4th Defendant.
224. Failure by the 4th Defendant to tender any evidence or call any witnesses even when presented with an opportunity to do so is an acknowledgment by them that something went terribly wrong and they are too embarrassed to admit it.
225. It is my considered view, therefore, that the Plaintiff demonstrated that the transfer of the suit property from his name to the 3rd Defendant-Hussein Jahi Yusuf Ahmed was not only fraudulent but was clearly unprocedural and illegal.
226. During the hearing of the 1st Defendant's case, she argued that she was an innocent purchaser for value as she had no notice of the Plaintiff's claim over the suit land. In her evidence, she states that her due diligence was limited to visiting the suit parcel.
227. The Black's law Dictionary 8th Edition defines "bona fide purchaser" as:
- "One who buys something for value without notice of another's claim to the property and without actual or constructive notice of any defects in or infirmities, claims or equities against the seller's title; one who has in good faith paid valuable consideration for property without notice of prior adverse claims."



228. The Ugandan case of *Katende v. Haridar & Company Limited* [2008] 2 E.A.173 held as follows;

“For the purposes of this appeal, it suffices to describe a bona fide purchaser as a person who honestly intends to purchase the property offered for sale and does not intend to acquire it wrongly. For a purchaser to successfully rely on the bona fide doctrine, (he) must prove that:

- a. he holds a certificate of title;
- b. he purchased the property in good faith;
- c. he had no knowledge of the fraud;
- d. he purchased for valuable consideration;
- e. the vendors had apparent valid title;
- f. he purchased without notice of any fraud;
- g. he was not party to any fraud.

229. The supreme court in *Dina Management Limited v County Government of Mombasa & 5 others* (Petition 8 (E010) of 2021) [2023] KESC 30 (KLR) (21 April 2023) (Judgment) considered the question of a bonafide purchaser for value and made reference to the Court of Appeal decision in *Samuel Kamere* (Infra) and the decision in *Munyu Maina* (Infra) and stated thus:

On the same issue, the Court of Appeal in *Samuel Kamere v Lands Registrar, Kajiado Civil Appeal No. 28 of 2005* [2015] eKLR stated as follows: *Petition No. 8 (E010) of 2021* 33 “...in order to be considered a bona fide purchaser for value, they must prove; that they acquired a VALID and LEGAL title, (Emphasis mine) secondly, they carried out the necessary due diligence to determine the lawful owner from whom they acquired a legitimate title (Emphasis Mine) and thirdly that they paid valuable consideration for the purchase of the suit property...” [93] As held by the Court of Appeal in *Munyu Maina v Hiram Gathiha Maina Civil Appeal No.239 of 2009* [2013] eKLR, where the registered proprietor’s root title is under challenge, it is not enough to dangle the instrument of title as proof of ownership. It is the instrument that is in challenge and therefore the registered proprietor must go beyond the instrument and prove the legality of the title and show that the acquisition was legal, formal and free from any encumbrance including interests which would not be noted in the register. [94]To establish whether the Appellant is a bona fide purchaser for value therefore, we must first go to the root of the title, right from the first allotment, as this is the bone of contention in this matter. (Emphasis mine)

230. The questions that follows is whether the 1st Defendant acquired a valid and legal title, whether they carried out the necessary due diligence and whether the root of her title is legal or valid.

231. I hold same the view as the Supreme court as set out in *Dina Management Limited* (Supra). A title cannot be said to be legal and valid if it is acquired from a person or persons who had no legal or valid title. For example, a title acquired from a person(s) who acquired a title fraudulently or unprocedurally cannot be said to be legal and valid.

232. It is evident that the title by the 3rd Defendant was acquired fraudulently and/or unprocedurally. From this acquisition and transfer, the 1st Defendant now holds title to the suit property. In all fairness, this title is neither legal nor valid.



233. Section 26 of the *Land Registration Act* speaks to indefeasibility of title held by a registered proprietor and that such title shall not be subject to challenge except on the ground of fraud or misrepresentation to which the person is proved to be a party; or where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.
234. While I empathise with the situation that the 1st Defendant finds herself in, it is evident that the root of her title is tainted with a fraud, illegality and failure to follow the correct procedure.
235. The 1st Defendant and her witness were just as perplexed as this court that the Plaintiff has in his possession an original title deed issued before the one held by the 1st Defendant. I cannot wish away this piece evidence. I find that the Plaintiff has proved his case on a balance of probability and such is entitled to orders (a) – (g) in the Further Amended Plaintiff.
236. With this finding, 1st Defendant, no doubt, is in a precarious situation. Lucky for her, the Plaintiff has made an alternative prayer -(g) (i)- that the Defendants be compelled to compensate him in monetary terms for the loss of his property at the prevailing market rates to be ascertained through valuation by a government valuer.
237. In my view this is a fair middle ground taking into consideration that the 1st Defendant has made substantial development on the suit parcel upon which stands her family home.

B. Who Should Bear Costs Of This Suit?

238. It is now settled that costs shall follow the event. This is in accordance with the provisions of Section 27 of the *Civil Procedure Act* (Cap. 21). A successful party should ordinarily be awarded costs of an action unless the court, for good reason, directs otherwise.

Disposition.

239. In the result, I find that the Plaintiff's suit against the Defendants succeeds. Consequently, I enter judgment for the Plaintiff in the following terms.
- a. The Defendants shall jointly and/or severally compensate the Plaintiff, in monetary terms, for the loss of the suit land i.e Ndundori/Lanet Block 5/460 (New Gakoe). The compensation shall be in accordance with the prevailing market rates and shall be made within 6 months of the date hereof.
 - b. A Government Valuer (appointed in consultation with defendants jointly and/or severally and the Plaintiff) shall conduct a valuation to ascertain the prevailing market rates of the suit land.
 - c. The cost of valuation shall be met by the defendants jointly and/or severally./
 - d. In the event of failure by the Defendants jointly and/or severally to comply with orders in (a) – (c) above, prayer (a)- (e) in the Further Amended Plaintiff shall take effect as orders of this Court.
 - e. The Plaintiff shall have the cost of this suit and interest thereon at court rates from date of Judgement until payment in full
240. It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAKURU THIS 17TH DAY OF JULY, 2023.

L. A. OMOLLO

JUDGE

