



**Apondo & 3 others v Opondo (Environmental and Land Originating Summons  
E013 of 2023) [2025] KEELC 5339 (KLR) (17 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 5339 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MIGORI  
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E013 OF 2023**

**MN KULLOW, J**

**MARCH 17, 2025**

**IN THE MATTER OF LIMITATION OF ACTIONS ACT, CAP 22 LAWS OF KENYA  
IN THE MATTER OF CLAIM FOR ADVERSE POSSESSION  
PURSUANT TO SECTION 38 OF THE LIMITATION OF ACTIONS ACT**

**AND**

**IN THE MATTER OF LR. NO. KAMAGAMBO/MANYAMBA/652**

**BETWEEN**

**MARY ATIENO APONDO ..... 1<sup>ST</sup> PLAINTIFF  
TOBIAS OMONDI OPONDO ..... 2<sup>ND</sup> PLAINTIFF  
JOHN ASIS OPONDO ..... 3<sup>RD</sup> PLAINTIFF  
BENARD JUMA OPONDO ..... 4<sup>TH</sup> PLAINTIFF**

**AND**

**PETER ACHACHA OPONDO ..... DEFENDANT**

**RULING**

1. By Notice of Motion dated 27/6/2023, the Applicant sought the following orders:-
  - i. Spent
  - ii. An order of inhibiting the restrictions of any transfer, lease, or any other instrument whatsoever in respect of LR. No. Kamagambo/Manyamaba /652 pending the hearing and determination of the suit.



- iii. That the court do issue a temporary order of injunction against the Respondent and/or his agents from trespassing, building, fencing, excavating, cultivation, demolishing and/or erecting structures on the suit land.
2. The Application was based on the ground that the Applicant has been in adverse possession of the suit land for a period of over 12 years and that he took possession of 0.8 hectares in the year 1978.
3. The Applicant further states her late husband is buried on the said land and that the suit land is at the risk of being transferred/or to the detriment of the Applicant.
4. The Applicant in support of the above stated grounds have deponed in the Supporting Affidavit dated 27/6/2023 and annexed to the said Affidavit are various documents in support of the agreements contained herein and photos of houses, Title Deed, certificate of official search.
5. The application was opposed by the Respondent by way of a Replying Affidavit sworn on 13/7/2023. The respondent contends that he is the absolute registered owner of Land Parcel Kamagambo/Manyamba /652 and that he bought the said land from one Odondo Omwano and has subsequently settled his parents and siblings on the land.
6. He further stated that the 1st Applicant indeed co-habited with his late father and that the children listed as the Supporting Affidavit were not sired by his late father.
7. He took issue with the Applicant's assertion that she took possession and has been continually in occupation of the land. He states that the Applicant is claiming a beneficiary interest and later made a claim of adverse possession.
8. I have considered the Application herein and Replying Affidavit in opposition to the same and the submissions filed by the parties and it is my considered view that the matter raised by the parties can only be ventilated at a full hearing where evidence has to be adduced on the contested issues raised and in the circumstances, I make no finding on the merit of Application but order that the parties do maintain the status quo obtaining at the filing of the Application and suit be set down for hearing on priority basis.
9. I will also issue no orders as to costs.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 17<sup>TH</sup> DAY OF MARCH, 2025**

**MOHAMMED N. KULLOW**

**JUDGE**

In the presence of:-

Vincent Court Assistant

Ms. Aoleon Abisai For the Plaintiff

No Appearance for the Defendant

