



**Muiruri v Murigi & 4 others (Environment & Land Case 140 of 2016)
[2023] KEELC 20441 (KLR) (28 September 2023) (Judgment)**

Neutral citation: [2023] KEELC 20441 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 140 OF 2016
LN MBUGUA, J
SEPTEMBER 28, 2023**

BETWEEN

JANE MUTHONI MUIRURI PLAINTIFF

AND

JACKSON MURIAMBOGO MURIGI 1ST DEFENDANT

JOHN MAINA MBURU 2ND DEFENDANT

GITHUNGURI CONSTITUENCY RANCHING CO LTD 3RD DEFENDANT

COOPERATIVE BANK OF KENYA 4TH DEFENDANT

THIKA DISTRICT LAND REGISTRAR 5TH DEFENDANT

JUDGMENT

1. By a plaint dated 20.1.2016, the Plaintiff states that she has been the registered owner of the property known as Ruiru Kiu Block 2/2480 since 19.12.2006. That in 2013, she was in the process of selling off the suit property to one Samson Mwangi when she was informed by the 5th Defendant that the green card for the suit property was missing. Owing to delays in reconstruction of her title records, she was prompted to file Misc Civil Application No. 145 of 2015 for an order of reconstruction of the title records by the 5th Defendant.
2. She states that whilst the said suit was pending, she discovered that the 5th Defendant opened a new title extract on 9.1.2013 in collusion with the 1st-3rd Defendants and further on 8.7.2013 issued a title to the 1st Defendant who charged the property to the 4th Defendant.
3. The Plaintiff seeks the following orders;
 - a. An order declaring that the suit property belongs to the Plaintiff.



- b. An order declaring that registration of the property in the name of the 3rd Defendant and subsequent transfer of the suit property from the 3rd Defendant to the 1st Defendant is illegal, fraudulent and of no legal consequences.
 - c. An order directed to the 4th Defendant to cancel the title deed issued to the 1st Defendant and any charge registered against the suit property in favour of the 4th Defendant and reopen the title records for the suit property in the name of the Plaintiff.
 - d. General and punitive damages for trespassing on the suit property.
 - e. That costs be awarded to the Plaintiff.
4. The suit is opposed by the 1st Defendant who filed a statement of defence and counterclaim dated 19.9.2016. He contends that if registration of the suit property to the plaintiff occurred, the same was unlawful as the suit property was not available for allocation. In his counterclaim, he seeks a permanent injunction restraining the Plaintiff from interfering with his ownership of the suit property, damages and costs.
 5. The 2nd and 3rd Defendants filed a joint statement of defence dated 17.8.2016. They contend that the suit property was initially denoted by ballot No. 2107 issued by the 3rd Defendant to one Joseph Ndung'u (now deceased) and the same was subsequently transferred to his wife Jane Wangui Ndungu.
 6. They aver that on 26.2.2011, the 2nd Defendant purchased the suit property from Jane Wangui Ndungu, and in turn, he sold that land to the 1st defendant.
 7. The 4th Defendant also filed a statement of defence on 24.5.2016. but on 18.12.2018. Counsel for the plaintiff informed the court that the case against the 4th defendant had been withdrawn.
 8. The statement of defence of the 5th Defendant is dated 23.6.2020. It avers that the register for the suit property was opened on 9.1.2013 when the suit property was registered in the name of the 3rd Defendant and the land was transferred to the 1st defendant who was then issued with a title on 8.7.2013.

The Evidence

9. The Plaintiff, Jane Muthoni Muiruri testified as PW1. She adopted her witness statement filed on 18.2.2016 as her evidence. She produced the 7 documents filed on the same day as P. Exhibit 1-7, and other documents filed on 17.10.2018 as P. Exhibit 8-17.
10. She contends that she owns the suit property since 19.12.2006 having bought it from one Peter Mbugua. She further states that the green card to her title got lost/misplaced by the 5th Defendant while she was in the process of selling the suit land to one Samson Mwangi.
11. That on 18.2.2014, she did attend to the 5th Defendant in a bid to trace her title records and owing to delays, she filed Msc Civil Application Number 145 /2015 for an order of reconstruction of her title. Unfortunately, a new title was created and issued to the 1st Defendant.
12. Upon cross-examination, she stated that she was previously known as Jane Muthoni Kinyanjui, Kinyanjui being her husband's name. She was not married when she bought the suit property in 2006.
13. She further stated that she bought the suit property from Peter Mbugua but she does not have a copy of the title which the said Peter had prior to selling the property to her. She added that the sale agreement is not witnessed by an advocate and it does not contain the vendor's Id Card and postal address. She



- added that she does not know whether Peter Mbugua procured his title procedurally and that she did not get to see the title which Jane Muthoni Raphael held.
14. Referred to registry sheet map 5 which was shown to her, she stated that it bears parcel number 2480 but she is not sure whether that is where her plot is located. She further stated that she has not lodged any complaint with the police regarding the missing land records relating to her title.
 15. She further stated that she has never co-owned the suit property with one Joseph Kimani Gatheca who is her in law, but she wanted to give him a power of attorney at the time she wanted to sell the suit property so that he could sell it for her. The said Gatheca then entered into an agreement with Samson Mwangi Maraka. The sale price was ksh.3.6 million, but she did not receive any money from Gatheca as the sale flopped for reasons she does not know.
 16. Asked whether she could identify a land mark near the Suitland, she stated that she has not been there for some time.
 17. She also stated that she is not the one who went to the land control board, but again added that she went to the land control board with Mr. Maraka when she wanted to sell the suit land. She further stated that the serial number for the consent in that transaction is 607661 while the application is dated 12.2.2013. She added that both documents bear similar details including serial number to the 1st Defendants documents.
 18. Upon re-examination, PW1 stated that she surrendered the original title in the name of the vendor when transfer in her name was being processed.
 19. She also stated that she knows where the suit land is situated as she used to farm it but she stopped. She added that her green card was opened on a Saturday since those days, government offices used to work on Saturdays.
 20. The 1st Defendant, Jackson Muriambogo Murigi advanced his own case, testifying as DW1. He adopted his witness statement dated 16.10.2017 as his evidence, and he produced 36 items in his bundle dated 21.5.2018 as D. Exhibit 1-36.
 21. He told the court that he purchased the suit property from the 2nd Defendant when it was still registered to the 3rd Defendant, thus the consent from the land control board was secured in 3rd defendant's name. He had duly ascertained the history of the land and had confirmed that the 2nd defendant held a beneficial interest in the suit property.
 22. He stated that he has not had any issue with Jane Ndungu who sold the suit property to the 2nd Defendant. He added that his prayer is that the title issued to the Plaintiff be canceled as there is no response to his counterclaim.
 23. Upon cross-examination, DW1 stated that there was no other title in place at the time he was issued with title. What the vendor gave him was a share certificate. Further, nobody was using the suit land in 2013 when he was buying that land and to date, he is the one in possession of the said land.
 24. He further stated that when he was buying the land, the 2nd defendant gave him documents of the suit land dating year 1968, including documents in the name of the original owner that is Joseph Ndungu, the sale agreement between the 2nd defendant and the widow of Ndungu and the clearance certificate from the company, 3rd defendant.
 25. The case of the 2nd Defendant and 3rd defendants was advanced by John Maina Mburu (2nd defendant), who testified as DW2. He adopted his witness statement dated 17.8.2016 as his evidence, and he



- produced the 11 documents in their bundle dated 14.11.2018 as D. Exhibit 37 to 47. Their further bundle of 31 documents dated 28.2.2019 were produced as D. Exhibit 48 to 78.
26. DW2 introduced himself as the chairman of the 3rd defendant as from 12.9.2009. He gave a history of their company to the effect that it was formed in 1968 as a co-operative society. In 1973, it became a limited liability company.
 27. It was his testimony that to become a member of the 3rd Defendant, one is supposed to have 100 shares representing 1 1/4 acre piece of land, an 1/8 of a residential plot and 1/4 of an acre plot.
 28. He told the court that he bought the suit property from Jane Wangui Ndungu on 26.2.2011. At the time of purchase, the seller had the original ballot No. 2107 and all membership receipts. Previously, the suit land belonged to her late husband who was the holder of share certificate No. 4166 dated 16.8.1982. She also had her subsequent share certificate No. 095 dated 14.11.2005 as the 3rd Defendant had transferred her husband's shares to her.
 29. He testified that he bought the suit land at ksh.800,000/= vide a sale agreement witnessed by Gathii and Company Advocates. He was thereafter issued with a share certificate and subsequently sold the property to the 1st Defendant in June 2012 but he did not have a title at the time.
 30. It was his testimony that the Plaintiff was not a member of the 3rd Defendant and that the 3rd Defendant has no member by the name of Jane Muthoni Raphael, the said person was a land Registrar at Thika Land Registry. He added that there has been no dispute of double allocation in the company relating to the suit property thus they do not know how the Plaintiff's title was generated. He also stated that Jane Wangui Ndungu is not the same as Jane Muthoni Raphael.
 31. Upon cross-examination, DW2 stated that the 3rd defendant is a land buying company, which subdivided its land and shared out to its members. For one to benefit, a person had to be a member of the company and holder of a duly issued share. He added that Jane Muthoni Raphael, was not a member of their company and she had no share thereof.
 32. He further stated that the letter dated 27.5.2002 confirms that titles relating to parcel 8897 and 9314 owned by the 3rd Defendant were surrendered for purposes of subdivision as indicated by the map sheets at page 38 and 40 of the 2nd and 3rd Defendant's bundle. He added that the suit property is contained in sheet No. 4 at page 39 of the same bundle.
 33. He stated that all the properties contained in map sheet No. 4 were subdivisions out of land belonging to the 3rd Defendant. Titles No. 8897 and 9314 were consolidated before the subdivision was carried out and the map sheets were compiled in 1991.
 34. He also stated that the suit property was comprised in Ballot No. 2107 issued on 25.2.1985 to Joseph Ndungu and when he passed on, the suit was transferred to his wife, Jane Wangui Ndungu whom he purchased the suit property from and he was in its possession when he sold it.
 35. DW2 also stated that the procedures for processing titles for shareholders of the 3rd Defendant is that a green card is first registered in the name of the 3rd Defendant. Thereafter, it transfers the land to the shareholder after applying for consent of the land control board, but the 3rd Defendant must issue a clearance certificate. He further stated that there was no clearance certificate issued authorizing transfer to Jane Muthoni Raphael in respect of the suit property.
 36. DW2 further stated that the 1st person to be registered to the suit land was the 3rd Defendant then it was transferred to the 1st Defendant at his request. He further stated that the land registrar relied on



- documents presented by the 3rd Defendant to register the 1st Defendant as proprietor as only the 3rd Defendant could ascertain the rightful owner.
37. DW2 also stated that he is testifying in his capacity as purchaser of the suit land as well as a director of the 3rd Defendant as he had been authorized by the board of the 3rd Defendant.
 38. When referred to his share certificate No. 3639, he stated that it is signed by the 3rd Defendant's secretary and himself as the 3rd Defendant's chairman. He further stated that the land represented in the shares of the 3rd Defendant was balloted in 1985 but the larger parcel was purchased in 1968.
 39. He averred that the ballot numbers were issued on the basis of the company's subdivision scheme plan before survey was finalized. On the scheme plan, the suit parcel was designated as No. 2107 hence ballot No. 2107. He further stated that survey numbers were issued in 1991 but the green cards were not opened at that time.
 40. He stated that he does not know when John Ndungu died, his wife is the one who reported that he had died. He learnt about it when the suit land was sold to him. His children did not object to the sale but they did not show him letters of administration of the estate of John Ndungu.
 41. DW2 also stated that he knows Jane Muthoni Raphael whom he met when he was introduced to land registrars at Thika upon election as chairman of the 3rd Defendant.
 42. When referred to the green card relating to the Plaintiff's title, he stated that it shows that the suit land was first registered in the name of the government of Kenya on 15.2.2003 and transferred to Jane Muthoni Raphael on the same day and subsequently transferred to Peter Mbugua Gachukia on 14.5.2003. But he denies that the said land was indeed registered in year 2003.
 43. In re examination, DW2 clarified that there is no conflict of interest as directors are allowed to own properties and they are supposed to have over 600 shares equivalent to 18 portions, so it is even a qualification to own land for one to be a director. Thus one can have as much property and the more you have the better chances of being a director. He also stated that Plaintiff's consent has a similar date and same serial number with their consent dated 12.2.2013, but theirs is the one which effected transfer to the 1st Defendant.
 44. The case of the 5th Defendant was advanced by 1 witness, namely Robert Mugendi Mbuva, a land Registrar stationed at Ruiru land registry who testified as DW3. He adopted his witness statement dated 29.6.2020 as his evidence. He also produced their 21 documents in a bundle dated 23.6.2020 as D. Exhibit 1-21.
 45. He told the court that as per their records, the registered owner of the suit land is the 1st Defendant and that the suit property falls within registry map sheet no.4. He testified that he does not see any request by the Plaintiff for reconstruction of title in the parcel file, they don't have her records and he was not aware of a Misc suit No. 145 of 2015 for reconstruction of a title.
 46. Upon cross-examination, DW3 stated that the 1st Defendant was registered as owner of the suit land on 20.6.2013 and title was issued on 8.7.2013, whereas the green card was opened on 9.1.2013. The suit land was first registered in the name of the 3rd Defendant who transferred it to the 1st Defendant.
 47. He stated that the land registry cannot open a green card where one exists as that would duplicate the land. Referred to the Plaintiff's green card at page 15 of her documents dated 23.10.2018, he stated that they don't have such a green card in their records.
 48. DW3 stated that it is the 3rd Defendant who can authenticate the owner of the suit property as it was the one allocating the land, such that allottees would require a clearance form and a transfer duly signed



- by the 3rd defendant. In the instant case, they have a transfer received on 20.6.2012 and an original land control board consent dated 12.2.2013 serial no.607661 issued to the 3rd and 1st Defendants.
49. Referred to the consent at page 36 of the Plaintiff's documents, issued from the Plaintiff to Samson Mwangi, he stated it has the same date as the 1st and 3rd Defendant's consent which is unusual.
 50. He stated that green cards do get lost, destroyed, etc and there is a legal procedure of reconstructing another green card. Where an application for reconstruction is made, the registry would confirm the authenticity of a client's title. The Applicant would avail his title and confirm the root, in this case, the 3rd Defendant which was the allocating authority would be best placed to give particulars.
 51. Referred to the transfer at page 20 of the Plaintiff's bundle from the Plaintiff to Samson Mwangi, he stated that the document was assessed then franked and rejected with comments of the Registrar being that the owner was to appear in person and provide clearance from the 3rd Defendant but he cannot tell if the Plaintiff complied with the said directions.
 52. In re-examination, DW3 stated that he is not able to vouch for the authenticity of the title issued to the Plaintiff as well as the authenticity of the LCB receipts as they are not in their parcel file. He could also not authenticate the green card issued to the Plaintiff as it was a photocopy.
 53. DW3 also stated that at page 39 of the Plaintiff's bundle, there is a power of attorney registered but it was never submitted to the land's office. It was only assessed. The Plaintiff is the donor while Joseph Kimani Gatheca is the donee.
 54. He also stated that the suit plot could not move from the Government of Kenya to the Plaintiff without involvement of the 3rd Defendant.

Submissions

55. The submissions of the plaintiff are dated 4.4.2023. She avers that the records she obtained during due diligence prior to the purchase of the suit property show that she owns the suit property and her title dates back to 2006.
56. She also argues that she conducted a search on the suit property in 2013 to enable her effect a transfer to one Samson Mwangi Maraka and as at 2013, the suit property was still registered in her name. She submits that the consent issued on 12.2.2013 by the 3rd Defendant is unprocedural since the person selling the land was the 2nd Defendant. Further the stamp duty paid in respect of the said transaction was only ksh.6000/= for a ksh.2.7 million transaction.
57. She also points out that the court was never provided with the death certificate of Joseph Ndungu nor letters of administration for his estate to show how the property moved to his widow then to the 2nd Defendant.
58. It is also submitted that the 5th Defendant did not deny that the Plaintiff was once the registered proprietor of the suit land in Misc application no. 145 of 2014 and it has not disputed that there were previous searches and receipts issued in 2006 with respect to the suit land.
59. The Plaintiff also argues that she cannot be denied the suit land on the basis that the title reads sheet no. 5 instead of 4 as it is the registrar's work to confirm before issuing titles.
60. It is also her submission that under Section 23 (1) of the *Land Registration Act*, the title in her name cannot be vitiated as no fraud or misrepresentation is attributable to her. She prays for an award of ksh.1,000,000/= in general damages.



61. The submissions of the 1st defendant are dated 9.6.2023 addressing the following issues;
 - a. Who is the rightful proprietor of the suit property.
 - b. Whether the Plaintiff is entitled to the reliefs sought; and
 - c. Who should bear costs of the suit
62. On the 1st issue, the 1st Defendant submits that where there is more than 1 title to the same property, the court has a duty to investigate the root of the said titles to determine which title was procured procedurally. To this end, reference was made to the cases of *Hubert L Martin & 2 Others v Margaret J Kamar & 5 others* [2016] eKLR as well as the case of *Munyu Maina v Hiram Gathiha Maina* [2013] eKLR.
63. He submits that in his evidence, he has been able to show that his title was acquired procedurally. On the other hand, the Plaintiff was unable to demonstrate how her title existed prior to the opening of her alleged register and as such, it cannot be sanctified by the court. He relies on the case of *Ardhi Highway Developers Limited v West End Butchery Limited & 6 others* [2015] eKLR.
64. On the 2nd and 3rd issue, the 1st Defendant submits that the Plaintiff has not demonstrated that the 1st Defendant's title was acquired illegally, unprocedurally or through a corrupt scheme as required under Section 26(1) of the *Land Registration Act, 2012*.
65. The submissions of the 2nd and 3rd defendants are dated 9.6.2023. They address the following issues;
 - a. Which between the Plaintiff's title and the 1st Defendant's title can trace its root from the 3rd Defendant?
 - b. Whether the Plaintiff's claim is merited?
 - c. Whether the Defendant's defence is merited?
 - d. Costs?
66. On the 1st issue, the 2nd and 3rd Defendants submit that the Plaintiff has not traced the suit plot to the 3rd Defendant who is the allocating authority, thus she has failed to dispense her burden of proof under Section 107 of the *Evidence Act*. To this end, reference was made to the case of *James Njoroge Gitau v Lucy Chepkurui Kimutai* [2018] eKLR.
67. They submit that they have been able to trace the root of the title issued to the 1st Defendant from allocation to the 3rd Defendant to titling. They rely on the case of *Esther Ndegi Njiru & Another v Leonard Gatei* [2014] eKLR to argue that the title issued without a clearance from the allocating company is unprocedural.

Determination

68. The issues falling for determination are; Who is the legitimate owner of the land known as Ruiru/Kiu Block 2/2480?, which relief is available to the parties.
69. This is a case whereby there are two titles relating to the same suit property, Ruiru/Kiu Block 2/2480. The Plaintiff challenges the title issued to the 1st Defendant and vice versa. Courts have held that when a title is under challenge, the holder of such title has the burden to prove that their title was procedurally acquired.



70. In *Munyu Maina v Hiram Gathiha Maina*, [2013] eKLR, the Appeal Court held that: -
- “We have stated that when a registered proprietor root of title is challenged, it is not sufficient to dangle the instrument of title as proof of ownership. It is that instrument of title that is challenged and the registered proprietor must go beyond the instrument to prove the legality of how he acquired the title to show that the acquisition was legal, formal and free from any encumbrances including any and all interests which would not be noted in the register.”
71. The Plaintiff vehemently defended her title whose records are not available with its supposed custodian who is the 5th Defendant.
72. She told the court that she purchased the suit property from Peter Mbugua Gachukia vide a sale agreement dated 9.9.2006. The said sale agreement is stated to be drawn by Karago SN & Company Advocates yet it is not witnessed by any advocate. The only witness to the transaction is one Joseph Kinyanjui whose name is entered by hand and who PW1 stated is her husband.
73. PW1 stated that in February 2013, she was in the process of selling the suit property to one Samson Mwangi Maraka through her allegedly appointed Attorney known as Joseph Kimani Gatheca when she discovered that the green card to the suit property was missing.
74. It is important to point out that in her witness statement dated 18.2.2014, paragraph 5, the Plaintiff claimed that she attended the 5th Defendant to inquire about the loss of the green card but when cross-examined, she stated that she did not appear in person before the Land Registrar. This inconsistency raises the question as to whether indeed the green card to the title she holds really got lost.
75. Be that as it may, the sale to the said Samson Mwangi was just a ploy. The evidence of DW3 is that the Power of Attorney issued by the Plaintiff to Joseph Kimani who was to act as vendor in the said sale was never registered. It was just assessed for purposes of payment of stamp duty. Thus, the said donee had no capacity to sell the suit land on behalf of the Plaintiff.
76. What more, the plaintiff was not able to give an account of the root of her title. During cross examination, she stated that she did not know if Mr. Mbugua (the one who sold the land to her) procured his title procedurally.
77. Further, the plaintiff admits that when she attempted to lodge a transfer of the land to Samson in year 2013, the land registry made remarks for her to appear in person and to avail clearance from the 3rd defendant. But during cross examination, she stated that “We did not go to Githunguri Ranching as directed by the Registrar...”. The plaintiff has not proffered any explanation as to why she didn’t find it necessary to comply with the Registrar’s directions.
78. On possession of the land, the plaintiff was completely mute on how she identified the land and took possession at the point of sale. She doesn’t indicated the nature and extent of due diligence she conducted when she was buying that land, particularly, whether she physically inspected the suit property so as to take possession. In her oral evidence, she simply states that she used to grow crops on that land, but during cross examination she stated that “I am not able to identify the land marks near the land. I have not been there for some time...”.



79. In the case of Torino Enterprises Limited v Attorney General (Petition 5 (E006) of 2022) [2023] KESC 79 (KLR) (22 September 2023) (Judgment), the SCOK had this to say on the issue of an innocent purchaser:

“An innocent purchaser for value would also denote one was aware of what they are purchasing by inspecting the suit premises.”

80. The foregoing evidence depicts a scenario where the plaintiff is laying claim to a parcel of land she doesn't know its location.

81. Having regard to all the evidence adduced herein, there is no doubts that the suit land was initially owned by the 3rd Defendant. Therefore, its title must be traced to a shareholder of the 3rd Defendant. The green card representing the Plaintiff's title was opened on 15.2.2003 in the name of the government of Kenya. And on the same date, it was registered to Jane Muthoni Raphael.

82. The evidence of DW2 who is also the 3rd Defendant's chairman was that Jane Muthoni Raphael has never its shareholder. The Plaintiff was unable to establish any nexus between the said Jane Muthoni Raphael and the 3rd Defendant.

83. Without establishing nexus between the 3rd Defendant and Jane Muthoni Raphael, the entire title held by the Plaintiff collapses without much ado.

84. As regards the title held by the 1st defendant, I find that DW2 was able to give a consistent and plausible account of the root of the said title. That the suit land initially belonged to one Joseph Ndungu, a share holder of the 3rd defendant who had balloted as No. 2107 in 1985, which ballot translated to the suit land.

85. Upon his death, his wife Jane Wangui Ndungu took over the shares, and she then sold the suit land to the 2nd Defendant by a sale agreement dated 26.2.2011. He in turn sold that land to the 1st Defendant vide a sale agreement dated 19.6.2012.

86. This evidence is corroborated by the evidence of DW3 who stated that as per their records, the green card to the suit land was first registered to the 3rd Defendant then transferred to the 1st Defendant. He also confirmed that it would have been impossible for the registrar to open a green card where one already existed.

87. DW3, while denouncing the green card availed by the plaintiff stated that the suit land under RUIRU/ KIU could not move from the government to Jane Muthoni without involvement of the 3rd defendant who were the allocating authority.

88. To this end, and on a balance of probability, I find that the 1st Defendant has established ownership of the suit land. His counterclaim is therefore merited. That being the case, and seeing that there are already two titles in existence, then I hereby proceed to cancel the title held by the plaintiff.

89. In the final analysis, I proceed to give the following orders;

1. Plaintiff's case is hereby dismissed while the counterclaim of the 1st defendant is allowed.
2. The title to the suit land Ruiru/kiu Block2/ 2480 in the name of Jane Muthoni Muiruri is hereby canceled.
3. The plaintiff is condemned to pay costs of the suit to the 1st Defendant only.



**DATED, SIGNED AND DELIVERED AT NAIROBI THIS 28TH DAY OF SEPTEMBER 2023
THROUGH MICROSOFT TEAMS.**

LUCY N. MBUGUA

JUDGE

In the presence of:-

Njo njo for Plaintiff

Otinga for 1st Defendant

Wachira holding brief for Kanyi for 2nd and 3rd Defendants

