



REPUBLIC OF KENYA



KENYA LAW
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**Kariuki v Mohamed & 2 others (Environment and Land Case
E021 of 2024) [2025] KEELC 3740 (KLR) (24 April 2025) (Ruling)**

Neutral citation: [2025] KEELC 3740 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE E021 OF 2024
LC KOMINGOI, J
APRIL 24, 2025**

BETWEEN

GEORGE NGURE KARIUKI PLAINTIFF

AND

MOHAMED YASIN MOHAMED 1ST DEFENDANT

KEZIAH WANJIRU GIKONYO 2ND DEFENDANT

LAND REGISTRATION, NGONG 3RD DEFENDANT

RULING

1. This is the ruling in respect of the preliminary objection dated 20th of June 2024. The grounds are;
 - i. That the Plaintiff lacks locus standi to institute the instant proceedings.
 - ii. That the Plaintiff's case as drafted and filed is legally incompetent, untenable and an abuse of the process of court and should be dismissed in limine costs for being in conflict with Sections 24,25 and 26 of the Land Registration Act No.3 of 2012.
2. The preliminary objection is opposed. There is a Replying Affidavit sworn by George Ngure Kariuki, the Plaintiff herein on the 25th of January 2025.
3. On the 6th of November 2024, the Court with the consent of the parties directed that the Preliminary Objection be canvassed by way of written submissions.

The 1st Defendant's submissions

4. They are dated 23rd January 2025. Counsel submitted that the Plaintiff has no locus standi to institute the instant proceedings. He has put forward the case of Law Society of Kenya v Commissioner of Lands & others Nakuru HC Civil Case No. 464 of 2000.



5. It is further submitted that as per Section 26 of the *Land Registration Act*, a Certificate of title is conclusive evidence of proprietorship. That as per the title, Anna Muthoni Njaimwe is the owner of Kajiado/Kipeto 1453 who is not a party to this suit. The Plaintiff is therefore not the owner of the suit property. He has put forward the cases of; *Max Victor Enterprises Ltd v Gulf African Bank Ltd & another* [2020] eKLR; *Rashid Kogi Muturi (suing on his behalf and on behalf of Thika Muslim Housing Cooperative Society Ltd claiming interest over LR 10821/531) v Screen Check Ltd & 3 Others* [2019] eKLR.
6. Counsel finally submitted that the Plaintiff has no legal or equitable status in connection with Title no. Kajiado/Kipeto 1453 since the same is owned by Anna Njaimwe who is not a party to this suit. He prays that the Preliminary Objection be upheld and the suit be dismissed with costs to the 1st Defendant.
7. The 2nd Defendant intimated to the Court that she was supporting the Preliminary Objection.

The Plaintiff's submissions

8. They are dated 29th January 2025. Reliance is placed in the case of *Mukisa Biscuits Manufacturing Company Ltd v West End Distributors Ltd* [1969] EA 696.
9. Counsel submitted that the exchange of land agreement confers beneficial ownership to the Plaintiff. She has put forward the case of *Edel Weiss Ltd v Kimani & another* [2023] KEELC 814 (KLR).
10. It is submitted that the Plaintiff has established beneficial ownership by the exchange of land agreement and has the locus standi to commence and prosecute these proceedings.
11. It is also submitted that the second limb of the Preliminary Objection does not meet the threshold set in the locus classicus Mukisa biscuit case.

Analysis and Determination

12. I have considered the Preliminary Objection, the Rival Submissions and the Authorities cited. The issue for determination is whether the Preliminary Objection is merited and whether the Plaintiff has locus standi to institute these proceedings.
13. The Plaintiff relies on the exchange of land agreement dated 6th October 2020 which states in part "...I, George Ngure Kariuki, I have agreed to exchange Mavoko Town Block 3/4360 and Mavoko Town Block 3/2037 with Kajiado/Kipeto/1453 which is owned by Annah Muthoni Njaimwe"
14. It is not clear whether the same was presented to the Land Registry for registration. It appears the same is still registered in the name of Annah Muthoni Njaimwe from 4th December 2012. She is not a party to these proceedings. In the case of *Max Victor Enterprises Ltd v Gulf African Bank Ltd & another* [2020] eKLR, the Court stated thus; "...For a Plaintiff to bring an action in Court it ought to have some legal or equitable status in connection with the subject matter of the Court action. In this case the subject matter is the suit property. Max Victor as the Plaintiff should have some legal or equitable status in connection with the suit property. That is to say, Max Victor should show some interest therein or right thereto enforceable at law or enforceable at equity. In this case it is clear Max Victor has not acquired any interest in the suit property rather it is an entity known as Ngongo Engineering Limited which owns the suit property and which consented to charge the suit property in favour of the bank as security for the facility the bank granted to Max Victor. Consequently, Max Victor has no locus to maintain an action for injunction either in law or equity to restrain the bank from exercising its statutory power of sale of the suit property."
15. I find that the Plaintiff has no legal or equitable status in connection to the suit property herein.



16. I find merit in the Preliminary Objection and the same is upheld. The suit is hereby dismissed with costs to the Defendants.

DATED, SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 24TH DAY OF APRIL 2025.

L.KOMINGOI

JUDGE

In the presence of:

Ms. Ithondeka for the Plaintiff

Ms. Makhanu for Mr. Wasonga for the 1st Defendant

Ms. Asasha for the 2nd Defendant

N/A for the 3rd Defendant

Court Assistant: Mutisya

