



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

ELC PETITION NO. 8 OF 2019

JOSEPH MUNYAMBU KAREGA.....PETITIONER

VERSUS

THE NATIONAL LAND COMMISSION.....1ST RESPONDENT

THE CHIEF LAND REGISTRAR.....2ND RESPONDENT

THE HON. ATTORNEY GENERAL.....3RD RESPONDENT

JOSEPH MWANGI KARIUKI.....INTERESTED PARTY

JUDGMENT

1. In the Petition dated 13th February, 2019, the Petitioner has averred that by a report on review of Grants and disposition of public land dated 28th April, 2017, and gazetted in the Kenya Gazette special issue of 9th November, 2018 and communicated to the Chief Land Registrar vide a letter dated 18th December, 2018, the 1st Respondent directed the Chief Land Registrar to revoke the title he was holding.
2. According to the Petitioner, the 2nd Respondent was directed by the 1st Respondent to revoke the title held by the Petitioner because the same was purportedly obtained fraudulently and that the 2nd Respondent was further directed to regularize the registration of parcel of land known as Ruiru East/Juja East Blocks/3972/ (the suit property) in favour of Joseph Mwangi Kariuki, the Interested party.
3. The Petitioner averred that by the time the 1st Respondent's letter came to his attention, he had undertaken a search on 22nd January, 2019 and found that a restriction had been registered against the title and that the effect of the 1st Respondent's report was to revoke his genuine title in respect of the suit property.
4. According to the Petitioner, the determination of the 1st Respondent had no legal basis and is founded on unproven facts and against all the principles governing property rights and that the orders of the 1st Respondent are illegal and in excess of its constitutional mandate.
5. According to the Petitioner, the 1st Respondent was aware of the suit the Interested Party had filed in High Court Civil Case Number 790 of 2013; that by a notice filed on 5th July, 2016, the Interested Party withdrew the said suit and that by way of a letter dated 25th July, 2016, the Petitioner was summoned by the 1st Respondent who indicated that they were investigating his title because a complaint had been raised on the same by the Interested Party.
6. It was averred by the Petitioner that the 1st Respondent called parties for hearing; that he informed the 1st Respondent that he had purchased the suit property from one Peninnah Wambui Marega and that on 28th October, 2016, he produced the said Peninnah Wambui Marega who testified that she had acquired the land from Juja Kalimoni Land Buying Company through ballot number 1740 under certificate number 1705.
7. It was averred by the Petitioner that during the hearing of 25th November 2016, the Petitioner was directed to surrender his original title to the 1st Respondent's forensic investigator; that the forensic investigator later on told him that his title was genuine and that when the 1st Respondent delivered its ruling, the same did not have the recorded proceedings.
8. According to the Petitioner, the 1st Respondent refused to appreciate that the original title belonged to Peninnah Wambui and that he was the second owner; that there does not seem to be any explanation why the ruling could be read on 28th April, 2017 and the same is not communicated to him and that the 1st Respondent did not have powers to determine a dispute involving private property.

9. The Petitioner finally averred that the Respondents have by their actions tacitly compulsorily expropriated the suit property and breached his rights and freedoms and that the 1st Respondent exceeded its powers. In the Petition the Petitioner has sought for the following orders;

a) A declaration that the first Respondent exceeded its powers in handling, dealing, directing and making declarations in respect of a dispute involving private property in respect of Title number Ruiru East/Juja East/Block 2/3972 and that the entire recommendations and determination should be set aside as being null and void.

b) A declaration that the Petitioner right to acquire own and deal with his property without being deprived of the same as guaranteed by Article 40 of the Constitution was violated by the state following the order to revoke the Petitioner's Title expunge his name from the register.

c) A declaration that the placing of a restriction against the Petitioner's title was a violation of his right and the said restriction caution and/or restrictive orders ought to be removed and set aside.

d) A declaration that first Respondent order to the Interested Party to take possession of the Petitioner's piece of land with immediate effect is against the provisions and the spirit of the rule of law and the Constitution.

e) Such further orders as the Court may deem just and expedient be issued.

f) Costs of the suit.

10. In his Replying Affidavit, the 1st Respondent's Acting Director of Legal Affairs deponed that the review of grants and dispositions of public land entails the 1st Respondent analyzing the process under which public land was converted to private land and making findings of the legality of the grant in question.

11. It was deponed that the Interested Party filed a complaint with the 1st Respondent vide a letter dated 29th June, 2016 regarding parcel number Ruiru East/Juja East /Block 2 /3972; that the 1st Respondent invited both parties to attend public hearings on 19th August, 2016, 2nd September, 2016 and 29th September, 2016 and that during the review hearings, the Interested Party appeared before the 1st Respondent and stated that he is the absolute proprietor of the suit property.

12. The 1st Respondent's Director deponed that the evidence adduced showed that the Interested Party was issued with two titles namely Ruiru East/Juja East Block 2/39/72 and Ruiru/Juja East Block 4/T2715; that having reviewed the legality of the Petitioner's grant over the suit property, the 1st Respondent prepared its determination and that if the Petitioner was aggrieved with the said determination, he should have lodged an appeal or in the alternative file judicial review proceedings.

13. It was deponed by the 1st Respondent that the right to own property under Article 40 of the Constitution is not absolute; that the 1st Respondent complied with the provisions of Articles 47, 50 and 252 of the Constitution and section 4 of the Fair Administrative Actions Act as well as sections 6 and 14 of the National Land Commission Act.

14. The 1st Respondent finally deponed that the Petition does not meet the legal threshold for the grant of conservatory orders as established by the Supreme Court in the case of *Gitara Peter Munya vs Dickson Mwenda Kithinji & 2 Others (2014) eKLR* and that the Petition does not meet the threshold laid in the case of *Anarita Karimi Njeru vs Republic (1979) eKLR*.

15. In response, the 2nd and 3rd Respondents filed Grounds of Opposition in which they averred that the revocation of the Petitioner's grant was done in accordance with **Section 14 (1) and 14 (5) of the National Land Commission Act** and that the National Land Commission, the 1st Respondent, has the power to direct for the revocation of all dispositions of land that were acquired unlawfully.

16. The 2nd and 3rd Respondents averred that the Petition is couched as an appeal against the decision of the 1st Respondent; that the right to own property as provided for under **Article 40 of the Constitution** is not absolute and that **Article 40 (6) of the Constitution** states that this particular right does not extend to property found to have been unlawfully acquired.

17. The Interested Party filed a Replying Affidavit in which he deponed that in the year 1986, he bought shares in Juja Farm (1976) Limited from Gachanja Mukora and that the said company was a land buying company and its members were entitled to 3.25 acres of land designated as "a farm" and another ¼ of an acre designated as "a plot".

18. It was the deposition of the Interested Party that upon survey, the "Farm" that was allocated to him was given title number Ruiru East/Juja East Block 2/3972 while the "Plot" was designated as Ruiru East Block 4/T.2715.

19. According to the Interested Party, he was issued with title documents for the two parcels of land; that in the year 2008, he was informed that some people were claiming that the land was theirs and that when he contacted a search on 17th November, 2008, he discovered that the land was registered in favour of the Petitioner.

20. It was deponed by the Interested Party that the Petitioner was given a fair and reasonable opportunity to be heard; that the Petitioner acquired the suit property fraudulently and that Juja Kalimoni Land Buying Company and Peninnah Wambui Marewga had nothing to do with Juja Farm (1976) Limited, the original allottee of the suit land.

21. The Interested Party also filed a notice of Preliminary Objection in which he averred that the decision of the 1st Respondent cannot be challenged in the manner sought by the Petitioner as the matter is now *res judicata* and that the Petition is incompetent.

22. In the Supplementary Affidavit, it was the deposition of the Petitioner that no complaint letter was ever served on him; that the 1st Respondent's Affidavit has omitted to state the dates that hearings took place; that the 1st Respondent has refused to produce proceedings and that the 1st Respondent's report was kept away from him from 28th April, 2017 until 9th February, 2019 when the papers were thrown on his land.

23. The Petitioner filed a second Further Supporting Affidavit in which he deponed that by the time he filed the Petition, he had not been supplied with copies of the proceedings of the 1st Respondent despite having requested for the same. The Petitioner annexed the proceedings on his Affidavit.

24. In his submissions, the Petitioner's advocate submitted that on several occasions during the proceedings at the NLC, the Petitioner, through his advocate, requested to be supplied with the statement of claim filed by the Interested Party and that the same was never supplied.

25. Counsel for the Petitioner submitted that even after arriving at a determination, the 1st Respondent kept it secret and the Petitioner only came to know about its existence on 9th February, 2019 and that six months having lapsed, the Petitioner could not file a judicial Review Application for an order of certiorari.

26. Counsel submitted that **Article 47** of the **Constitution** guarantees the right to a fair administrative action and that **section 4(3)** of the **Fair Administrative Action Act** was put in place to give effect to **Article 47** of the **Constitution** which provides as follows:

“Fair administrative action

(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(2) If a right or fundamental freedom of a person has been or is likely to be adversely affected by administrative action, the person has the right to be given written reasons for the action.

(3) Parliament shall enact legislation to give effect to the rights in clause (1) and that legislation shall—

(a) provide for the review of administrative action by a court or, if appropriate, an independent and impartial tribunal; and

(b) promote efficient administration.”

27. On the other hand, it was submitted, **Section 4(3)** of the **Fair Administrative Actions Act** provides as follows:

“(3) Where an administrative action is likely to adversely affect the rights or fundamental freedoms of any person, the administrator shall give the person affected by the decision-

(a) prior and adequate notice of the nature and reasons for the proposed administrative action;

(b) an opportunity to be heard and to make representations in that regard;

(c) notice of a right to a review or internal appeal against an administrative decision, where applicable;

(d) a statement of reasons pursuant to section 6;

(e) notice of the right to legal representation, where applicable;

(f) notice of the right to cross-examine or where applicable; or

(g) information, materials and evidence to be relied upon in making the decision or taking the administrative action.

28. It was submitted by counsel for the Petitioner that the Petitioner was denied the right to be heard and make representations; that the Petitioner was not given an opportunity to cross examine the complainant and that the decision of the 1st Respondent was contrary to **Article 47** of the **Constitution** and should be declared null and void.

29. Counsel for the Petitioner submitted that the 1st Respondent cannot oust the jurisdiction of the Environment and Land Court; that before commencing investigations in the matter, the Interested Party had sued the Petitioner in the ELC CASE No. 290 of 2013 in respect of parcel of land known as Ruiru East/Juja East Block 2/3972 and that the said suit was withdrawn by the Interested Party on 5th July, 2016. Counsel relied on the case of **Robert Mutiso Lelli and Cabin Crew Investments Limited vs National Land Commission & 3 Others (2017) EKL** where Aburili J. held as follows:

“I reiterate that the National Land Commission must not usurp the powers of a court of competent jurisdiction in as much as it has the power to inquire into how a title or disposition in public land was acquired. In this case, what the National Land Commission did was in effect to remove the pith of litigation from a court of competent jurisdiction and leave only a shell.”

30. It was submitted that the issue in dispute in ELC 790 of 2013 was ownership of the suit property; that the issue fell squarely within the jurisdiction of the ELC and that the 1st Respondent had no powers to transfer the dispute to itself.

31. Counsel for the Petitioner submitted that under **section 14(4)** of the **National Land Commission Act**, the Commission is only mandated to make a recommendation and not a determination on the issue of ownership of land and that the constitutionality of **section 14 (4)** of the **NLC Act** has been tested in the case of ***Mwangi Stephen Muriithi vs National Land Commission & 3 Others (2018) eKLR*** where the court held as follows:

“I find that there is no provision empowering the Commission to revoke titles even, where it is established that the same were unlawfully or illegally acquired. The power to revoke title is vested in the Registrar and not the Commission which can only recommend ... in any case., the provisions of Article 67 (2) of the Constitution cited above is clear and overrides the provisions of Section 14(4) of the Act which provides that, after hearing the parties in accordance with subsection (3), the Commission shall make a determination. To the extent that the Commission rendered a determination as opposed to a recommendation, I find that the decision is tainted with illegality.”

32. The 1st Respondent’s advocate submitted that the 1st Respondent obtained its jurisdiction to review the subject parcel of land from **section 14** of the **NLC Act** and **Article 68 (c) (v)** of the **Constitution**; that upon processing the documents, it established that the government was the transferor of the suit property and that it determined the subject parcel of land under **Articles 62, 67 (2) (a)** and **68 (c) (v)** of the **Constitution**.

33. It was submitted by counsel for the 1st Respondent that the Petitioner was notified of the hearing, supplied with the complaint and given an opportunity to make representations on 19th August, 2016, 2nd September, 2016 and 30th September, 2016 and that the Petitioner was served with the decision by way of actual posting and through gazette notice number 11714 of 9th November, 2018.

34. On his part, the 2nd and 3rd Respondents’ counsel submitted that the 1st Respondent is mandated to review all grants and dispositions of public land, either on its own motion or upon receipts of a complaint with a view of establishing its legality or propriety and that **Article 40** of the **Constitution** lays emphasis on the protection of rights to property stipulating that such rights do not extend to any property that has been unlawfully acquired.

35. Counsel submitted that the evidence presented before the NLC shows that the Petitioner’s title was fraudulently obtained; that the Petitioner being aggrieved by the decision of the 1st Respondent ought to have filed a judicial review application to have the decision of the 1st Respondent quashed and that this is not the proper forum to adjudicate the matter.

36. The 2nd and 3rd Respondent’s counsel relied on the case of ***Speaker of the National Assembly vs Karuma (1992) KLR 21*** where it was held that where there is a clear procedure for redress of any particular grievance prescribed by the Constitution or an Act of parliament, that procedure should be strictly followed.

Analysis and Findings

37. In the Petition before me, the Petitioner is seeking for several orders, including a declaration that the 1st Respondent exceeded its powers in handling, dealing, directing and making declarations in respect of a dispute involving private property in respect of Title number Ruiru East/Juja East/Block 2/3972 and that the entire recommendations and determination should be set aside as being null and void.

38. One of the grievances of the Petitioner is the alleged act of the violation of his rights under **Articles 40, 47 and 50 of the Constitution** by the 1st Respondent when it directed the 2nd Respondent to revoke its title. **Article 40 (1) of the Constitution** provides as follows:

“Subject to Article 65, every person has the right, either individually or in association with others, to acquire and own property of any description and in any part of Kenya.”

39. On the other hand, **Article 47 (1) of the Constitution** stipulates that every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair, while **Article 50** provides that every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court or, if appropriate, another independent and impartial tribunal or body.

40. Indeed, according to the Petitioner, his right to own property in any part of the country has been violated by the 1st Respondent’s direction to have his title cancelled and that having not been afforded a fair hearing, the 1st Respondent breached both **Articles 50** and **47** of the **Constitution**.

41. **Article 22 of the Constitution** provides that every person has the right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened. The mode of instituting proceedings to enforce the Bill of Rights is by way of a Petition.

42. Once a Petition to enforce the Bill of Rights is filed, like in the instant case, **Article 23(3) of the Constitution** provides the remedies that are available to a Petitioner, which include: a declaration of rights; an injunction; a conservatory order; an order of compensation and an order of Judicial Review. The **Environment and Land Court Act**, which establishes this court, grants this court the jurisdiction to issue prerogative orders; award damages; order for compensation; order for specific performance and declarations; and costs (**see section 13 (7) of the ELC Act**).

43. The Petitioner submitted that the National Land Commission does not have jurisdiction to determine a dispute between private entities; that being the registered proprietor of the suit property, the 1st Respondent did not have jurisdiction to direct the Registrar to revoke his title and that the actions of the 1st Respondent were ultra vires the Constitution and the **National Land Commission Act**.

44. The 1st Respondent draws its mandate from **Article 67 of the Constitution**. One of the functions of the 1st Respondent under **Article 67(2) (a) of the Constitution** is to manage public land on behalf of the national and county governments.

45. **Article 67 (3) of the Constitution** provides that the National Land Commission may perform any other functions prescribed by the national legislation. **Article 68(c) (v) of the Constitution** provides that Parliament shall enact legislation to enable the review of *all* grants or dispositions of public land.

46. **Section 14(1) of the National Land Commission Act** tasks the 1st Respondent with the mandate to review *all* grants and dispositions of public land. The said Section states as follows:

“14. Review of grants and dispositions:

(1) Subject to Article 68 (c)(v) of the Constitution, the

Commission shall, within five years of the commencement of this Act, on its own motion or upon a complaint by the national or a county government, a community or an individual, review all grants or dispositions of public land to establish their propriety or legality.

(2) Subject to Articles 40, 47 and 60 of the Constitution, the Commission shall make rules for the better carrying out of its functions under subsection (1).

(3) In the exercise of the powers under subsection (1), the Commission shall give every person who appears to the Commission to have an interest in the grant or disposition concerned, a notice of such review and an opportunity to appear before it and to inspect any relevant documents.

(4) After hearing the parties in accordance with subsection (3), the Commission shall make a determination.

(5) Where the Commission finds that the title was acquired in an unlawful manner, the Commission shall, direct the Registrar to revoke the title.

(6) Where the Commission finds that the title was irregularly acquired, the Commission shall take appropriate steps to correct the irregularity and may also make consequential orders.

(7) No revocation of title shall be effected against a bona fide purchaser for value without notice of a defect in the title.”

47. This court had an occasion to determine the mandate of the 1st Respondent viz-a-viz the provision of **Article 68(c) (v) of the Constitution** and **Section 14(1)** of the National Land Commission Act. In the case of **Republic vs National Land Commission and Others Ex-parte Dakawou Transporters Limited (2020) eKLR**, the court held as follows:

“38. The law, and in particular Article 68(c) (v) of the Constitution and Section 14(1) of the National Land Commission Act grants the 1st Respondent the mandate to review all grants in respect to public land, with a view to establishing their propriety or legality. The said provisions of the law mandate the 1st Respondent to look into all dispositions of public land to determine if the said dispositions were legal or not.

*40. From the above definition, it is obvious that the 1st Respondent’s mandate under Article 68(c) (v) of the Constitution and Section 14 of the National Land Commission Act includes reviewing all transfers (dispositions) in respect of land that was initially public land, either to individuals or corporations, and determine the legality of the same. Indeed, the issue of whether the review includes grants registered in the names of private persons prior to the promulgation of the 2010 Constitution or not was addressed by this court in the case of **Republic vs. National Land Commission, Ex-parte Holborn Properties Limited (2016) eKLR** as follows:*

“Although the Constitution has defined private land to consist land registered under any freehold or leasehold tenure, and whereas Section 14(1) of the National Land Commission Act gives the Respondent the powers to review all grants or disposition of public land, it follows that such a review can only entail land that has been converted from public land to private land. I say so because the Respondent cannot review what is still, according to the records, public land. One must have acquired land that was initially public land and issued with a title document, either as a freehold or leasehold, for a review to be done. It is therefore not true that once land falls under the purview of the definition of “private land”, the same cannot be reviewed. Indeed, it is only

such parcels of land that can be reviewed by the Respondent with a view of recommending to the Registrar to revoke the title.”

41. In the case of Compar Investments Limited vs. National Land Commission & 3 others (2016) eKLR, Lenaola J. (as he was then) held as follows:

“Despite the fact that the Petitioner’s land is currently classified as private land because it holds a 99 years’ leasehold tenure over the same, I do not think that fact alone bars the 1st Respondent from inquiring into its propriety. I say so because, all land in Kenya belongs to the Republic hence the leasehold title held by the Petitioner. The suit property has a history which history tells the procedure of its alienation and hence its legality or otherwise. The Government has powers to alienate its land and grant it to private individuals in forms of grants or leases...But suppose I am wrong in making that finding, I would still arrive at the same conclusion given the provisions of Section 14(1) of NLC Act which allows the 1st Respondent, on its own motion or through a complaint lodged by an individual or a community, to review a grant. KURA in its letter dated 5th June, 2013 lodged a complaint to the 1st Respondent over the suit property and requested it to investigate the title of the Petitioner over the suit property and that was a sufficient reason for NLC to act under the law.”

42. *The analysis of the law and the decisions of the courts shows that the 1st Respondent has the mandate of looking into the procedures that were followed (or not followed) in the allocation of public land to individuals, before and after the promulgation of the 2010 Constitution. If the correct procedure was not followed in the allocation of public land, then the 1st Respondent is mandated to direct the Registrar of Lands to revoke such grants.”*

48. I still hold the view, as I did in the above case, that the mandate of the 1st Respondent (*before it lapsed in the year 2017*) was to examine the procedure that was followed by the then allocating bodies, in the allocation of public or un alienated government land to individuals or entities, and establish if the law was followed or not. Indeed, the law allowed the 1st Respondent to recommend to the Registrar to revoke any title that it found to have been acquired in an unlawful manner. This mandate lapsed on 1st May, 2017, which was five (5) years from the time when the **National Land Commission Act** came into force.

49. Considering that the lessor in respect of the suit property is the government, the contention by the Petitioner that the 1st Respondent did not have jurisdiction to handle the dispute between themselves is not true. The Constitution and the National Land Commission Act did not confine the 1st Respondent to reviewing a particular kind of grants. The 1st Respondent was given the mandate to review all grants, whose head lessor is the government, and make appropriate directions. That was the intention of Parliament and the framers of the Constitution.

50. The next question I will deal with is whether the Petitioner was afforded a fair hearing before the 1st Respondent made the impugned decision of 28th April, 2017. **Section 14(3) of the National Land Commission Act** provides as follows:

“In the exercise of the powers under subsection (1), the Commission shall give every person who appears to the Commission to have an interest in the grant or disposition concerned, a notice of such review and an opportunity to appear before it and to inspect any relevant documents”

51. It is not in dispute that the Petitioner was invited to appear before the 1st Respondent for review of his grant. The record shows that when the Petitioner and his advocate appeared before the 1st Respondent on 19th August, 2019, he asked to be furnished with the complaint. While addressing the 1st Respondent, counsel for the Petitioner informed the 1st Respondent that he had not been served any papers by the complainant.

52. The issue of the Petitioner having not been furnished with the complaint, or any documents, was not addressed by the 1st Respondent at all. Instead, the 1st Respondent proceeded to fix the hearing for 2nd September, 2016. On the said date, the 1st Respondent proceeded to take the evidence of the complainant. In the case of Mwangi Stephen Muriithi vs National Land Commission & 3 others [2018] eKLR, the court held as follows:

“The notice does not outline details of any complaint. At this juncture I am inclined to give meaning to the term adequate notice in the context of the principles of natural justice. In R.vs. Ontario Racing Commissioners (1969) 8 D.L.R. (3d) 624 at 628 (Ont. H.C.) Mr. Justice Haines emphasized that a notice that complies with the principles of natural justice means:- “a written notice setting out the date and subject-matter of the hearing, grounds of the complaint, the basic facts in issue and the potential seriousness of the possible result of such hearing.” The Petitioner took issue with the 1st Respondents failure to furnish him with a complaint, even though it is alleged the 3rd Respondent had lodged a complaint with the 1st Respondent concerning the land in question. The 1st respondent did not state that it furnished the petitioner with the complaint filed against him.”

53. **Article 50** of the Constitution provides as follows:

“50(1) Every person has the right to have any dispute that can be resolved by the application of law decided in a fair and public hearing before a court, or if appropriate another independent and impartial tribunal or body.

(2) Every accused person has the right to a fair trial, which includes the right-...

(3) If this Article requires information to be given to a person, the information shall be given in language that the person understands. “

54. As was held in *Mwangi Stephen Muriithi (supra)*, the right to be heard transcends mere notice and extends to the person being given sufficient information to enable them prepare and/ or present their case. Such a person is entitled to be furnished, in good time, with information, including reports and documents in the possession of the 1st Respondent and the complainant that may be prejudicial to his/her case. That did not happen in this case.

55. **Section 14(3)** of the **National Land Commission Act** is clear that such a person, apart from entitlement to notice, has the right to inspect any relevant document. Having perused the documents placed before this court, including the proceedings that were conducted by the 1st Respondent, I am convinced that the Petitioner was neither furnished with the details of the complaint before the 1st Respondent nor granted access to the documents that the 1st Respondent and the complainant were holding.

56. That being the case, it is the finding of this court that it would be unfair then to expect or conclude that in the absence of such critical information, the Petitioner was granted a fair hearing as envisaged under **Article 50 of the Constitution**. In the absence of access to the complaint as outlined herein, I am inclined to find that the Petitioner was not granted a fair hearing. The proceedings before the 1st Respondent leading up to the revocation of the Petitioner's title for parcel of land known as Ruiru/Juja East/Block2/3972 did not meet the constitutional threshold of a fair hearing.

57. For those reasons, the Petition dated 13th February, 2019 is allowed in in the following terms:

a) A declaration be and is hereby issued that the Petitioner's right to a fair hearing in respect of the proceedings and report of the 1st Respondent of 28th April, 2017 and gazette notice dated 9th February, 2019 for parcel of land known as Ruiru/Juja East/Block2/3972 were violated by the 1st Respondent.

b) A declaration be and is hereby issued quashing the report of the 1st Respondent dated 28th April, 2017 and the portion of the gazette notice of 9th February, 2019 making reference to the revocation of the Petitioner's title of parcel of land known as Ruiru/Juja East/Block2/3972.

c) The issue of ownership of parcel of land known as Ruiru/Juja East/Block2/3972 to be ventilated in a forum recognized by the law.

d) The 1st Respondent to pay the costs of the Petition.

DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 21ST DAY OF APRIL, 2022

O. A. Angote

Judge

In the presence of;

Mr. Mbaabu for the Petitioner

Ms Fatma for the Respondent

Mr. Isindu for the Interested Party