



**Chege & 3 others (Suing through their attorney Joseph Chege Njoroge) v Wahome & another  
(Environment & Land Case 120 of 2018) [2022] KEELC 3341 (KLR) (26 May 2022) (Judgment)**

Neutral citation: [2022] KEELC 3341 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 120 OF 2018  
MN GICHERU, J  
MAY 26, 2022**

**BETWEEN**

**MOSES NJOROGE CHEGE ..... 1<sup>ST</sup> PLAINTIFF  
BEATRICE NYOKABI NJOROGE ..... 2<sup>ND</sup> PLAINTIFF  
JOSEPH KARANJA MUNYIRI ..... 3<sup>RD</sup> PLAINTIFF  
JOHN WAWERU MUGWE ..... 4<sup>TH</sup> PLAINTIFF  
SUING THROUGH THEIR ATTORNEY JOSEPH CHEGE NJOROGE**

**AND**

**SAMUEL WANJOHI WAHOME ..... 1<sup>ST</sup> DEFENDANT  
ATTORNEY GENERAL (FOR AND ON BEHALF OF THE LAND REGISTRAR,  
KAJIADO REGISTRY AND CHIEF LAND REGISTRAR) ..... 2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. Moses Njoroge Chege, Beatrice Nyokabi Njoroge, Joseph Karanja Munyiri, John Waweru Mugwe and Joseph Chege Njoroge, the plaintiffs, seek the following reliefs against Samuel Wanjohi Wahome, first defendant, and the honourable the Attorney General, second defendant;
  - a. A declaration that the registration of the first defendant as the owner of L.R. Kajiado/Kisaju/2710 is invalid, null and void ab initio.
  - b. An order to the District Land Registrar Kajiado to cancel the Title Deed issued on August 5, 2010 to the first defendant.
  - c. An order to reinstate the status quo before the illegal entry in the register of the suit land.
  - d. Costs of the suit.



- e. Interest on (d) above.
  - f. Any other relief.
2. The plaintiffs case is as follows. Moses Njoroge Chege, Beatrice Nyokabi Njoroge, Joseph Karanja Munyiri and John Waweru Mugwe are the registered owners of the suit land. They bought the land from David Mukui Karangu in the year 2008 and they were issued with a Title Deed on September 15, 2008.
- In the year 2015, they wished to sell the land but on carrying out a search at Kajiado Land Registry, they found that the land was registered in the name of the first defendant in the year 2010. This was shocking to the plaintiffs since they did not sell the land to the first defendant or anybody else.
- They made a report to the DCIO Kajiado Central. The police were not able to trace the first defendant. The District Land Registrar, Kajiado was reluctant to cancel the entry of the first defendant without a court Order which made the filing of this suit necessary.
3. In support of their case, the plaintiffs filed the following evidence;
- i. Copy of the Power of Attorney registered as P/A59851/1.
  - ii. Copy of the Power of Attorney registered as P/A59851/1.
  - iii. Copy of the registered special powers of attorney S.P.A No. 569.
  - iv. Copy of Title Deed dated September 15, 2008.
  - v. Copy of authority to sell dated 1September 5, 2015.
  - vi. Copy of green card.
  - vii. Copy of DCI Report dated September 7, 2017.
  - viii. Copy of statement by Samuel Maina Wahome dated 2/3/2018.
  - ix. Copy of Identity Card for Samuel Maina Wahome.
  - x. Copies of bankers cheques dated 14/8/2008 for Kshs. 420,000/= for Kshs. 200,000/= dated 26/8/2008 and for Kshs. 3, 580, 000/= dated 28/8/2008.
  - xi. Application for consent of the Land Control Board which is undated.
  - xii. Letter of consent dated 6/8/2008.
4. The defendants did not file any defence so the suit proceeded as undefended.
- At the trial three witnesses testified. They include the Land Registrar who produce a copy of the register (green card) showing the first defendant as the registered proprietor of the suit land from 5/8/2010.
- In cross –examination, the Land Registrar admitted that the registration of the first defendant as the proprietor of the suit land is not supported by the original title, transfer forms executed by the parties, application for the consent of the Land Control Board, consent of the Land Control Board, valuation slip, receipt for payment of registration, identity cards and P.I.N. Certificates for both buyer and seller and spousal consent where the seller is married.
5. Counsel for the plaintiffs filed written submission on April 21, 2022 and raised the following issues.
- i. Whether the plaintiffs transferred the subject property to the 1<sup>st</sup> defendant on or about August, 2010 for value?



- ii. Whether the Land Registrar was negligent, careless or reckless in making the entries in the register without the requisite supporting documents.
- iii. Have the plaintiffs proved their case to the required standard.

I agree with the plaintiffs' counsel that the three issues will determine the dispute.

On the first issue, I find that the plaintiffs did not transfer the suit land to the first defendant. Had they done so, all the mandatory documents prerequisite to a transfer would have been presented at the Land Registry and would have been produced by the defendant in this case.

On the second issue, I find that the Land Registry at Kajiado did not exercise due diligence in transferring the suit land to the first defendant. Had they done so, they would have defended the relevant entries by calling the registrar who signed against the register. The first defendant would also have turned up to defend his ownership of the suit land.

On the third and final issue, I find that the plaintiffs have proved their case against the defendants to the required standard. All their strong, cogent and credible evidence is uncontroverted by any evidence from the defendants. It is in fact corroborated in all material particulars by the evidence of the Land Registrar.

For the above reasons, I enter judgment for the Plaintiffs against the defendants as prayed for in the plaint.

**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 26<sup>TH</sup> DAY OF MAY, 2022.**

**M.N. GICHERU**

**JUDGE**

