



**Agro-Chem Housing Cooperative Society Ltd v Lake Holdings (Kenya) Ltd
(Land Case 69 of 2012) [2022] KEELC 2561 (KLR) (15 July 2022) (Judgment)**

Neutral citation: [2022] KEELC 2561 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
LAND CASE 69 OF 2012
A OMBWAYO, J
JULY 15, 2022**

**BETWEEN
AGRO-CHEM HOUSING COOPERATIVE SOCIETY LTD PLAINTIFF
AND
LAKE HOLDINGS (KENYA) LTD DEFENDANT**

JUDGMENT

1. The plaintiff herein filed this suit vide a plaint dated October 3, 2012 which was letter on amended on May 23, 2017 where it was averred that the defendant was the registered owner of all that parcel of land known as Grant IR No 58279 LR No 13432 situate within Kisumu Municipality measuring 7.15 Ha or 19.064 acres. That by a memorandum of understanding dated May 17, 2005, the plaintiff into an agreement with the defendant on behalf of itself and its members for sale of plots 27, 28, 30, 3132, 3536, 38, 43, 45, 48, 51, 52, 73, 79, 80, 82, 83, 85, 89, 90, 91, 92, 94, 95, 96, 98, 101, 102, 103 and five other unidentified plots being proposed subdivisions of the suit property.
2. It was agreed that the plaintiff would submit a full list of its members interested in buying plots arising out of subdivision of the defendant's land, facilitate signing of individual contracts between the defendant and the individual members of the plaintiff and submit to the defendant lump sum payments from members' deductions towards the purchase of plots by installments plaintiff pleaded that it was express terms of the agreement that it would be the defendant's obligation to facilitate smooth transfer of the said plots to the plaintiff and each member buying, do the necessary to demarcate each plot and road access, show each member of the of the plaintiff his/her portion of the plot including giving the plaintiff access to all relevant title documents needed on notice.
3. It was contented that the plaintiff judiciously abided by the terms of the agreement and facilitated the signing of individual contracts between the buying members and the defendant including making payments for the plots and the plots were allocated to its members as per the attached schedule. The plaintiff averred that the defendant only availed titled and transfer for 13 plots, shown the plaintiff 10



plots and totally failed to show or avail to the plaintiff the remainder of 12 plots. It was the plaintiff's case that the defendant was in breach of the contract and the plaintiff prayed that judgment be entered against the defendant for:

- a) That a permanent injunction be issued directed at the defendant and restraining the defendant by itself, directors, agents, servants, representatives or any person claiming or deriving title under it from selling, alienating, disposing, interfering with the plaintiff's interests or in any other way parting with possession or title of parcels/plots of land sold to the plaintiff and its members and known as plots LR Nos 13432/16, 13432/78, 12432/97, 13432/76, 13432/64, 13432/61, 13432/8, 13432/75, 13432/27, 13432/28, 13432/39, 13432/43, 13432/66, 13432/98, 13432/58, 13432/81, 13432/77, 13432/77, 13432/33, 13432/34, 13432/35, 13432/41, 13432/40, 13432/65, 13432/67, 13432/62, 13432/63, 13432/59, 13432/64, 13432/13, 13432/88, 13432/89, 13432/100, 13432/101, 13432/101, 1343256, 13432/10, 13432/37, 13432/41, 13432/82, 13432/83, 13432/22, 13432/26 and 13432/31 all arising out of subdivision of land title Grant IR No 58279 LR No 13432 situate within Kisumu Municipality.
 - b) That any transfers effected by the defendant over the parcels sold to the plaintiff and its members in breach of the agreements be cancelled for having been accentuated by fraud.
 - c) An order that the defendant specifically performs the contract between it, the plaintiff and the plaintiff's members by availing title, consent to transfer, duly executed transfer forms together with any other document necessary to facilitate the transfer in favour of the plaintiff and its members over all those parcels of land situate within Kisumu Municipality and known as plots LR Nos 13432/16, 13432/78, 12432/97, 13432/76, 13432/64, 13432/61, 13432/8, 13432/75, 13432/27, 13432/28, 13432/39, 13432/43, 13432/66, 13432/98, 13432/58, 13432/81, 13432/77, 13432/77, 13432/33, 13432/34, 13432/35, 13432/41, 13432/40, 13432/65, 13432/67, 13432/62, 13432/63, 13432/59, 13432/64, 13432/13, 13432/88, 13432/89, 13432/100, 13432/101, 13432/101, 1343256, 13432/10, 13432/37, 13432/41, 13432/82, 13432/83, 13432/22, 13432/26 and 13432/31 all arising out of subdivision of Land title Grant IR No 58279 LR No 13432 situate within Kisumu Municipality.
 - d) General damages for breach of contract with interest thereon at court rates.
 - e) By way of an alternative to prayer (c) above, general damages for loss of bargain with interest thereon at court rates.
 - f) Any other remedy or order that this honourable court may deem just and expedient to grant.
 - g) Costs of this suit be provided for with interest thereon at court rates.
4. The defendant filed a statement of defence on October 30, 2012 and denied each and every allegation of the plaintiff and put the plaintiff to strict proof. The defendant also filed a notice of preliminary objection on grounds that this court has no jurisdiction to hear this suit, that the suit is statute barred and that the plaintiff lacks *locus standi* to institute this suit. The preliminary objection was dismissed with costs as it had no merit.

Plaintiff's Case

5. The plaintiff called one witness PW-1 Mr Jackson Odenyo who was the chairman of the plaintiff at the time of filing this suit. He adopted his statement as evidence in chief. He stated that the plaintiff and the defendant entered into an agreement in form of a memorandum of understanding in 2005 where



- the defendant was to sell to the plaintiff and its members plots that were to be subdivided from parcel LR 12432 at a cost of Kshs 170,000/= cash and that Kshs 246,480/= for non-cash payment per plot.
6. PW-1 produced the memorandum of understanding as exhibit P-EX1. He stated that the plaintiff and its members were to enter into individual agreements once the plots have been sub divided and identified by the individual members where upon the Plaintiff would collect the purchase price and remit to the defendant. PW-1 further produced a certificate of registration to show that the plaintiff is registered under the *Co-operative Societies Act*. He stated that the land was subdivided and the defendant wrote a letter on April 14, 2007 allocating members of the plaintiff plots.
 7. The plaintiff further stated that the defendant advertised on a newspaper through an agent by the name Regent Management Ltd seeking to sell the plots allocated to the plaintiff and its members and this forced the plaintiff to come to court to stop the said sale. That upon inquiry of the said sale, the defendant denied and the plaintiff's advocates wrote a letter to the selling agent to confirm if they were authorized to sell the plots. The agent respondent through a letter dated and confirmed to the plaintiff that the defendant had authorized them to sell the plots.
 8. PW-1 stated that the agent through a letter dated September 17, 2009, indicated that they had received a letter from the defendant to stop selling the plaintiff's and its members plots. That this resulted in several meetings between the parties to resolve the matter. The plaintiff produced minutes to show that indeed meetings were held.
 9. He further produced exhibit P-12 which was an email sent by the defendant's director to the plaintiff where the defendant had made an offer to sell the remaining 12 plots at Kshs 950,000/= each. He testified that the plaintiff wrote a letter dated April 27, 2012 addressed to the defendant to the taskforce resolutions and failure which the plaintiff would proceed to court.
 10. On cross examination by Mr Odhiambo, the plaintiff reiterated that he was the chairman of the plaintiff at the time transaction was being done and he is still a member. He also confirmed that the memorandum was signed on May 17, 2005 and the completion period of the transaction was 6 months.
 11. He stated that he was purchasing a parcel and he had paid Kshs 18,000/= and the value of the parcel was Kshs 246,480/= and he had not finished paying for the parcel. He further stated that by the time the certificate expired, 26 plots had been fully paid and members who had fully paid were 11 and 9 had not fully paid. That the vendor stopped them from paying fully and the defendant had refused to give them land.
 12. PW1 stated that 22 parcels of land had not been fully paid and they had offered to pay before the contract period but the defendant refused.
 13. On re-examination by Mr Yogo, he stated that he filed he the statement as he was still the chairman of the plaintiff and that the current members were present in court. He reiterated that before the contract period ended, the society requested was willing to pay the full amount.

Defendant's Case

14. Philip Nyamweya Agutu DW-1 being the managing director of the defendant testified and confirmed to court that there was a memorandum of understanding for sale of land that was signed between the parties. The said contract was to run for a period of 60 months. He stated that it was agreed that the plaintiff and its members would purchase 32 plots from the defendant and the plaintiff defaulted on the payments forcing the defendant to start selling to the individual members directly.



15. DW-1 further testified that agreements were prepared and signed between the defendant and the individual members of the plaintiff and he signed the agreements on behalf of the defendant. That the earlier arrangement was still to continue and members failed to comply however some members paid and the Defendant gave them their plots. He stated that those who complied got their plots while those who failed to comply had to enter into new agreements and the price increased and the remittance system changed.
16. He stated that he showed members who had not complied a new site in Kibos and while negotiations were still going on, they opted to go to court. That he gave a real estate company to sell some of the plots on their behalf.
17. On cross examination by Mr Yogo counsel for the plaintiff, he stated that he signed a memorandum with the SACCO and at the time and he was to subdivide the suit parcel and acquire titles. DW-1 was not able to remember when the subdivision process was finalized. He confirmed that he received individual titles in 2010 and that he was not aware that the suit parcel was under investigations as he got the land from Central Bank of Kenya through their deposit protection accord.
18. He further confirmed that he issued titles to those who had paid in full and he was still holding money for members and that meetings held in 2010 but minutes were not taken.
19. On re- examination, he stated that he was holding the money because they are yet to agree on new terms with the plaintiff.

Plaintiff's Submissions

20. The plaintiff filed their submissions on January 18, 2022 where it was stated that the contract between the plaintiff and the defendant, the memorandum of understanding and the individual agreements executed between the plaintiff and its members on one side and the defendant on the other for sale of plots to be subdivided from LR 13432 which were produced as exhibits and confirmed by both parties. That the plots were to be sold at a cash price of Kshs 170,000/= per plot and Kshs 246,480 by check off system where members would pay to the plaintiff and the plaintiff would remit to the defendant until payment in full.
21. The plaintiff stated that a dispute arose which led to various meetings and a task force was formed to resolve the matter. That from the minutes of the meetings, DW-1 admitted that 23 plots had been fully paid before the lapse of the 6 months and out of the 23 plots that had been paid for, only 11 titles had been issued to the plaintiff and its members leaving a balance of 12 which had been paid for fully within the six months but title deeds had not been issued.
22. The plaintiff further stated that out of the remaining 12 plots, only 3 titles were issued during the pendency of the suit which resulted in amending of the plaint and the defendant never amended their defence. That for the 23 fully paid up plots, the defendant received Kshs 5,669,040/=, Kshs 3,450,720/= was utilized by the defendant for 14 plots which titles were issued and they were yet to account for Kshs 2,218,320/= being the amount received for 9 plots within the contract period but never issued titles.
23. It was the plaintiff's submission that the defendant be ordered to surrender titles for the remaining 9 titles which had been paid within the 60 months period before breach of the contract. That the remaining 9 plots which would have made the total plots to 32 were paid after 6 months where the defendant wanted renegotiation of the prices before issuing titles. It was stated that the plaintiff was holding on payments due to failure of the parties to agree on the new prices for the plots that the titles had not been issued.



24. It was further stated that this court has dealt with the issue of whether this suit is time barred as the court in the ruling dated November 9, 2016 where the court found out that even though the memorandum of understanding was executed on May 17, 2015, it provided that individual sale agreements would be signed for each individual plots after the subdivisions. It was submitted that the defendant be ordered to perform its part of the contract as regards the 9 titles.
25. The plaintiff prayed that this court do grant the orders sought in the amended plaint and relied in the following cases:
- a) [*Godfrey Ngatia Njoroge v James Ndungu Mungai*](#) [2019] eKLR.
 - b) [*Elijah Sadala Msagha v Benedict Mwakio Mchombo & another*](#) [2020] eKLR.
 - c) [*Solomon Ndegwa Kuria v Peter Nditu Gitau*](#) [2019] eKLR.
 - d) [*Joseph Kangethe Irungu v Peter Nganga Muchoki*](#) [2018] eKLR
 - e) [*Magdalene Nyokabi Guandai v Charles Maato Metiaki & another*](#) [2018] eKLR.

Defendant's Submissions

26. The defendant filed his submissions on January 7, 2022 where it was submitted that the plaintiff failed to prove his case on a balance of probabilities. That the amended plaint is undated with no court fees paid and has no verifying affidavit makes it fundamentally and incurably defective as it did not comply with the provisions of order 4 rule 2 and 3 of the [*Civil Procedure Rules*](#). It was further submitted that the plaintiff's witness only produced a letter of authority from the plaintiff SACCO that clearly stated that he was representing the SACCO only and not the individual members and there was no verifying affidavit. Reliance was placed in the case of [*Mumias Sugar Company Ltd v Oniango*](#) [2005] 1 KLR 373.
27. It was submitted that the particulars of breach pleaded by the plaintiff are unfounded since the defendant demonstrated that it was the plaintiff who was in breach of the contract after failing to pay within the stipulated period of time. That the plaintiff had no authority to sue on behalf of the individual members on the basis of individual contracts and therefore lacked locus standi to sue. It was stated that the minutes of March 6, 2010 cannot stand the test of admissibility for reason that they were not executed by the officials of the plaintiff.

The defendant prayed that the suit be dismissed or struck off with costs.

Analysis And Determination

28. I have carefully looked at the pleadings, the evidence on record and submissions filed by the parties and I am of the view that the following issues need to be determined:

1. Whether there was a Valid Contract between the Parties

29. It is not in dispute that the parties herein entered into a memorandum of understanding on May 17, 2005. I have looked into the contract and do confirm that the defendant herein was the owner of land parcel number Kisumu Municipality LR No 13432 measuring 7.715 Ha and the plaintiff together with its members were interested in buying several plots from the defendant measuring approximately 0.05 Ha.
30. Section 3(3) of the [*Law of Contract Act*](#), cap 23 laws of Kenya provides as follows; -

“No suit shall be brought upon a contract for the disposition of an interest in land unless: -



- (a) The contract upon which the suit is found-
 - (i) Is in writing
 - (ii) Is signed by all the parties thereto; and
- (b) The signature of each party signing has been attested by a witness who is present when the contract was signed by such party.”

31. In the case of *Nelson Kivuvani v Yuda Komora & another*, Nairobi HCCC No 956 of 1991, the court held that:-

“The agreement for sale of land which contains the names of the parties, the number of the property, the purchase price and the conditions attached thereto, the obligations, express or implied, of each of the parties and signed and witnessed by two witnesses who signed against their names amount to a valid contract”.

32. I have looked at the memorandum of understanding and do confirm that the said is a valid contract enforceable by the parties.

2. Whether The Defendant is in Breach of the Contract

33. Parties agreed that the cash price per plot as Kshs 170,000/=, payment period 60 months, simple interest at 9% per annum and plot size 0.05 Ha. Pursuant to the memorandum of understanding, the plaintiff herein was required to submit a full list of its members who were interested in buying the plots to the defendant, facilitate signing of individual contracts between the defendant and each individual member, submit one lumpsum cheque from members deductions towards purchase of the plots, make sure that the monthly cheques is paid to the defendant before 10th of every month, arrange group of insurance of their members who had bought plots from the defendant and seek approval necessary to facilitate the process.

34. The defendant herein was required to show each member of the plaintiff his/her portion of the plot and beacons, facilitate the smooth transfer of the said plots, give the plaintiff access to all the relevant titles and do all the necessary to demarcate each plot and road access.

35. Whereas it is the plaintiff's case that the defendant is in breach of the agreement by selling plots allocated to the plaintiff and its members, transferring the plaintiff's and its members' plots to 3rd parties, failing to provide transfer documents to the plaintiff as agreed, failing to procure transfer documents and unilaterally altering the terms of the contract, the defendant on the other hand has denied the plaintiff's allegation and stated that the defendant was in breach of the agreement as it failed to effect payment to the defendant within the stipulated time as expressly agreed and the plaintiff reneged on the agreement in terms of payment.

36. In the case of *Bid Insurance Brokers Limited v British United Provident Fund* [2016] eKLR the court held that;

“According to Chitty on Contracts Vol I (General Principles), 2009 Edition paragraph 13-001, page 773,

“...express terms are those which are actually recorded in a written contract or openly expressed at the time the contract is made.”



Again Chitty on Contracts (*supra*), comes handy.

“The implication of a term is a matter for the court and whether or not a term is implied is usually said to depend upon the intention of the parties as collected from the words of the agreement and the surrounding circumstances.”

17. The “intention of the parties” like the spirit of the Constitution or statute, must be found within the words of the Constitution or statute. Chitty on Contracts, paragraph 13004 says –

“In many cases, however, one or the other of the parties will seek to imply a term from the wording of a particular contract and the facts and circumstances surrounding it. The court will be prepared to imply a term if there arises from the language of the contract itself, and the circumstances under which it is entered into, an inference that the parties must have intended the stipulation in question. An implication of this nature, may be made in two situations –

First where it is necessary to give business efficacy to the contract, and secondly, where the term implied represents the obvious, but unexpressed, intention of the parties. These two criteria often overlap and in many cases, have been applied cumulatively, although it is submitted that they are, in fact, alternative grounds. Both however depend on the presumed intention of the parties.”

37. In the case of *Attorney General of Belize et al v Belize Telecom Ltd & another* [2009] 1 WLR 1980 at page 1993, citing Lord Person in *Trollope Colls Ltd v North West Metropolitan Regional Hospital Board* [1973] 1 WLR 601 at 609, held as follows:

“The court does not make a contract for the parties. The court will not even improve the contract which the parties have made for themselves. If the express terms are perfectly clear and from ambiguity, there is no choice to be made between different meanings. The clear terms must be applied even if the court thinks some other terms could have been more suitable.”

38. Based on the evidence on record, it is clear that the plaintiff facilitated the signing of the agreement of individual contracts between the defendant and each individual member as per the terms of the agreement. The defendant in breach of the agreement only transferred and issued titles for 13 plots, showed the plaintiff 10 plots and failed to show the plaintiff 12 plots.

39. During hearing PW1 confirmed that the defendant had advertised for sell where it had instructed Regent Management International Limited to sell the plots which the plaintiff had purchased. Upon inquiry *vide* a letter dated September 11, 2009, the plaintiff’s advocate wrote to the defendant’s agent asking them to confirm whether they were selling the plaintiff’s plots and it was confirmed that they were not selling the plaintiff’s plots.

40. I have seen minutes of various meetings held by the parties herein in order to resolve the dispute and as per agenda 3 of the minutes of the meeting held on October 13, 2011 on completion of the entire transaction; the chairman of the plaintiff stated that the agreement between the parties was for the



purchase of 35 plots and the plaintiff and its individual members had completed payment of 25 plots and the remaining plots had not been fully paid up for. He further stated that the plaintiff had proposed to the defendant that the plaintiff would get the remaining amount and pay the defendant so that the plaintiff can take possession of the plots and it would claim payment from the individual members.

41. Philip Nyamanga also proposed that payments should be stopped while Mr Yogo, counsel for the plaintiff proposed that an addendum should be added to the original agreements to extend time for completion of the transaction. It was resolved that discussions on agenda 3 of the said meeting to be differed and the defendant to table a proposal to the plaintiff upon which renegotiations on the completion of the transaction can take place.
42. Pursuant to the meeting held on February 6, 2012, Minute February 6, 2012 on plots not yet fully paid for; it was stated that 9 plots had not yet been fully paid up for and were subject to renegotiation of new terms. It was further stated that the defendant will communicate its offer so that the intended plot holders may make an informed decision.
43. It was further stated that should plot holders come to an agreement with the vendor on the new prices, the society is willing to pay off the balances on their behalf and that in the offer document the vendor will include other areas where the defendant has other pieces of land which the plot holders may wish to relocate upon placing a request.
44. On February 22, 2012, the defendant herein gave the plaintiff an offer where he was selling plots for Kshs 950,000/= per plot. During hearing DW1 testified that individual members of the plaintiff who had not complied with the agreement were to enter into new agreements and the prices were to increase and that parties had agreed to go into new agreements. He further testified that he took members to the new site and showed them the available plots and while negotiations were still going on. The plaintiff opted to go to court.
45. It is clear from the memorandum of understanding signed between the parties herein that the same did not provide a clause where in the in the event that there is a dispute between the parties, parties shall enter into a new agreement, plot holders shall be shown new plots in a different locations and pay an increased purchase price. It is also clear from the evidence on record that pursuant to the negotiations held between parties through various meetings, parties failed to agree.
46. This court finds that the defendant was in breach of the agreement as i have established that although the plaintiff had not fully paid up for the remaining plots, the agreement did not provide that the defendant would sell the plots or give the plot holders who had defaulted a new offer.

3. Whether the Plaintiff is Entitled to the Orders Sought

47. I have noted that the plaintiff and its members were ready to fulfil and perform their obligation under the individual agreements for sale and the memorandum of understanding but the defendant has failed to meet part of its bargain as it has advertised the plots for sell to third parties. From the minutes on record, it is clearly established that the plaintiff was willing to pay for its members who had defaulted but the defendant was not agreeable to the same.

Chitty on Contract, 30th edition volume 1 states;

“The jurisdiction to order specific performance is based on the existence of a valid and enforceable contractit will not be ordered if the contract suffers from some defect, such as failure to comply with formal requirements or mistake or illegality, which makes the contract invalid or unenforceable .”



48. In the case of *Reliable Electrical Engineers Ltd v Mantrac Kenya Limited* [2006] eKLR, wherein Justice Maraga (as he then was) stated that: -

"Specific performance like any other equitable remedy is discretionary and the court will only grant it on well laid principles.

The jurisdiction of specific performance is based on the existence of a valid enforceable contract. It will not be ordered if the contract suffers from some defect, such as failure to comply with the formal requirements or mistake or illegality, which makes the contract invalid or enforceable. Even when a contract is valid and enforceable, specific performance will however not be ordered where there is an adequate alternative remedy. In this respect damages are considered to be an adequate alternative remedy where the claimant can readily get the equivalent of what he contracted for from another source. Even when damages are adequate remedy specific performance may still be refused on the ground of undue influenced or where it will cause severe hardship to the defendant."

49. On whether the plaintiff is entitled to general damages, in the case of *Millicent Perpetua Atieno v Louis Onyango Otieno* [2013] eKLR, the Court of Appeal quoted with approval *Halsbury's Law of England*, Volume 12, 4th edition at paragraph 1183 on the type and measure of damages recoverable by a purchaser upon breach by a seller of land;

"where it is the vendor who wrongfully refuses to complete the measure of damage is similarly, the loss incurred by the purchaser as the natural and direct result of the repudiation of the contract by the vendor. These damages include the return of any deposit paid by the purchaser with interest, together with expenses which he has incurred in investigating title, and other expenses within the contemplation of the parties, and also, where there is evidence that the value of the property at the date of repudiation was greater than the agreed purchase price, damages for loss of bargain....."

50. This court has established that the defendant received Kshs 2,218,320/= as part of the purchase price of the remaining plots and it still holds the money. This court is of the view that the defendant should refund the said sum of money together with interest.

This court therefore orders as follows:

- a) That a permanent injunction be issued directed at the defendant and restraining the defendant by itself, directors, agents, servants, representatives or any person claiming or deriving title under it from selling, alienating, disposing, interfering with the plaintiff's interests or in any other way parting with possession or title of parcels /plots of land sold to the plaintiff and its members and known as plots LR Nos 13432/16, 13432/78, 12432/97, 13432/76, 13432/64, 13432/61, 13432/8, 13432/75, 13432/27, 13432/28, 13432/39, 13432/43, 13432/66, 13432/98, 13432/58, 13432/81, 13432/77, 13432/33, 13432/34, 13432/35, 13432/41, 13432/40, 13432/65, 13432/67, 13432/62, 13432/63, 13432/59, 13432/64, 13432/13, 13432/88, 13432/89, 13432/100, 13432/101, 13432/101, 1343256, 13432/10, 13432/37, 13432/41, 13432/82, 13432/83, 13432/22, 13432/26 and 13432/31 all arising out of subdivision of land title Grant IR No 58279 LR No 13432 situate within Kisumu Municipality.
- b) That any transfers effected by the defendant over the parcels sold to the plaintiff and its members in breach of the agreements be cancelled for having been accentuated by fraud.



- c) An order that the defendant specifically performs the contract between it, the plaintiff and the plaintiff's members by availing title, consent to transfer, duly executed transfer forms together with any other document necessary to facilitate the transfer in favour of the plaintiff and its members over all those parcels of land situate within Kisumu Municipality and known as plots LR Nos 13432/16, 13432/78, 12432/97, 13432/76, 13432/64, 13432/61, 13432/8, 13432/75, 13432/27, 13432/28, 13432/39, 13432/43, 13432/66, 13432/98, 13432/58, 13432/81, 13432/77, 13432/33, 13432/34, 13432/35, 13432/41, 13432/40, 13432/65, 13432/67, 13432/62, 13432/63, 13432/59, 13432/64, 13432/13, 13432/88, 13432/89, 13432/100, 13432/101, 13432/101, 1343256, 13432/10, 13432/37, 13432/41, 13432/82, 13432/83, 13432/22, 13432/26 and 13432/31 all arising out of subdivision of land title Grant IR No 58279 LR No 13432 situate within Kisumu Municipality.
- d) General damages of Kshs 2,218,320/= for loss of bargain with interest thereon at court rates.
- e) Costs of this suit be borne by the defendant.

DATED AT KISUMU THIS 15TH DAY OF JULY 2022

ANTONY OMBWAYO

JUDGE

This judgment has been delivered to the parties by electronic mail due to measures restricting court operations due to the COVID-19 pandemic and in the light of the directions issued by his Lordship, the Chief Justice on March 15, 2020.

