



**Sagon Holdings Investment Company Limited v Lenkolo (Environment & Land Case 065 of 2021) [2022] KEELC 13408 (KLR) (11 October 2022) (Judgment)**

Neutral citation: [2022] KEELC 13408 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT & LAND CASE 065 OF 2021  
MN GICHERU, J  
OCTOBER 11, 2022**

**BETWEEN**

**SAGON HOLDINGS INVESTMENT COMPANY LIMITED ..... PLAINTIFF**

**AND**

**MOSES LEEYIO OLE LENKOLO ..... DEFENDANT**

**JUDGMENT**

1. Sagon Holdings Investment company limited, the plaintiff, seeks the following reliefs from Moses Leeyio Ole Lenkolo, the defendant;
  - (a) A declaration that the sale and transfer of LR Kajiado/Kaputiei –North/32573 and registration of the same in the name of the plaintiff was irregular, unlawful, fraudulent and therefore null and void *ab initio*.
  - (b) Kshs 60,000,000/= being the value of obtaining 12 acres of land similar to LR Kajiado/ Kaputiei-North/32573 (suit land)
  - (c) Kshs 2, 320, 410/- being special damages
  - (d) In the alternative to (b) above, an order do issue that the defendant do compensate the plaintiff with acceptable alternative land measuring 12 acres similar to and or in the same neighborhood as LR 32573.
2. The plaintiff's case as articulated by Stephen Joseph Ariga, a director of the plaintiff is as follows;  
In the year 2009, the plaintiff was looking for land on which to build a school. The defendant who he had known for about a year came forward and told the plaintiff's director that he had land near Koromboi primary school.



Stephen and his co-director Grace Kastivo were taken to the site by the defendant. They were happy with the land which is situated 4 kilometers east of Namanga road and 2 kilometers east of Korompoi primary school.

Eventually, the plaintiff purchased 12 acres of land at Kshs. 500,000/- per acre. In total, he paid Kshs 6 million. The land was reference number Kajiado/Kaputiei- North/32573. The plaintiff was issued with a title deed for the same on January 11, 2010.

Later on, it carried out searches on September 28, 2010, March 30, 2012, May 2, 2012 and July 30, 2012 all of which show that it is the registered owner of the said land.

3. The plaintiff applied for and obtained change of user of the land from agriculture to school/education institution at a cost of Kshs 78, 410/=. It paid further sums as follows Olkejuado council Kshs 6,000/=, NEMA report at Kshs 40,000/-, advertisement in local dailies Kshs 28,000/=, approval fees Kshs 4, 410/=.

Architectural drawings and approvals by the relevant bodies cost Kshs 135,000/=. Further expenses were as follows;

- (a) Worker at Kshs 12,000/- per month totaling Kshs 1, 218, 625/=
  - (b) Fencing Kshs 30,000/=
  - (c) Piped water Kshs 15, 600/=
  - (d) Surveyors fees Kshs 165,000/=
- Total = Kshs 2, 320, 410/=

4. In the year 2015, one Kenneth Mungai visited the suit land and stopped the plaintiff's workers from putting up structures therein. He claimed ownership of the land. Ultimately, the plaintiff realized that it had been conned by the defendant and one Kunini Ole Muanta who ..... charged and convicted in Kajiado Criminal Case No 486 of 2015 of fraud.

5. In support of the case, the plaintiff filed the following evidence;

- (a) Witness statement by Stephen Joseph Ariga dated October 8, 2021.
- (b) Field diagram by surveyor showing the location of the suit land.
- (c) Agreement for sale of land dated December 11, 2009.
- (d) Payment details and acknowledgement of Kshs 6 million.
- (e) Copy of title deed for LR Kajiado/Kaputiei-North/32573 in the name of the defendant.
- (f) Land control board application forms and letter of consent to transfer.
- (g) Copy of title deed for the suit land in the name of the plaintiff.
- (h) Copies of official searches for various dated showing the plaintiff as the registered owner of the suit land.
- (i) Copy of application for change of user, NEMA report, Daily Nation advertisement, receipts, and the relevant approvals.
- (j) Architectural drawings of the proposed school, application for approval of drawings and approval fees receipts.



- (k) Copy of certificate of official search done on November 14, 2018 showing title cancellation.
  - (l) Copies of proceedings in Kajiado CM Criminal Case No 486 of 2015, Republic v Kanini Ole Muanta.
  - (m) Valuation report dated August 12, 2021 for the suit land.
  - (n) Copy of receipt/fee note for valuation report dated August 12, 2021.
6. The defendant, even though he was served with summons to enter appearance, plaint and other processes did not enter appearance or file a defence. The suit proceeded as undefended.
7. At the trial on March 22, 2022, the plaintiff's director and a valuer named Jones Machogu testified. They adopted their witness statement and documents as their evidence.
- Counsel for the plaintiff was to file written submissions by August 15, 2022 but had not done so, by August 19, 2022. As I write judgment in late August, 2022, I do not have the benefit of the said submissions.
8. I have carefully considered all the evidence adduced by the plaintiff including the witness statements, documents and oral testimony at the trial.
- I find that the following issues come up for determination;
- (a) Did the plaintiff on the year 2009 pay the defendant Kshs 6 million?
  - (b) Did the plaintiff get a good title to the land that he bought?
  - (c) Is the plaintiff entitled to the orders sought in the plaint?
9. On the first issue, I find that the plaintiff paid Kshs 6 million to the defendant for the purchase of land. There is sufficient evidence to prove of the payment cheque and an acknowledgement by the defendant.
10. On the second issue, I find that the plaintiff did not get a good title to the land that he bought because the same land had already been sold to someone else.
11. On the third and final issue, I find that the plaintiff is entitled to the orders sought because the value of land has gone up and the amount that he would spend today to buy the same acreage like he bought in 2009 has increased tenfold. This has been proved by the report of the valuer, Mr Machogu.
12. For the above stated reasons, I enter judgment for the plaintiff against the defendant as prayed for in the plaint dated October 8, 2021.

**DATED SIGNED AND DELIVERED VIRTUALLY AT KAJIADO THIS 11TH DAY OF OCTOBER, 2022.**

**M.N. GICHERU**

**JUDGE**

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