



**Ombai v Habib & another (Environment and Land Appeal
E035 of 2022) [2025] KEELC 4190 (KLR) (29 May 2025) (Judgment)**

Neutral citation: [2025] KEELC 4190 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KISUMU
ENVIRONMENT AND LAND APPEAL E035 OF 2022**

E ASATI, J

MAY 29, 2025

BETWEEN

MARGRET AUMA OMBAI APPELLANT

AND

NOORALLIAN JAJDIN HABIB 1ST RESPONDENT

DIRECTOR OF SURVEY 2ND RESPONDENT

(Being an Appeal from the Judgment of Honourable Winfrida K. Onkunya SRM, dated and delivered on 24th August 2022, at the Kisumu Chief Magistrate's Court in ELC No. 21 of 2018)

JUDGMENT

Background

1. A brief background to the appeal herein is that the Appellant was the Plaintiff in Kisumu CMC EL CASE No. 21 of 2018 wherein she had sued the Respondents herein vide the amended plaint dated on 11th February 2019. The subject matter of the suit was a parcel of land known as Kisumu/Korando/3799 which was sub-divided to give rise to land parcel number Kisumu/Korando/4212 claimed by the appellant.

In the suit, the appellant had sought for orders of; -

- a. A declaration that the plaintiff's title is legal and that any other title registered or otherwise that is inconsistent with his is illegal and unlawful.
- b. An order directed at the 4th Defendant to restore the legal status of the plaintiff's title No. Kisumu/Korando/4212 on the subsequent survey map and the Registry Map Sheet as it existed on 6th April, 1990 under the Registry Map Sheet No. 13.



- c. Damages for trespass.
- d. Costs of the suit plus interest thereon at court rates.
2. The 1st Respondent filed the 1st defendant's amended Statement of Defence dated 27th February 2019.
 3. The 2nd Respondent herein who was the 4th Defendant filed Statement of Defence to the amended plaint dated 19th March 2019 denying the plaintiff/appellant's claim.
 4. The record shows that after hearing the evidence, the trial court vide the judgement delivered on 24th August, 2022 found that the appellant had not challenged the legality of title to Land Parcel Number Kisumu/Korando/4883 which incorporated the suit land parcel number Kisumu/Korando/4212 and that the appellant had not proved fraud on the part of the 1st and 4th Defendants [the Respondents herein]. The trial court found that the appellant had failed to prove her case on a balance of probabilities and dismissed the appellant's suit with costs to the Respondents.

The Appeal

5. Aggrieved by the judgment the appellant preferred the appeal herein vide the Memorandum of Appeal dated 5th September 2022 and sought for orders that the Appeal be allowed, that the judgement of the learned Magistrate dated and delivered on 24th August 2022 be set aside and quashed in its entirety and in its place an order be issued allowing the appellants suit as contained in the amended plaint dated 11th February 2019 with costs of the suit before the trial court awarded to the appellant and that costs of the appeal be awarded to the appellant.
6. The grounds of appeal as contained in the Memorandum of Appeal are that:-
 - a. The learned Magistrate erred in law and fact in finding and holding that both the Appellant and the 1st Respondent had good titles to the same Land Parcel registered as Title number Kisumu/Korando/4212 and thereby failed to resolve the dispute before her which sought a determination on whether the 1st Respondent could lawfully hold a regular and lawful title deed to the same suit parcel of land in light of the Appellant's legitimate and lawful title deed to the same Land Parcel Kisumu/Korando/4212 which was first in time, having been regularly issued to the Appellant in April 1990.
 - b. The learned Magistrate erred in law and fact in holding that the orders being sought by the Appellant could not be granted in the absence of Land Registrar since it is the Land Registrar who issued the title deeds Land Parcel Kisumu/Korando/4212 and amalgamated Land Parcel Kisumu/Korando/883, when the evidence before her clearly demonstrated that the Land Registrar had long corrected the Land Register and cancelled all the purported amalgamation entries for being procured by fraud and reinstated the Appellant's ownership to Land Parcel Kisumu/Korando/4212.
 - c. The learned Magistrate erred in law and fact by holding that the Appellant had not challenged the legality of Title to Land Parcel Kisumu/Korando/4883 which incorporates Land Parcel Kisumu/Korando/4212 neither proved any element of fraud on the part of the 1st Respondent during the purchase of Land Parcel Kisumu/Korando/4212 in contraction of her own finding at paragraph 4 of page 8 of the judgement that the Appellant held a valid Title to Land Parcel Kisumu/Korando/4212.



- d. The learned Magistrate erred in law and fact by failing to appreciate and hold that under the Kenyan land laws and the [Land Registration Act](#) 2012, there can never be two valid title deeds in respect to the same parcel of land.
- e. The learned Magistrate erred in law and fact in finding that the 1st Respondent was a bonafide purchaser for value of Land Parcel Kisumu/Korando/4212 from a Neima Adegga which finding is not supported with any evidence before and is contrary to the finding that the Appellant was the registered proprietor of the subject land at the material time.
- f. The learned Magistrate erred in law and fact in failing to find and hold that where a party holds an irregularly acquired title as is the case with the 1st Respondent herein, the Court will not sanctify and/or protect the same but will instead protect the Title Deed belonging to the legitimate and rightful proprietor of the Land who is the Appellant herein.
- g. The learned Magistrate erred in law and fact in failing to appreciate that the effect of her judgment is to aid the 1st Respondent to benefit from his irregular purported acquisition of the Appellant's parcel of land and unjustly diminish the value of the Appellant's lawful and valid Title to Land Parcel Kisumu/Korando/4212, which she has kept in its original form and never transferred to any third party since its acquisition in April 1990.
- h. The learned Magistrate erred in law and fact when she failed to take cognizance of Section 26 [1] [b] of the [Land Registration Act](#), 2012, which allows the Court to set aside a Certificate of Title acquired illegally and/or unprocedurally as is the case herein since the 1st Respondent could not legally and procedurally acquire a certificate of title in respect of Land Parcel Kisumu/Korando/4212, when the same is still regularly and legally held by the Appellant who has never transferred the same to any third party.
- i. The learned trial Magistrate erred in law and in fact by irregularly and unlawfully shifting the burden of proof in Section 107 of the [Evidence Act](#) the Appellant when she held that the Appellant did not prove any element of fraud against the 1st Respondent in his alleged acquisition and amalgamation of Land Parcel Kisumu/Korando/4212, when it was the 1st Respondent who was asserting that he regularly acquired and amalgamated Land Parcel Kisumu/Korando/4212 and it was as such his duty to prove those assertions.
- j. The learned Magistrate erred in law and fact in misapprehending the evidence tendered by Land Registrar and selectively applying the same to justify an irregular finding in favour of the 1st Respondent.
- k. The learned Magistrate erred in law and in fact in considering and determining matters which were not before her at pages 15 and 16 of her Judgment while at the same time failing to determine the dispute before her. The learned Magistrate went a great length to consider the cancellation of entries No. 5 to 10 as demonstrated in the green card for Land Parcel Kisumu/Korando/4212 and the process leading to the cancellation, which matters were neither before her nor challenged by any of the parties before her.
- l. The learned Magistrate erred in law and in fact in purporting to second guess the Land Registrar without any evidence before her on the process of rectification and cancellation of fraudulent entries No. 5-10 made in the Appellant's Land Register for Land Parcel Kisumu/Korando/4212, without any hearing on the matter and even having determined that the Land Registrar was not a party before the Court and in direct violation of the Appellant's right to a fair trial under Article 50 of [the Constitution](#).



- m. The learned Magistrate erred in law and in fact in finding that the Appellant had not proved fraud as against the 1st Respondent when the Appellant had not pleaded any fraud in her case and instead only sought for a declaration that the original Title Deed she was issued with, in the year 1990 and continues to hold to date with respect to Land Parcel Kisumu/Korando/4212 was legal and valid.
- n. The learned Magistrate erred in law and fact in finding that the 1st Respondent's purported amalgamation of the Appellant's Land Parcel Kisumu/Korando/4212, was regular and lawful, when the said matter was neither before her for consideration nor evidence tendered in support of such finding.
- o. The Learned Magistrate erred in land and fact in failing to give proper and/or sufficient consideration to the evidence and the submissions before her with the result that she ended up delivering a self-contradicting Judgment which does not resolve the dispute presented before her for determination.
- p. The Learned Magistrate erred in law and fact in finding and holding at paragraph 2 page 16 of her Judgment that there was no evidence that the 1st Respondent was served with the 90 days' Notice of intention to alter the register by the Land Registrar before the cancellation were made and that there was no proof that the 1st Respondent fraudulently contributed to the errors in the green card when it was clear from the evidence before her that the Land Registrar did infact issue notices and that the said entries were irregular and unlawful as the Appellant was still in actual possession of both the land and the original Title Document thereof and had never transferred the suit land to any of the parties the subject of the cancelled entries.
- q. The Learned Magistrate erred in law and fact by failing to appreciate that the law in respect to the Application of Section 26 [1] of the *Land Registration Act* is now settled in terms of the Court's many decisions in line with the case of *Elijah Makeri Nyangwara vs Stephen Mungai Njuguna & Another*, Eldoret ELC Case No. 609 B of 2012 where it was held that for Section 26 [1] [b] to be operative, it is not necessary that the title holder be a party to the vitiating factors noted therein which are that the title was obtained illegally, unprocdurally or through a corrupt scheme. The heavy import of Section 26 [1] [b] is to remove protection from an innocent purchaser or innocent titleholder. It means that the title of an innocent person is impeachable so long as that title was obtained illegally, unprocedurally, or through a corrupt scheme. The titleholder need not have contributed to these vitiating factors. The purpose of Section 26 [1] [b] is to protect the real title holders from being deprived of their titles by subsequent transactions.
- r. The Learned Magistrate erred in law and in fact by putting reliance in the Authorities of *Laurence Mukiri Mungai, Kitende vs Haridars & Company Ltd* [2008] 2EA 173, *Kinyanjui Kamau vs George Kamau* [2015] eKLR and *Kuria Kiarie & 2 others vs Sammy Magera* [2018] eKLR which related to proof of fraud and were not applicable to the circumstances of the case before her while failing to rely on the case of *Makeri Nyangwara vs Stephen Mungai Njuguna & Another*, Eldoret ELC Case No. 609 B of 2012, and *Samuel Odhiambo Oludhe & 2 others vs Jubilee Jumbo Hardware Limited & Another* [2018] eKLR which are current and circumstances of the case before her.
- s. In failing to ask herself and lawfully interrogate how the Appellant's suit land could legally and regularly be transferred to the 1st Respondent when the Appellant had both actual possession of the land and the original title document as issued to her in the year 1990 and has never parted



with the same, the Learned trial Magistrate erred in law and in fact in failing to appreciate that the net effect of her decision is to encourage land fraud and unfairly and illegally disfranchise the Appellant who is a legitimate land owner from her land under the guise of bonafide purchaser for value, which the legislators sought to do away with when they legislated section 26 [1] [b] of the [Land Registration Act](#).

- t. The Learned trial Magistrate's decision was arrived at in a cursory and perfunctory manner in consideration of irrelevant factors contrary to the rules of evidence and principles established by the Courts in *Fred Ben Okoth v Equator Bottlers Limited* [2015] eKLR and *BWK vs EK & Another* [2017] eKLR being courts of superior record.
- u. The learned Magistrate erred in law and in fact in awarding costs of the suit to the Respondents when it is clear that the Appellant only sought enforce the validity of her land Title Deed which she has held since April 1990 and had not participated and/or contributed to any of the matter leading to the subject dispute herein.
- v. The Learned trial Magistrate erred in law and in fact by applying the wrong principles and completely misapprehended the evidence on record and as a result arrived at a completely erroneous judgment which is not supported by the weight of evidence adduced.

Submissions

- 7. Vide directions given on 1/2/2024 the appeal was canvassed by way of written submissions.
- 8. Written submissions dated 4th October 2024 and further submissions dated 6th March 2025 were filed by the firm of Prof. Albert Mumma & Company Advocates on behalf of the appellant.
- 9. Written submissions dated 30th October 2024 were filed on behalf of the 1st Respondent by the firm of Ogejo, Omboto & Kijala Advocates LLP.

Issues for determination

- 10. Though the appellant listed a total of 22 grounds of appeal, she submitted that the appeal raises three [3] main issues for determination namely; -
 - a. Whether this honourable court, sitting on appeal is mandated to retry the dispute herein and test the impugned findings of the trial court.
 - b. Whether the appellant is the lawfully registered and beneficial proprietor of the suit property known as KORANDO/4212 herein? If so, can the 1st Respondent lawfully and validly acquire title to the suit property through the purported amalgamation of title No. LR No. Kisumu/ Korando/4883, is lawful and proper?
 - c. Whether the appellant sufficiently proved her case within the required standards to warrant the grant of the prayers sought in the amended plaint and the appeal herein? If so who should bear the costs of the appeal and the suit in the lower court.
- 11. On his part, the 1st Respondent framed the issues for determination herein as: -
 - a. Whether the appellant discharged her duty to prove fraudulent transfer of parcel No. Kisumu/ Korando/4212.
 - b. Whether the 1st Respondent followed the right procedure in acquiring parcel No Kisumu/ Korando/4212.



- c. Who is to bear the costs of the suit.

Analysis and determination

12. The evidence placed before the trial court by the appellant as can be gathered from the proceedings in the record of appeal, comprised of her own testimony and the testimony of PW2 and the exhibits that they produced.

DW1 was the Land Registrar, and DW2 the 1st Defendant/Respondent.

13. The 1st issue for determination is whether or not this court sitting on appeal is mandated to retry the dispute herein and test the impugned findings of the trial court.
14. It was submitted on behalf of the appellant regarding this issue that a first appellate court is vested with the requisite jurisdiction to retry an appeal. That the retrial involves the court investigating examining and reviewing the evidence adduced in the mater to determine the correctness of the findings and conclusion of the trial court. That the court is vested with the power to interfere with the trial court's findings. Counsel relied on the case of James Odera t/a A.J Odera & Associates –vs.- John Patrick Macharia t/a Machisa & co advocates [2013] eKLR
15. The power of this court as an appellate court is outlined in section 78 of the *Civil Procedure Act*. While re-examining the evidence placed before the trial court this court will bear in mind that the trial court had the advantage of receiving the evidence first hand from the witnesses and seeing their demeanor as they testified. In the case of *Selle and another vs Associated Motor Boat Company Ltd and others* 1968 E.A 123 it was held that:

“An appeal to this court from a trial by the High Court is by way of a retrial and the principles upon which this court acts in such an appeal are well settled. Briefly put they are that this court must reconsider the evidence, evaluate it itself and draw its own conclusions though it should always bear in mind that it has never seen nor heard the witnesses and should make due allowance in this respect. In particular this court is not- necessarily bound to follow the trial court's findings of fact if it appears either that he clearly failed on some point to take account of particular circumstances or probabilities materially to estimate the evidence or if the impression based on the demeanor of a witness is inconsistent with the evidence in the case generally.”

16. The extent to which the court will interfere with the findings and decision of the trial court is also limited. In *Mbogo & Another vs. Shah* [1969] E.A 93.

“An appellate court will interfere with the findings of the trial court if the exercise of the discretion is clearly wrong because the trial Judge has misdirected himself or acted on matters which he should not have acted upon or failed to take into consideration matters which should not have been acted upon or failed to take into consideration matter which should be taken into consideration and in doing so arrived at a wrong conclusion.”

17. Counsel relied on the case of *Peters-vs. Sunday Post Ltd* [1958] EA 424 where it was held that

“whereas an appellate court has jurisdiction to review the evidence to determine whether the conclusions of the trial Judge should stand, this jurisdiction is to be exercised with caution”



18. I find that indeed as a court handling a first appeal, the court has power and an obligation to re-examine the evidence and come to independent conclusions and thereby determine whether the trial court erred or not.
19. The next issue for determination is whether the appellant is the legitimate lawfully registered proprietor of the suit property known as L.R No Kisumu/Korando/4212 herein and if so, can the 1st Respondent lawfully and validly acquire title to the suit property through the purported amalgamation. Title No. L.R Kisumu/Korando/4883 is lawful and proper?
20. This issue is related to the second issue as framed by the 1st Respondent of whether the 1st Respondent followed the right procedure in acquiring parcel No. Kisumu/Korando/4212.
21. The appellant pleaded in paragraph 5 of the amended plaint that she was and remains at all material times the owner and registered proprietor of the entire of land parcel number Kisumu/Korando/4212 measuring 0.2 Ha. She pleaded that after purchase of the suit land which was hived off parcel No. Kisumu/Korando/3799, she fenced off the parcel and constructed a pit latrine on it in 1990s but did not develop it further until 2012 when she discovered that the 1st Defendant [1st Respondent] had lodged a restriction on the suit land and applied for combination of the land with parcel numbers Kisumu/Korando/3801,3800 and 4726.
22. That she discovered further that some third parties had allegedly made fraudulent entries on the parcel record of her land purporting that the same was allegedly sold to the 1st Defendant/Respondent. Further, that the Land Registrar, Kisumu determined that the said entries were fraudulent and cancelled them with the result that the appellant's title remains the only lawful and legitimate title.
23. That later she discovered that the 1st Respondent colluded with unknown persons to have her subject land removed from the updated area survey map No. 13. That there is no reason why the Director of Survey should not reinstate the plaintiff's land in the map.
24. The plaintiff reiterated the contents of her pleadings in her evidence. She added vide her witness statement dated 16th August 2021 that her land was present on the ground as sold to her in the year 1990 and that there is no reason why it should not be reflected on the updated survey map for the subject area.
25. She produced a copy of title deed for Kisumu/Korando/4212, copy of certified survey map sheet dated 28/8/2013, deed plan for land parcel number Kisumu/Korando/4212, certificate of official search and green card for parcel No. Kisumu/Korando/4212 and Registry map from provincial survey dated 8/11/2012.
26. On cross examination, the appellant stated that she was no longer pursuing the claim on fraud but was only seeking for restoration of entries at the survey.
27. PW2 was a surveyor who produced a survey report. He testified that the suit land and parcel numbers Kisumu/Korando/3801,3800 and 4726 were amalgamated resulting into parcel number Kisumu/Korando/4883 and that he made a conclusion that the amalgamation was illegal.
28. On cross examination, PW2 testified that he visited the ground and established that land parcel No. Kisumu/Korando/4212 exists.
29. Vide his amended Statement of Defence dated 27th February 2019, the 1st Defendant/Respondent denied the Appellant's claim. He stated that he never acted fraudulently in the acquisition of the suit property, that he is in possession of the suit property both statutorily and physically, that he had no knowledge and/or did not take part and/or contributed to any mistake, fraud and/or omission at the



time of acquisition of the suit property. That the acquisition of the suit property was pursuant to value being paid and that being the proprietor of the suit property he has lawfully amalgamated the suit property with Kisumu/Korando/ 3801,3800 and 4726 and as a result, he has been issued with a lawful title deed for Kisumu/Korando/4883 after the amalgamation.

30. He stated in his testimony vide witness statement dated 6th September 2021 that he bought the suit land from the then registered owner by the name of Naima Adega vide agreement dated 22nd March 2011. That he bought the suit property with other properties namely; Kisumu/Korando/4726, 3800 and 3801 from the said Naima Adega at a total cost of kshs.7,000,000/=
31. That thereafter he caused the parcels of land to be amalgamated to become number Kisumu/Korando/4883. On cross examination he stated that at the time of buying the property, he was given a certified copy of green card and certificate of official search which showed ownership by Naima Adega. That he did not know whether the appellant was in possession. The 1st Respondent produced as exhibits certified copy of green card dated 22/3/2019, copy of certificate of official search dated 17/3/2014, copy of title deed for Naima Adega, copy of land sale agreement dated 22/3/2011 copy of mutation form/application for amalgamation and copy of consent for amalgamation.
He stated that he was in occupation of parcel No. 4883.
32. DW1 was the Land Registrar Kisumu. He testified that certain entries in the register of land parcel No. Kisumu/Korando/4212 had been cancelled due to fraud leaving entry No. 2 & 3. That entry No 2 & 3 of parcel No. Kisumu/Korando/4212 indicate that the land was registered in favour of the Applicant and that title deed was issued to her on 6th April, 1990. He produced the parcel files for title No. Kisumu/Korando/4212 and title No. 4883 as exhibit.
33. The record shows that the trial court upon examining this evidence found that both the plaintiff [Appellant herein] and the 1st defendant hold valid titles to land parcels numbers Kisumu/Korando/4212 and 4883 respectively. The court further found that the authenticity and validity of the land titles held by the plaintiff [Appellant herein] and the 1st Respondent had not been challenged by either of the parties and that there is no dispute that both titles were issued by the Land Registrar.
34. The trial court further found that the 1st Respondent was a bonafide purchaser for valuable consideration with no notice of any prior defects.
35. That the Appellant had failed to prove that the amalgamation of her title to other lands was done by the 1st and 4th Defendants fraudulently and proceeded to hold that the amalgamation was done legally and procedurally.
36. The trial court ultimately found that the Plaintiff [Appellant herein] had failed to prove her case on a balance of probabilities.
37. It was submitted on behalf of the Appellant that during trial, the Appellant produced the original title deed of the suit property which she was issued with on 6th April, 1990. That the Land Registrar confirmed that the Appellant was the registered owner of the land. Counsel relied on the case of Joseph Kiprotich Bor v Tabutany Chepkoech Chebusit [2021]eKLR where it was held that where there are two [2] competing titles, the first in time will prevail.
38. Counsel urged the court to apply the decision of the Supreme Court in Dina Management Limited v The County Government of Mombasa & 5 Others [Petition 8[E010] of 2021] KESC 30 [KLR]21 April 2023 on irregularly acquired title to land.



39. Relying on the case of *Sammy Magera v Kuria Kiarie & 2 Others* [2017]eKLR, Counsel submitted that the amalgamation did not conform with the law, that it was bad in law and null and void and could not confer any lawful title of the suit property to the 1st Respondent.
40. On behalf of the 1st Respondent it was submitted that the 1st Respondent followed the right procedures when purchasing the suit property and that his certificate of title could only be challenged if he had fraudulently purchased the suit property or had knowledge of fraud involving the suit property. That such fraud had not been proved against him.
41. That the Appellant did not specifically plead fraud or misrepresentation, illegality or corrupt scheme and that thus the 1st Respondents holds a valid title.
42. There was evidence placed before the trial court and indeed the trial court did find that the Appellant held a valid title to parcel number Kisumu/Korando/4212. As a holder of a valid title, the appellant was entitled to the protection availed by Article 40 of *the Constitution* to her right to property.
43. The proceedings before the trial court show that the 1st Respondent was aware as at the time he claims to have bought the suit land that it belonged to the Appellant for he acknowledged on cross-examination that parcel 4212 according to D Exhibit 3[1] in entry 2, the owner of Margaret Auma, that entry 3 was showing title deed issued. At the time I was buying the suit parcel, the entry indicated that the owner was Margaret Auma that he at the time of purchase he did not ask Naima how she procured the title deed and that when this matter came up, he did not contact Naima as he did not know where she lived.
44. From this testimony, it is clear that as at the time of purchase, the 1st Respondent became aware that the property belonged to the Appellant. The green card produced showed that the entries that removed the land from the Appellant had been cancelled for being fraudulent.
45. The evidence of DW1, the Land Registrar was that the combination of the suit land with the 1st Respondent's other lands was done illegally.
46. He testified that from the record, the current registered owner of land parcel number 4212 was the Appellant. That there was no transfer by the Appellant to any party.
47. The Land Surveyor who testified as PW2 also stated that he concluded that the amalgamation was illegal.
48. I find that the trial court erred in finding that the amalgamation was lawful in the absence of any evidence of the procedure followed for the amalgamation and in view of the opinion of the two expert witnesses namely the Surveyor [PW2] and the Land Registrar [DW1] that the amalgamation was unlawful.
49. The court finds that the appeal has merit and hereby allows it as follows:
 - a. The judgement of the trial court is set aside and substituted with an order of entry of judgement in favour of the Appellant for:
 - i. A declaration that the plaintiff's title is legal and that any other title registered or otherwise that is inconsistent with it is illegal and unlawful.
 - ii. An order directed at the 4th Defendant [2nd Respondent in the appeal herein] to restore the legal status of the plaintiff's title No. Kisumu/Korando/4212 on the subsequent survey map and the Registry Map Sheet as it existed on 6th April, 1990 under the Registry Map Sheet No. 13.
 - iii. Costs of the suit and interest thereon at court rates.



b. Costs of the appeal are awarded to the Appellant.

Orders accordingly.

JUDGEMENT DATED AND SIGNED AT KISUMU AND DELIVERED THIS 29TH DAY OF MAY 2025 VIRTUALLY THROUGH MICROSOFT TEAMS ONLINE APPLICATION.

E. ASATI,

JUDGE.

In the presence of:

Maureen: Court Assistant.

Kimathi for the Appellant

No appearance for the Respondents.

