



REPUBLIC OF KENYA



**KENYA LAW**  
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**Njoroge (Suing on behalf of the Estate of Margaret Wanjiku Ng'ang'a  
- Deceased) v Mwangi & another (Environment and Land Civil Appeal  
E048 of 2023) [2025] KEELC 3743 (KLR) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3743 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT THIKA  
ENVIRONMENT AND LAND CIVIL APPEAL E048 OF 2023**

**JA MOGENI, J**

**MAY 8, 2025**

**BETWEEN**

**MOSES NG'ANG'A NJOROGE (SUING ON BEHALF OF THE ESTATE OF  
MARGARET WANJIKU NG'ANG'A - DECEASED) ..... APPELLANT**

**AND**

**FREDRICK NYAGA MWANGI ..... 1<sup>ST</sup> RESPONDENT**

**KILIMAMBOGO HOUSING DEVELOPERS LTD ..... 2<sup>ND</sup> RESPONDENT**

**RULING**

1. Hon. V. Asiyo in the Judgment delivered on 18/08/2020 in Thika MCELC Case No. 47 of 2019 which is the subject of this Appeal stated as follows:

“Prayer (a) of the counter claim dated 27/02/2020 is neither clear nor exact as to which title the 1<sup>st</sup> Defendant wants to have cancelled. The identity of the parcel of land whose title the 1<sup>st</sup> Defendant wants cancelled has not been disclosed. The said prayer only states that the title issued on January 3, 2013 be cancelled. I bet there were many titles that were issued by the government of Kenya on that day. If it is the Plaintiff's parcel no. 4953/2787, the copy on record show that the lease was issued on December 1, 2011 and the transfer to the Plaintiff registered on December 20, 2016. If indeed the 1<sup>st</sup> Defendant has nothing to do with that parcel, there is no reason as to why he should seek for its cancellation”

2. This is the Judgment that led to the filing of the Notice of Motion dated 19/12/2024 brought under Order 42 rule 6 and Order 51 rule 1 of the Civil Procedure Rules, Section 1A, 1B, 3 and 3A of the [Civil Procedure Act](#), and other enabling provisions of the law seeking the following orders:

- a. Spent.



- b. That there be Stay of execution of the judgment of the Honorable Magistrate Court issued in Thika MCELC CASE NO 47 OF 2019 and all consequential decrees and orders pending hearing and determination of this Appeal.
  - c. That costs of this application be in cause.
3. The Application is based on the grounds on the face of it supported by the annexed affidavit of Moses Ng'ang'a Njoroge sworn on 19/12/2024.
  4. My perusal of the CTS has revealed that there is no response filed to the application instead there is a consent entered into by the parties dated signed by Counsels of both the appellants and the Respondents to the effect that the Appeal be marked as settled.
  5. There is also a receipt dated 3/02/2025 of Kesh 93,000 which states that the payment is in respect of costs for ELCLA E048 of 2023.
  6. In view of the foregoing since the Appeal is marked as settled then I believe the Application herein is equally withdrawn since there is no appeal upon which to base the application or file the response to. This file is thus closed.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 8<sup>TH</sup> DAY OF MAY, 2025**

**MOGENI J**

**JUDGE**

