



**Omae v Land Registrar Nyamira County & another (Environment & Land  
Case E002 of 2024) [2025] KEELC 3829 (KLR) (8 May 2025) (Ruling)**

Neutral citation: [2025] KEELC 3829 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA  
ENVIRONMENT & LAND CASE E002 OF 2024**

**JM KAMAU, J**

**MAY 8, 2025**

**BETWEEN**

**ERIC MOMANYI OMAE ..... APPELLANT**

**AND**

**THE LAND REGISTRAR NYAMIRA COUNTY ..... 1<sup>ST</sup> DEFENDANT**

**CHARLES LANCE NYARIBO ..... 2<sup>ND</sup> DEFENDANT**

**RULING**

1. Before me is a preliminary objection on behalf of the 2<sup>nd</sup> defendant. In the plaint dated 6/2/2024 the Plaintiff prays for orders of:
  - a. A declaration that the subdivision of land Parcel No. North Mugirango/Boisanga/X3 in July 1987 was illegal null and void
  - b. A cancellation of two numbers i.e., North Mugirango/Boisanga/2XX5 & 2XX6 be cancelled and the land reverts back to the original registered owner.
  - c. Costs of this suit.
  - d. Any other or further relief as the Court may deem fit to grant.
2. This on account that the sub-division and registration of North Mugirango/ Boisanga/X3 in the name of KO who died in 1967 was illegal and intermeddling with the property. The Plaintiff also claimed that the sub-division of the property in July 1987 of North Mugirango/Boisanga/2XX5 into North Mugirango/Boisanga/2XX6 and registration into the Plaintiff's father and Joshua Nyaribo Nyaribo (also deceased) respectively was as well illegal for want of authority.
3. On 2/10/2024 Charles Lance Nyaribo, son to the late Joshua Nyaribo, the registered proprietor of North Mugirango/Boisanga/2XX6 sought to be joined in the Suit as an Interested Party, and claimed



that he had taken out letters of administration in respect to the Estate of Joshua Nyaribo in order to defend the interests of the said Estate. This prayer was consented to by all other parties and granted on 3/10/2024 and he thus became the 2<sup>nd</sup> defendant.

4. On 10/11/2024 the 2<sup>nd</sup> Defendant sought for the striking out of the suit on ground that the Plaintiff lacks capacity to sue for want of Locus Standi. The objection is dated 7/11/2024. This was in addition to another preliminary objection dated 5/11/2024 predicated on the grounds:
  1. That the plaintiff's Suit was time barred, frivolous, vexatious, scandalous and an abuse of the Court process.
  2. That this Honourable Court lacks jurisdiction to entertain a suit that is statute -barred.
  3. That this suit is Res-judicata.
5. The Plaintiff filed his submissions on 13/12/2024 after the 2<sup>nd</sup> Defendant's on 10/11/2024.
6. As to the case being Res-judicata, the Court has not been availed copies of the other case that was filed that is similar to this case i.e. Nyamira CM Civil Suit No. 55 of 2001.No copies of pleadings and/or Decree/order have been exhibited as proof of the assertion.
7. Any party filing a Suit in Court must show in what capacity he is moving the Court. He is either the victim of certain illegalities or malpractices against him or he is acting in a legal capacity, as a guardian or that the matter is of public interest. In this case the Plaintiff has come to Court suing "on behalf of Charles Omae, the registered Proprietor of Land Parcel Number NORTH MUGIRANGO/BOISANGA/2XX5 under the Power of Attorney duly registered at Nyamira Lands Office." The First Defendant is sued for illegally and unlawfully causing an illegal Sub-division of land Parcel No. North Mugirango/Boisanga/ X3 into Number North Mugirango/Boisanga/ 2XX5 and 2XX6 and allocating them to the Plaintiff's father and one Joshua Nyaribo Nyaribo (now Deceased). The Plaintiff avers that the Sub-division was illegal in that it was a clear case of meddling with the Estate of a Deceased person and disinheriting other beneficiaries. He then prays that the Sub-division be cancelled.
8. What the Plaintiff does not say is how he is related to the late KO or the Parcel of Land known As L.R. North Mugirango/Boisanga/X3 and/or its Sub-divisions North Mugirango/Boisanga /2XX5 and 2XX6 respectively. He says he has a specific Power of Attorney where the Donor is one Charles Omae. The same was executed on 14/12/2023. It has never been registered. KO is now Deceased and it is not indicated when he died. It is also not clear whether the Donor of the Power of Attorney Charles Omae is the same person as KO. The purpose of the same is to file a case in court on behalf "of the family since I am sick". But of ultimate importance, a Power of Attorney does not survive the Donor. Once the Donor dies the Power of Attorney's authority comes to an end. What follows is for the beneficiaries to get letters of Administration either to proceed with a suit or to file one.
9. I therefore agree with Ms. Grace Bundi that this Suit is unsustainable and the same belongs to the Repository of struck out Suits. The Second Defendant is granted the costs of the same but since the 1<sup>st</sup> Respondent never participated, he goes home empty handed.

**JUDGMENT DATED, SIGNED AND DELIVERED AT NYAMIRA THIS 8TH DAY OF MAY, 2025.**

**MUGO KAMAU**

**JUDGE**

