



**China Jiangsu International Economic-Technical Cooperation Corporation
East African Company v China Jiangsu International Economic Technical
Co-operation Corporation Limited (Environmental and Land Originating
Summons E011 of 2024) [2025] KEELC 4926 (KLR) (3 July 2025) (Judgment)**

Neutral citation: [2025] KEELC 4926 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS E011 OF 2024**

CA OCHIENG, J

JULY 3, 2025

BETWEEN

**CHINA JIANGSU INTERNATIONAL ECONOMIC-TECHNICAL
COOPERATION CORPORATION EAST AFRICAN COMPANY PLAINTIFF**

AND

**CHINA JIANGSU INTERNATIONAL ECONOMIC TECHNICAL CO-
OPERATION CORPORATION LIMITED DEFENDANT**

JUDGMENT

1. What is before Court for determination is the Plaintiff's Originating Summons dated the 9th January 2024. It seeks a determination on issues:
 - a. Whether the Plaintiff has been in adverse possession and has become entitled to be registered as the proprietor of, by way of adverse possession of Land Reference Number 3734/428, by virtue of having occupied the said portion of land nec vi, nec clam, nec precario for over 12 years.
 - b. Whether an order should issue that the Plaintiff be registered as the proprietor of by way of adverse possession of Land Reference Number 3734/428 in place of the Defendant.
 - c. Whether the Defendant should bear the costs of this suit.
2. The Originating Summons is premised on grounds on its face and on the supporting affidavit, supplementary affidavit and further affidavits of Guo Huadong, a director of the Plaintiff, which is a limited liability company incorporated in Kenya.



3. Despite being served by way of substituted service through the Daily Nation Newspaper on the 11th November, 2024, the Defendant did not enter appearance thus the suit proceeded undefended.

Evidence of the Plaintiff

4. PW1 Mr. Guo Huadong, who is the Director and Chairman of the Plaintiff adopted his supporting affidavit and further affidavit as his evidence in chief. He produced annexures to the said affidavits as Exhibits 1-8.
5. In his supporting affidavit, PW1 avers that sometime in the year 2009, the Plaintiff peaceably and without permission entered into and occupied LR No. 3734/428, hereinafter referred to as the 'suit land', registered in the name of the Defendant, when it found it unoccupied and left unattended. He claims to have been persuaded that the owner of the suit land had abandoned it. He contends that that upon entry, the Plaintiff developed the suit land and has been operating a hardware shop and a construction materials yard, thereon since the year 2009. Further, that the Defendant, a company promoted by Chinese nationals who were residing in Kenya at the time, had gradually ceased operations and abandoned the suit land and has never challenged the Plaintiff's occupation.
6. He asserts that the Plaintiff has also utilized the suit land for on-site residential premises for its members of staff and has had sole and uninterrupted control, without sharing possession either with the Defendant or any other person. Further, that the exclusivity encompasses the physical use, occupation and control of the said land.
7. He alleges that the Plaintiff's occupation and enjoyment of the suit land has been flagrant and open to the public eye, continuous, notorious, exclusive and hostile for a period exceeding twelve (12) years. Further, that the Plaintiff also pays the applicable land rates, in the name of the Defendant, and has over the occupation period applied for as well as obtained water, electricity including internet connection, thus its occupation has indeed been adverse to the interests of the Defendant. He reiterates that the Plaintiff has become entitled to be registered as the owner of the suit land, by way of adverse possession, having been in its occupation well beyond the statutory limitation period of twelve (12) years as set out in the *Limitation of Actions Act*.
8. In his supplementary affidavit sworn on 15th July 2024, PW1 annexed GH-1 which includes a copy of title to the suit land as well as affidavits sworn by Peter Nguni, Mary Njeri Wambugu and James Makori Nyamao, all of whom aver that they successfully applied for jobs in the Plaintiff company and were appointed in the year 2012. They annexed their Letters of Appointment and contended that they have worked for the Plaintiff since 2012. Further, that the Plaintiff has been in possession of the suit land openly and without interruption.
9. In his further affidavit sworn on 3rd April 2025, PW1 avers that it is a pure coincidence that the Plaintiff's and Defendant's names have similarities as they are not related in any way. He pointed out that Chinese corporations tend to share similar names, since such names are generated from the city where the corporation is located or where its founders originate.

Submissions

10. The Plaintiff submits that the net effect of sections 7 and 38 of the *Limitation of Actions Act* is that the Defendant lost its right to bring an action to recover the suit land, twelve (12) years from 2009 when it entered the said land while it (Plaintiff) acquired a right to bring an action for adverse possession, upon expiry of twelve (12) years from 2009. The Plaintiff also submits that it had demonstrated continuous occupation of the suit land since 2009, without any interruption or break, in its occupation vide the



utility bills. Further, that it entered the suit land without any license by the Defendant or anyone else and that the photographic evidence of its use of the suit land over the years, demonstrate that its occupation has been overt and in open fashion. To buttress its averments, it relied on the following decisions: *Katana & 29 Others v Nathoo* [2022] KEELC 2232 (KLR).

Analysis and Determination

11. Upon consideration of the Originating Summons including the respective affidavits and submissions, the only issue for determination is whether the Plaintiff should be declared to have acquired proprietary and ownership rights over the parcel of Land Reference Number 3734/428 through adverse possession.

12. Adverse possession is governed by Sections 7 and 38 (1) and (2) of the Limitation of the Actions Act. Section 7 of the *Limitation of Actions Act* provides as follows that:

“An action may not be brought by any person to recover land after the end of twelve years from the date on which the right of action accrued to him or, if it first accrued to some person through whom he claims, to that person.”

13. While Section 38 (1) and (2) stipulates thus:

“(1) Where a person claims to have become entitled by adverse possession to land registered under any of the Acts cited in section 37 of this Act, or land comprised in a lease registered under any of those Acts, he may apply to the High Court for an order that he be registered as the proprietor of the land or lease in place of the person then registered as proprietor of the land. (2) An order made under subsection (1) of this section shall on registration take effect subject to any entry on the register which has not been extinguished under this Act.”

14. The Court of Appeal restated what a Plaintiff in a claim for Adverse Possession has to prove in *Titus Mutuku Kasuve v Mwaani Investments Limited & 4 others* [2004] eKLR as follows;

“And in order to be entitled to the land by adverse possession, the claimant must prove that he has been in exclusive possession of the land openly and as of right and without interruption for a period of 12 years either after dispossessing the owner or by the discontinuation of possession by the owner on his own volition.....”

15. Further, in *Mate Gitabi vs Jane Kabubu Muga Alias Jane Kaburu Muga & 3 Others* [2017] eKLR, the Court of Appeal stated thus:

“For one to succeed in a claim for adverse possession one must prove and demonstrate that he has occupied the land openly, that is without secrecy, without force, and without license or permission of the land owner, with the intention to have the land. There must be an apparent dispossession of the land from the land owner. These elements are contained in the Latin maxim *nec vi, nec clam, nec precario*...”



16. In *Joseph Gachumi Kiritu v Lawrence Munyambu Kabura* [1996] eKLR, it was stated that:
- “Time which has begun to run under the Act is stopped either when the owner asserts his right or when his right is admitted by the adverse possessor. Assertion of right occurs when the owner takes legal proceedings or makes an effective entry into the land...”
17. In this instance the Plaintiff claims to have entered into occupation of the suit land sometime in the year 2009. PW1 contended that at the point of entry, the land was abandoned, bare and unoccupied. It was his testimony that the Plaintiff has remained in occupation and possession of the suit land openly, notoriously and without secrecy. Further, that the Plaintiff entered the suit land without permission from the Defendant, that is it's the registered owner. It was PW1's further testimony that the Plaintiff pays the applicable land rates, in the name of the Defendant, and has over the occupation period applied for and obtained water, electricity and internet connection, thus its occupation has indeed been adverse to the interests of the Defendant. Further, on similarity of names, the Plaintiff explains that the two parties are not related but Chinese corporations tend to share similar names since such names are generated from the city where the corporation is located or where its founders originate.
18. I note the Defendant despite being duly served via substituted service of summons failed to enter appearance nor defend the suit.
19. From the uncontroverted evidence before court, I find that the Plaintiff entered the suit land in 2009, without permission from the Defendant. Further, it has occupied the land openly, without secrecy, without force, and without license or permission of the Defendant. This in essence means that time begun to run in 2009 and by the year 2021, the plaintiff had been on the suit land for twelve (12) years. It is trite that once a party has uninterruptedly, notoriously and openly occupied land, for more than twelve (12) years, without permission from the owner, then the owner is estopped from claiming it, but is simply holding the title to the said land, in trust for the adverse possessor. From the photographs presented as annexures, it is clear the Plaintiff is on the suit land. Further, from the affidavits from the Plaintiff's employees who have been working on the suit land from 2012, which are not controverted, I have no reason to doubt the Plaintiff's averments.
20. In the circumstances, while relying on the legal provisions cited and associating myself with the decisions quoted, I find that the Plaintiff has proved that it has occupied land reference number 3734/428 openly, uninterruptedly, notoriously and without permission from the owner for more than twelve (12) years. I find that the Plaintiff should hence be declared to have acquired proprietary and ownership rights over the parcel of Land Reference Number 3734/428, through adverse possession.
21. In the foregoing, I find the Originating Summons dated the 9th January, 2024 merited and will allow it in the following terms:
- a. An order be and is hereby issued that the Plaintiff China Jiangsu International Economic-Technical Cooperation Corporation East African Company be registered as the proprietor of Land Reference Number 3734/428 in place of the Defendant China Jiangsu International Economic Technical Co-operation Corporation Limited.
 - b. Plaintiff to bear its own costs.

DATED SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 3RD DAY OF JULY 2025

CHRISTINE OCHIENG

JUDGE



In the presence of:
Opiyo for Applicant
Court Assistant: Joan

