



REPUBLIC OF KENYA



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Waigwa & 21 others v Kimemia Engineering Construction Co Ltd & 3 others (Environment & Land Case E439 of 2021) [2024] KEELC 1833 (KLR) (4 April 2024) (Judgment)

Neutral citation: [2024] KEELC 1833 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE E439 OF 2021**

JO MBOYA, J

APRIL 4, 2024

BETWEEN

PETER MAINA WAIGWA & 21 OTHERS & 21 OTHERS PLAINTIFF

AND

KIMEMIA ENGINEERING CONSTRUCTION CO LTD 1ST DEFENDANT

COUNTY GOVERNMENT OF NAIROBI 2ND DEFENDANT

CHIEF LAND REGISTRAR 3RD DEFENDANT

ATTORNEY GENERAL 4TH DEFENDANT

JUDGMENT

1. The Plaintiffs herein [who are 22 in number] have approached the Honourable court vide Plaint dated the 16th of December 2021; and in respect of which same [Plaintiffs] have sought for the following reliefs [verbatim]:
 - i. A Permanent Injunction to restrain the 1st Defendant, its agents, associates or employees from trespassing, interfering, claiming and/or in any other manner dealing with L.R No. 209/4844/124 and specifically, with dealing with the portions known as Plots numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 14 situated next to Mbotela Shopping Centre owned by the Plaintiffs.
 - ii. An order compelling the 2nd Defendant to facilitate the issuance of appropriate title documents to the Plaintiffs over the subject parcels of land.
 - iii. A mandatory injunction and/or an order of Specific performance and/or a compelling order be issued against the 3rd Defendant compelling it to facilitate the immediate issuance of titles in favor of the Plaintiffs.



- iv. An order be issued cancelling the title to L.R No. 209/4844/124 earmarked to be issued to the 1st Defendant.
 - v. Costs of the suit.
 - vi. Any other relief this Honourable court may deem fit to grant.
2. Upon being served with the Plaint and Summons to enter appearance, the 1st Defendant duly entered appearance and thereafter filed a Statement of Defense and Counterclaim dated the 8th of March 2022. For coherence, the 1st Defendant sought for the following reliefs at the foot of the counterclaim:
- i. A declaration that the 1st Defendant is the legal and lawful registered proprietor of L.R No. 209/4844/124.
 - ii. An order of permanent injunction restraining the Plaintiffs, their servants and/or agents from trespassing, encroaching, remaining on or within or in any other way interfering with the 1st Defendants quiet enjoyment, possession and occupation of L.R No. 209/4844/124.
 - iii. Mesne profits.
 - iv. General damages for trespass.
 - v. Costs of the suit.
 - vi. Interests on [ii], [iv] and [v] above until payment in full.
 - vii. Any other order that the court may deem just and expedient to grant.
3. On the other hand, the 2nd Defendant duly entered appearance and filed a Statement of Defense dated the 2nd of June 2022. Similarly, the 2nd Defendant also filed her List and bundle of documents; and witness statement of even date [2nd June 2022].
4. Other than the foregoing, the 3rd and 4th Defendants entered appearance and filed a statement of defense dated the 18th of July 2022; and in respect of which same disputed the claims mounted by and on behalf of the Plaintiff. For good measure, the 3rd and 4th Defendants sought to have the Plaintiffs' suit to be dismissed as against same [3rd and 4th Defendants].
5. Instructively, upon being served with the statement of defense and counterclaim by and on behalf of the 1st Defendant, the Plaintiffs' duly filed a Reply to statement to defense and defense to counterclaim dated the 8th of June 2022; and in respect of which, same [Plaintiffs]denied the allegations/claims by and on behalf of the 1st Defendant.
6. Furthermore, the Plaintiffs' also filed a Reply to the statement of defense on behalf of the 2nd Defendant; and the Reply to statement of defense is dated the 18th of July 2022.
7. Following the close of pleadings, the instant matter was fixed for Pre-trial directions on the 6th of December 2022; whereupon the Parties confirmed that same had indeed filed and exchanged the requisite pleadings, List and bundle of documents; and the witness statements, where appropriate.
8. Consequently and arising from the foregoing, the instant matter was confirmed as ready for hearing culminating into a Hearing date being fixed.

Evidence by the Parties:

- a. Plaintiffs' Case



9. The Plaintiffs' case revolves around the evidence of one witness, namely, Harrison Kamole Kaguta. Same testified as PW1.
10. It was the evidence of the witness that same [witness] is the 6th Plaintiff herein. Furthermore, the witness averred that same is conversant with the rest of the Plaintiffs in respect of the instant matter.
11. Additionally, the witness averred that by virtue of being conversant with the rest of the Plaintiffs, same [rest of Plaintiffs] have authorized and mandated same [witness] to testify on their behalf and to produce the various documentary Exhibits in support of the instant matter.
12. Other than the foregoing, the witness testified that same has since recorded a witness statement dated the 18th of December 2021; and which witness statement, the witness sought to adopt and rely on as his Evidence in chief.
13. For coherence, the witness statement dated the 18th of December 2021 was thereafter adopted and admitted as the Evidence in chief of the witness.
14. On the other hand, the witness averred that the Plaintiffs herein filed a List and bundle of documents dated the 18th of December 2021 containing various documents which documents the witness sought to produce and tender before the court.
15. Suffice to point out that even though an objection was taken to the production of the documents at the foot of the List and bundle of documents dated the 18th of December 2021, the said objection was overruled. Consequently, and in this regard, the documents at the foot of the list of documents dated the 18th of December 2021 were duly produced and marked as Plaintiffs Exhibits P1 to P14, respectively.
16. Further and in addition, the witness also alluded to the list and bundle of documents dated the 27th of October 2022 and similarly sought to produce the said documents as an exhibits. For good measure, the documents were thereafter produced and marked as Exhibit P15.
17. On the other hand, the witness adverted to the Further list and bundle of documents dated the 30th of November 2022 and sought to produce the documents thereunder as further exhibits on behalf of the Plaintiffs. Instructively, the documents at the foot of the further list and bundle of documents dated the 30th of November 2022 were produced as Exhibits P16 and P17, respectively.
18. In addition, the witness clarified that Exhibit P16 was an internal memo procured from the Nairobi Metropolitan Services [NMS], now defunct.
19. On cross examination from Learned counsel for the 1st Defendant, the witness averred that the rest of the Plaintiffs and himself have been on the disputed property since the year 1970. In any event, the witness added that the rest of the Plaintiffs and himself have been carrying on business on the disputed property for over 30 years.
20. Additionally, the witness averred that the rest of the Plaintiffs and himself have constructed and/or built on the disputed property. However, the witness ventured forward and indicated that the structures built on the disputed property are temporary in nature.
21. Whilst under further cross examination, the witness averred that in the year 1970, the number of people who were carrying out business on the suit property were 21 in number. Besides, the witness averred that what constitutes the disputed property was given to them [rest of Plaintiffs and himself] by the city council of Nairobi, now defunct.



22. It was the further testimony of the witness that even though the city council of Nairobi authorized and mandated the rest of the Plaintiffs and himself to enter upon and carry out business on the suit property, same [witness] has not filed the authority which was given by the city council of Nairobi.
23. On further cross examination, the witness averred that subsequently, the rest of the Plaintiffs and himself sought to be allocated the disputed property. In this regard, the witness averred that thereafter the city council of Nairobi proceeded to and issued letters of allotment to and in favor of the rest of the Plaintiffs and himself, who were already carrying on business on the disputed property.
24. On the other hand, the witness averred that the rest of the Plaintiffs and himself have sued the 1st Defendant because the 1st Defendant is also laying a claim to the disputed property.
25. However, the witness added that prior to and before the filing of the instant suit, same [witness] did not carry out and/or conduct any official search over and in respect of the suit property.
26. Whilst under further cross examination, the witness averred that same [witness] was not aware whether the suit property was ever allocated to and in favor of the 1st Defendant. Nevertheless, the witness averred that same [witness] was allocated a plot which falls within the suit property.
27. Furthermore, the witness alluded to the Letter of allotment dated the 28th of November 2002; relating to plot number 4. In addition, the witness also admitted that the rest of the letters of allotment which have been produced before the court are also dated the same date, namely, the 28th of November 2002.
28. On further cross examination, the witness also admitted that the letters of allotment, which same has tendered and produced before the court were also authored by the same officer.
29. As to whether the rest of the Plaintiffs and himself accepted the terms of the letters of allotment, the witness herein indicated that same did not have any letter of acceptance. For good measure, the witness averred that same [witness] has neither tendered nor produced a copy of the letter of acceptance.
30. Other than the foregoing, the witness also averred that the rest of the Plaintiffs and himself were required to pay various monies at the foot of the letters of allotment. However, the witness averred that the rest of the Plaintiffs and himself proceeded to and paid the requisite monies, albeit out of the scheduled timelines.
31. Whilst under further cross examination, the witness averred that same has neither tendered nor produced before the court any Deed plan. Similarly, the witness averred that even though the rest of the Plaintiffs had been issued with a letter of allotment, none of the Plaintiffs has ever been granted a Certificate of Title.
32. Additionally, it was the testimony of the witness that same [witness] is not aware whether the 1st Defendant herein has ever been issued with a Certificate of Title. Nevertheless, the witness averred that if the 1st Defendant has been issued with a Certificate of Title, then same ought to be canceled.
33. On cross examination by Learned counsel for the 2nd Defendant, the witness averred that the persons who were authorized to enter and carry on business on the disputed property were 21 in number. However, the witness averred that 6 of the persons who were hitherto authorized to enter onto the suit property have since died.
34. On the other hand, the witness averred that even though 6 of the Plaintiffs are dead, same [the said Plaintiffs] have not been replaced. In any event, the witness avers that same is not in possession of any Grant of letters of administration.



35. Whilst under further cross examination, the witness stated that the document at page 116 of the Plaintiffs' bundle of documents is a payment receipt. Furthermore, the witness averred that the payment receipt is dated the 6th of February 2002.
36. On further cross examination, the witness averred that it is evident [apparent] that the payment under reference, namely, the payment made on the 6th of February 2002 was made prior to and/or before the issuance of the letter of allotment.
37. Additionally, the witness averred that the document at page 115 of the Plaintiffs' consolidated bundle of documents is a beacon certificate. However, the witness confirmed that the said document [beacon certificate] has not been signed.
38. Whilst under further cross examination, the witness averred that same [witness] applied to be allocated the portion of the disputed property on the 18th of October 1998. In any event, the witness added that the application letter has been tendered and produced before the court.
39. Other than the foregoing, it was the testimony of the witness that same is not aware whether the 2nd Defendant is responsible for issuance/giving of Certificate of Titles.
40. On cross examination by learned counsel for the 3rd and 4th Defendants, the witness averred that same does not know why the 3rd and 4th Defendants have been sued. In any event, the witness added that same [witness] is not aware whether the letters of allotments in favor of the Plaintiffs have ever been escalated to the Chief Land Registrar.
41. On further cross examination, the witness averred that same has neither carried out nor undertaken any Search at the land registry to ascertain the ownership status of the suit property. Furthermore, the witness also averred that same has never taken his letter of allotment to the Chief Land Registrar.
42. On re-examination, the witness averred that the instant suit was filed before the court on the advise of their [Plaintiffs'] advocates. In any event, the witness added that though exhibit P16 is a Memo from NMS, same [witness] is still keen to adopt and rely on the contents thereof.
43. On further re-examination, the witness averred that the letters of allotments which were issued to and in favor of the rest of the Plaintiffs and himself were issued on the 28th of November 2002.
44. Furthermore, the witness averred that some of the Plaintiffs before the court are legal representatives of the deceased Plaintiffs. However, the witness admitted that though some of the Plaintiffs are legal representatives of the deceased, same [witness] has not produced before the court any Grant of letters of administration or at all.
45. Finally, the witness averred that the Certificate of Title issued to and in favor of the 1st Defendant is illegal and hence same ought to be revoked. For good measure, the witness averred that the suit property belongs to the Plaintiffs herein and hence same [Plaintiffs] ought to be issued with the certificate of titles.
46. With the foregoing testimony, the Plaintiffs' case was duly closed.
 - b. 1st Defendant's Case:
47. Similarly, the 1st Defendant's case is premised on the evidence of one witness, namely, Eddy Ndungu Kimemia. Same testified as DW1.



48. It was the testimony of the witness [DW1] that same is a Director of the 1st Defendant. Further and in addition, the witness averred that the 1st Defendant is a limited liability company which carries out and undertakes construction business.
49. Furthermore, it was the evidence of the witness that same is conversant with the facts of the instant matter. In any event, the witness averred that same has since recorded a Witness Statement dated the 8th of March 2022 detailing the facts pertaining to and concerning the instant matter. For coherence, the witness thereafter sought to adopt and rely on the witness statement.
50. Suffice it to point out that the witness statement dated the 8th of March 2022 was thereafter constituted and adopted as the evidence in chief on behalf of the witness.
51. Other than the foregoing, the witness adverted to the list and bundle of documents dated the 8th of March 2022, containing 14 documents and which the witness sought to adopt and to rely on. Instructively, the documents at the foot of the list dated the 8th of March 2022 were thereafter adopted and produced before the court as exhibits D1 to D14, respectively.
52. Additionally, the witness adverted to the further list and bundle of documents dated the 17th of December 2022 and sought to produce the documents thereunder. For good measure, the documents at the foot of the further list and bundle of documents dated the 17th of December 2022 were admitted as defense exhibits D15 to D18, respectively.
53. On the other hand, the witness also adverted to the Statement of Defense and Counterclaim dated the 8th of March 2022 and sought to adopt and rely on same on behalf of the 1st Defendant.
54. On cross examination by learned counsel for the 2nd Defendant, the witness averred that the 1st Defendant herein was issued with the letter of allotment dated the 18th of January 1994. Furthermore, the witness added that thereafter, the 1st Defendant generated a letter of acceptance and also paid the stand premium. For clarity, the witness added that the stand premium was paid on the 8th of March 1994.
55. On further cross examination, the witness averred that same [witness] has been able to see the various letters of allotments tendered and produced by the Plaintiffs. In any event, the witness has clarified that the letters of allotments in favor of the Plaintiffs are shown to have been issued in the year 2002.
56. It was the further testimony of the witness that the letters of allotments to and in favor of the Plaintiffs were issued long after the suit property had been allocated to and ultimately registered in favor of the 1st Defendant.
57. Whilst under further cross examination, the witness averred that the Plaintiffs herein appear to have been requesting for issuance with letters of allotment as late as the 17th of February 2003. In this regard, the witness averred that by the time the Plaintiffs were seeking to be allocated the suit property, same [suit property] was no longer available for allocation.
58. On cross examination by counsel for the Plaintiffs, the witness averred that the 1st Defendant was incorporated and issued with a Certificate of Incorporation on the 12th July 1996. In any event, the witness averred that same [witness] has tendered and produced before the court a copy of the certificate of incorporation.
59. On further cross examination, the witness averred that prior to and before the incorporation of the 1st Defendant, same [witness] had been carrying out business as Kimemia Engineering Construction,



- which was a business name and not a company. In any event, the witness added that same applied for allotment of the plots/properties in question in the year 1994.
60. Furthermore, the witness has averred that by the time same applied for allotment of the land, the 1st Defendant herein had not been incorporated. At any rate, the witness added that the 1st Defendant was incorporated 2 ½ years after same had applied for the allotment of the Plot in question.
 61. It was the further testimony of the witness that prior to the allotment, same [witness] had occasion to visit the locus in quo. Besides, the witness averred that by the time same visited the locus in quo, the plot in question was not under any occupation.
 62. Whilst under further cross examination, the witness averred that having established that the land in question was not under any occupation, same proceeded to and applied for allotment. Nevertheless, the witness averred that at the time when he visited the suit property, there were persons who were carrying out business thereof. However, the witness clarified that the persons were hawkers.
 63. On further cross examination, the witness averred that when same applied to be allocated the land, the land was not formally surveyed. Nevertheless, the witness added that upon allotment, the land in question was surveyed and thereafter a Deed Plan was generated and issued, which showed the details of the suit property.
 64. On the other hand, the witness averred that his company had various business engagements with the city council of Nairobi, now defunct. However, the witness clarified that he himself had not been employed by the city council of Nairobi, now defunct.
 65. It was the further testimony of the witness that prior to and before allotment, a Part Development Plan [PDP] had to be prepared/generated showing whether the land in question is available. For good measure, the witness stated that a PDP plan was indeed generated in respect of the suit property.
 66. On further cross examination, the witness averred that same has tendered and produced before the court a copy of the Deed Plan. In this regard, the witness added that the Deed plan was certified on the 6th of December 2022.
 67. Whilst under further cross examination, the witness also averred that the Deed Plan, which was produced as exhibit D15, shows that the suit property was L.R No. 209/4844/124.
 68. Further and in addition, the witness averred that the parcel number arose after the survey had been carried out and undertaken. Furthermore, it was the testimony of the witness that same was issued with a letter of allotment and that thereafter same proceeded to and paid the requisite stand premium. In this regard, the witness averred that the payment of the stand premium was duly received and that the receipt in question is dated the 8th of March 1994.
 69. It was the further testimony of the witness that by the time same [witness] made the payment in question, the land had not been surveyed. In any event, the witness averred that the parcel number before survey was indicated as L.R No. 209/4844/59/R.
 70. On further cross examination, the witness stated that same was allocated the land before the land in question was surveyed. Furthermore, the witness added that after the allocation, the land was duly surveyed culminating into the issuance of a lease instrument, which was escalated to the Chief Land Registrar and thereby giving rise to the Certificate of Lease in favor of the 1st Defendant.
 71. Whilst under further cross examination, the witness averred that the 1st Defendant herein had previously sued the city council of Nairobi over and in respect of the suit property, and that the suit was heard and determined culminating into a Judgment being rendered in favor of the 1st Defendant.



72. For good measure, the witness added that the Judgment was to the effect that the city council of Nairobi was to evict the people who were carrying on business/hawking on the suit property.
73. Other than the foregoing, the witness averred that the Certificate of Lease was issued to and in favor of the 1st Defendant in the year 2000. In any event, the witness added that the delay in the issuance of the Certificate of Title was caused because the mother title was missing and/or misplaced.
74. On re-examination, the witness averred that the allocation of the suit property was done prior to and before the incorporation of the 1st Defendant. Nevertheless, the witness clarified that the allocation was done to and in favor of himself who was trading as Kimemia Engineering Construction.
75. On further re-examination, the witness clarified that the land in question was allocated unto him prior to and/or before Survey. Nevertheless, the witness added that subsequently, the land in question was surveyed culminated into the preparation of a Deed Plan which was drawn on the 14th of November 1996.
76. Other than the foregoing, the witness also averred that following the survey, same [witness] was issued with a beacon certificate dated the 18th of September 1996, as well as a Deed Plan relating to L.R No. 209/4844/124, which is the suit property.
77. Furthermore, the witness averred that it is himself who took the surveyor to the suit property and that during the survey exercise, it was confirmed that the suit property was vacant and in any event, there was no person in occupation thereof.
78. Finally, the witness averred that the Plaintiffs before the court have no lawful and/or legitimate claim to and in respect of the suit property. In any event, the witness averred that by the time the Plaintiffs were seeking to be allocated the suit property, same [suit property] had already been allocated to and registered in the name of the 1st Defendant.
79. With the foregoing testimony, the 1st Defendant's was duly closed.
 - c. 2nd Defendant's Case:
 80. The 2nd Defendant duly entered appearance and filed a Statement of Defense. Similarly, the 2nd Defendant also filed a list and bundle of documents dated the 2nd of June 2022.
 81. Furthermore, it is also worthy to recall that the 2nd Defendant also filed a Witness Statement by one Abwao Eric Odhiambo, who was stated to be the acting County solicitor.
 82. Be that as it may, when time for calling the evidence on behalf of the 2nd Defendant arose, learned counsel for the 2nd Defendant intimated to the Honourable Court that the 2ND Defendant will not be calling any Witness. Consequently, same [Counsel] proceeded to and closed the 2nd Defendant's case.
 83. For coherence, it is instructive to point out that the 2nd Defendant's case was closed without any evidence being tendered or at all.
 - d. 3rd and 4th Defendants' Case:
 84. It is instructive to point out that the 3rd and 4th Defendants also entered appearance and filed a Statement of Defense dated the 18th of July 2022. However, the 3rd and 4th Defendants neither filed any list and bundle of documents, nor filed any witness statement.
 85. Additionally, it is worthy to underscore that the 3rd and 4th Defendants also closed their defense case without any evidence being tendered.



Parties' Submissions:

86. At the close of the Hearing, the advocates for the respective parties covenanted to file and exchange written submissions. Consequently, and in this regard, the court proceeded to and circumscribed the timelines for the filing and exchange of the written submissions.
87. Pursuant to and in line with the directions of the court, the Plaintiffs filed written submissions dated the 19th of February 2024 whereas the 1st Defendant filed written submissions dated the 18th of February 2024.
88. On the other hand, the 2nd Defendant filed written submission dated the 28th of February 2024 whilst the 3rd and 4th Defendants filed written submissions dated the 5th of March 2024.
89. For good measure, all the sets of written submissions [details in terms of the preceding paragraphs] are on record. Consequently, the court shall consider same whilst crafting the Judgment under reference.
90. Be that as it may, it is appropriate to underscore that even though the court has not reproduced and/or rehashed the written submissions by and on behalf of the parties, the failure to do so is not informed by any contempt or at all.
91. Conversely, the court is immensely grateful to the parties and their respective advocates for the elaborate submissions, which no doubt, shall enable the court to appreciate the issues in dispute and to render an effective determination as pertains to the dispute beforehand.

Issues for Determination

92. Having reviewed the pleadings filed by and on behalf of the respective parties, and upon taking into account the evidence tendered [oral and documentary] and upon considering the written submission filed on behalf of the respective parties, the following issues do emerge [crystalize] and are therefore worthy of determination:
 - i. Whether the suit by and on behalf of the 1st, 2nd, 3rd, 7th, 11th and 13th Plaintiffs are competent or otherwise.
 - ii. Whether the Plaintiffs herein acquired any lawful and/or legitimate rights to and in respect of the suit property or any portion thereof or at all.
 - iii. Whether the 1st Defendant acquired lawful rights and/or interests to the suit property and if so, whether the 1st Defendant is entitled to the requisite protection under the law.
 - iv. What reliefs, if any, ought to be granted.

Analysis and Determination

Issue Number 1 Whether the suit by and on behalf of the 1st, 2nd, 3rd, 7th, 11th and 13th Plaintiffs are competent or otherwise.

93. From the face of the pleadings, namely the Plaint, it is evident and apparent that the suit by the 1st, 2nd, 3rd, 7th, 11th and 13th Plaintiffs are indicated to have been commenced by and on behalf of deceased persons, whose details are articulated on the face of the Plaint.
94. Furthermore, it is shown that the persons, namely, Plaintiffs who have brought the suit on behalf of the deceased persons, are suing on behalf of the estates of the deceased persons. Quite clearly, what is discernable is that the named Plaintiffs have brought the suits for and on behalf of the deceased.



95. To the extent that the suits by and on behalf of the named Plaintiffs are said to have been commenced and brought on behalf of the estate of the deceased persons, there is no gainsaying that it was incumbent upon the named Plaintiffs to procure and obtain the requisite grant of letters of administration on behalf of the relevant deceased persons, prior to and/or before the filing of the suit herein.
96. Instructively, it is upon the issuance of the requisite Grant of letters of administration that the concerned Plaintiffs [who are not the executors/executrix] would acquire and/or be bestowed with the requisite legal capacity [locus standi] to commence the relevant suits for and on behalf of the estate of the deceased persons.
97. For coherence, it is the issuance of the grant of letters of administration that vests and/or bestows upon the designated administrator with the capacity to sue and this pertinent point of law is underpinned by the provisions of Section 82 of the [Law of Succession Act](#), Chapter 160 Laws of Kenya.
98. For the sake of brevity, the provisions of Section 82 of the [Law of Succession Act](#), are reproduced as hereunder:
82. Powers of personal representatives' Personal representatives shall, subject only to any limitation imposed by their grant, have the following powers:
- (a) to enforce, by suit or otherwise, all causes of action which, by virtue of any law, survive the deceased or arising out of his death for his personal representative;
 - (b) to sell or otherwise turn to account, so far as seems necessary or desirable in the execution of their duties, all or any part of the assets vested in them, as they think best: Provided that—
 - i. any purchase by them of any such assets shall be voidable at the instance of any other person interested in the asset so purchased; and
 - ii. no immovable property shall be sold before confirmation of the grant;
 - (c) to assent, at any time after confirmation of the grant, to the vesting of a specific legacy in the legatee thereof;
 - (d) to appropriate, at any time after confirmation of the grant, any of the assets vested in them in the actual condition or state of investment thereof at the time of appropriation in or towards satisfaction of any legacy bequeathed by the deceased or any other interest or share in his estate, whether or not the subject of a continuing trust, as to them may seem just and reasonable to them according to the respective rights of the persons interested in the estate of the deceased, and for that purpose to ascertain and fix (with the assistance of a duly qualified valuer, where necessary) the value of the respective assets and liabilities of such estate, and to make any transfer which may be requisite for giving effect to such appropriation:

Provided that except so far as otherwise expressly provided by any will—

 - i. no appropriation shall be made so as to affect adversely any specific legacy;
 - ii. no appropriation shall be made for the benefit of a person absolutely and beneficially entitled in possession without his consent, nor for the purpose of a continuing trust without the consent of either the trustees thereof (not being the personal representatives themselves) or the person for the time being entitled to the income thereof, unless the person whose consent is so required



is a minor or of unsound mind, in which case consent on his behalf by his parent or guardian (if any) or by the manager of his estate (if any) or by the court shall be required.

99. Furthermore, the importance of Grant of letters of administration prior to and before originating a suit on behalf of a deceased person, was also underscored by the Court of Appeal in the case of Edith Virginia Wamboi Otieno vs Joash Ochieng & Another (1987) eKLR, where the court stated and held thus:

But an administrator is not entitled to bring as action as administrator before he has taken out letters of administration. If he does the action is incompetent at the date of its inception. The doctrine of the relation back of an administrator's title, on obtaining a grant of letters of administration, to the date of the intestate's death, cannot be invoked so as to render the action competent (see *Ingall v Moran* [1944] 1 KB, and the case which follow namely *Burns v Campbell* [1952] KB 15). This doctrine is as old as *Wankford v Wankford* [1702] where Powys J said:

'but an administrator cannot act before letters of administration granted to him.'

100. Similarly, the Court of Appeal re-visited the position in the case of *Rajesh Pranjivan Chudasama vs Sailesh Pranjivan Chudasama* [2014] eKLR, where the court stated and held thus:

In his view therefore the deceased died intestate. As far as he was concerned, he moved to court by virtue of being a beneficiary for purposes of preserving the deceased's estate. That may well be the case, but in our view the position in law as regards locus standi in succession matters is well settled. A litigant is clothed with locus standi upon obtaining a limited or a full grant of letters of administration in cases of intestate succession. In *Otieno v Ougo* (supra) this Court differently constituted rendered itself thus:

"... an administrator is not entitled to bring any action as administrator before he has taken out letters of administration. If he does, the action is incompetent as of the date of inception."

101. Arising from the foregoing position, there is no gainsaying that the named Plaintiffs could only commence and/or originate the suits on behalf of the deceased persons, albeit upon obtaining the requisite Grant of letters of administration.
102. Be that as it may, it is not lost on the court that PW1, who is the only witness who testified on behalf of the Plaintiffs, stated and acknowledged that same had neither produced nor tendered before the court any Grant of letters of administration on behalf of the named Plaintiffs who are alleged to have filed the suits [sic] as legal representatives.
103. For good measure, it is appropriate to reproduce the evidence of PW1 whilst under cross examination by learned counsel for the 2nd Defendant.
104. Same [PW1] stated as hereunder:

"I wish to confirm that 6 Plaintiffs are dead. The deceased Plaintiffs have not been replaced. I don't have any evidence that grant of letters of administration have been issued/granted."



105. Other than the foregoing, PW1 also stated as hereunder whilst being re-examined by learned counsel for the Plaintiffs:

“I wish to add/confirm that some of the Plaintiffs before the court are legal representatives/administrators of the deceased persons. I however do admit that I have not filed the grant of letters of administration to show that same were/are duly appointed as such.”

106. Pertinently, there is no gainsaying that though the designated Plaintiffs have purported to file the suits for and on behalf of the estate of the named deceased persons, same [1st, 2nd, 3rd, 7th, 11th and 13th Plaintiffs], have neither tendered nor produced before the court any grant of letters of administration or at all.

107. Premised on the foregoing, it is therefore beyond peradventure that the suit by and on behalf of the named Plaintiffs, who are clearly not the administrators of the deceased, cannot stand.

108. Put differently, the suit by and on behalf of the 1st, 2nd, 3rd, 7th, 11th and 13th plaintiffs herein are not only premature and misconceived, but are legally untenable.

109. In view of the foregoing, my answer to issue number one is to the effect that the impugned suits by and on behalf of the named Plaintiffs are void ab initio and therefore warrant striking out by the court. For good measure, the suits by the named Plaintiffs are hereby struck out.

Issue Number 2 Whether the Plaintiffs herein acquired any lawful and/or legitimate rights to and in respect of the suit property or any portion thereof or at all.

110. Other than the foregoing, the Plaintiffs herein have brought the instant suit claiming that same [Plaintiffs] were duly and lawfully allocated various plots which are comprised in the suit property.

111. Additionally, the Plaintiffs herein tendered and produced before the court various letters of allotment, which admittedly were dated the 28th of November 2002. In any event, PW1, who testified on behalf of the rest of Plaintiffs averred that upon being issued with letters of allotment, same [Plaintiffs] proceeded to and paid the monies which were indicated in the body of the letters of allotments.

112. Nevertheless, it is instructive to point out that PW1 conceded that the payments which were made by and on behalf of the Plaintiffs were however made outside the stipulated duration contained and articulated in the body of the letter of allotment.

113. For good measure, it is important to reproduce the pertinent aspects of the evidence tendered by PW1 whilst under cross examination by learned counsel for the 1st Defendant.

114. Same testified and stated as hereunder:

“I was allocated my plot and I do have the letter of allotment. The letter of allotment is said to be dated the 28th November 2002. The letter of allotments before the court are dated the same date. I don’t have an application letter to be awarded/allocated the land. The letter of allotments were authored by the same office. I don’t have any evidence to show that we accepted the letter of allotment”.

115. Furthermore, the witness, PW1, ventured forward and stated as hereunder:

“I wish to add that we paid the monies at the foot of the letter of allotments. However, I wish to add that the payments were made out of time.”



116. From the testimony by and on behalf of PW1, two [2] things arise and are discernable. Firstly, it is evident that the Plaintiffs herein did not accept the letters of allotment, if at all, within the stipulated 30-day period.
117. To the extent that the Plaintiffs failed to generate and issue the requisite letter of acceptance within the 30-day period, it suffices to point out and underscore that the letters of allotments thus lapsed and became extinct.
118. Secondly, it is also evident that the Plaintiffs failed to pay the requisite premium espoused and articulated in the body of the letter of allotment within the stipulated/set timelines.
119. Similarly, having failed to pay and/or liquidate the stipulated premium within the set timeline, there is no gainsaying that the impugned letters of allotment, which anchors the claim by and on behalf of the Plaintiffs, ceased to exist and were indeed extinguished by operation of the law.
120. To this end, it is instructive to re-state and reiterate the holding of the Court of Appeal in the case of *Waterfront Holdings Limited vs Kandie & 2 others* (Civil Appeal 88 of 2019) [2023] KECA 1223 (KLR) (6 October 2023) (Judgment), where the court stated and held as hereunder:
53. There is therefore no difficulty in situations where an allottee has duly paid the stand premiums and related charges and the title documents issued. In those circumstances, the allottee, now the registered proprietor, acquires all the rights to that land hence removing the land from the ambit of further allotment.
- That position is reflected in this Court's decision in *Dr. Joseph N K Arap N'gok v Justice Moiyo Ole Keiwua & Others* Civil Application No. Nai. 60 of 1997 where this Court held that title to landed property can only come into existence after the issuance of the letter of allotment meeting the conditions stated therein and actual issuance thereafter of title documents pursuant to the provisions under which the property is held.
54. From the foregoing, the legal position is not that once issued, the letter of allotment lasts indefinitely. There must be an acceptance of the offer to allot the land by the allottee fulfilling the conditions specified for the said allotment. To that extent, we associate ourselves with this Court's decision in *Fidelity Commercial Bank Limited v Kenya Grange Vehicle Industries Limited* [2017] eKLR which express the general law in contractual matters. "It is elementary learning that for there to be a contract, there has to be an acceptance of an offer on the same terms of the offer and such acceptance must be unconditional, unequivocal and absolute, accompanied by consideration."
121. Most recently, the debate pertaining to whether or not a letter of allotment whose terms have not been complied with and/or adhered to, survives the expiry of the stipulated timelines was addressed, highlighted and elaborated upon by the Supreme Court of Kenya [the Apex Court], in the case of *Torino Enterprises Limited vs Attorney General* (Petition 5 (E006) of 2022) [2023] KESC 79 (KLR) (22 September 2023) (Judgment).
122. For coherence the court stated and held thus:
58. So, can an allotment letter pass good title? It is settled law that an allotment letter is incapable of conferring interest in land, being nothing more than an offer, awaiting the fulfilment of conditions stipulated therein. In *Dr Joseph NK Arap Ng'ok v Justice Moiyo Ole Keiyua & 4 others* CA 60/1997 [unreported]; and in *Gladys Wanjiru Ngacha v Teresa Chepsaat & 4 others* HC Civil Case No 182 of 1992; [2008] eKLR, the superior courts restated this principle as follows: "It has been held severally that a letter of allotment per se is nothing but an invitation to



treat. It does not constitute a contract between the offerer and the offeree and does not confer an interest in land at all ” [Emphasis added].

59. The pronouncement in Gladys Wanjiru and Dr Joseph NK Arap Ng’ok (supra) has been echoed in various Environment and Land Court decisions post the 2010 Constitution, including; Lilian Wanjeri Njatha v Sabina Wanjiru Kuguru & another, Environment and Land Case No 471 of 2010; [2022] eKLR; John Elias Kirimi v Martin Maina Nderitu & 4 others, Environment and Land Suit No 320 of 2011; [2021] eKLR; and Kadzoyo Chombo Mwero v Ahmed Muhammed Osman & 11 others, Environment and Land Case No 42 of 2021; [2021] eKLR, to mention but a few.
60. Suffice it to say that an Allottee, in whose name the allotment letter is issued, must perfect the same by fulfilling the conditions therein. These conditions include but are not limited to, the payment of a stand premium and ground rent within prescribed timelines. But even after the perfection of an allotment letter through the fulfillment of the conditions stipulated therein, an allottee cannot pass valid title to a third party unless and until he acquires title to the land through registration under the applicable law. It is the act of registration that confers a transferable title to the registered proprietor, and not the possession of an allotment letter.
123. Arising from the foregoing exposition of the law, it is crystal clear that the failure by the Plaintiffs to accept the terms of the letters of allotment and similarly to pay the requisite premiums within the set timelines, vitiated [sic] the letters of allotment which were issued to and in favor of the Plaintiffs.
124. Premised on the foregoing, it is my finding and holding that the impugned letters of allotment which the Plaintiffs have relied upon to underpin the claims to and in respect of the suit property, are indeed vitiated and void.
125. Other than the foregoing position, it is also important to point out that by the 28th of November 2002 when the city council of Nairobi, [now defunct] was purporting to allocate various plots situate on the suit property to and in favor of the Plaintiffs, the suit property stood alienated and registered in the name of the 1st Defendant.
126. To start with, evidence was tendered before the court that the 1st Defendant’s Director, namely, Eddy Ndungu Kimemia applied to be allocated the suit property vide letter dated the 11th of January 1994 and which letter was duly received by the city council of Nairobi [now defunct] on the 14th of January 1994.
127. Additionally, evidence was tendered before the court that upon receipt of the application for allotment of land, the city council of Nairobi, now defunct, proceeded to and issued an allotment letter dated the 18th of January 1994 and which letter of allotment was accepted by Eddy Ndungu Kimemia vide letter dated the 25th of January 1994.
128. In any event, evidence was also tendered before the court as pertains to payment of the stand premium, which was duly received and acknowledged by the city council of Nairobi.
129. Fast forward, the city council of Nairobi then proceeded to and generated a lease instrument dated the 31st of July 1996 and which lease instrument was thereafter presented to the office of the Chief Land Registrar for purposes of registration. For coherence, the lease instrument was ultimately registered on the 7th of January 2000 culminating into a Certificate of Lease being issued in favor of the 1st Defendant herein.



130. From the foregoing evidence, what is apparent is that by the 28th of November 2002 when the city council of Nairobi, now defunct, was purporting to allocate various plots out of the suit property to the Plaintiffs, same [suit property] was already private property registered in the name of the 1st Defendant.
131. To my mind, the suit property having hitherto been allocated to and in favor of the 1st Defendant, culminating into the issuance of the Certificate of Title in her favor, same ceased to be available for allocation and/or alienation, whatsoever.
132. In any event, land which has hitherto been alienated and has become private property can no longer be the subject of allocation by the city council of Nairobi, now defunct. For good measure, there is no gainsaying that the letters of allotment which were being issued by and on behalf of the city council of Nairobi, now defunct, in favor of the Plaintiffs touched on and/concerned a non-existent property.
133. Before departing from the subject issue, it suffices to take cognizance of the holding in the case of *Benja Properties Limited vs Syedna Mohammed Burhannudin Sahed & 4 others* [2015] eKLR, where the court stated and held as hereunder:
25. In arriving at our decision, we note that an interest in land cannot be allotted, alienated or transferred when the specific parcel of land allotted is not in existence. Allotment of an interest in land is a transaction in rem attaching to and running with a specific parcel of land. In the instant case, the allotment by the Commissioner of Land to the original allottees did not attach in rem to any land since there was no parcel upon which the allotment could attach. What the 5th respondent, the appellant and the original allottees did was to engage in paper transactions without a parcel of land upon which any interest in land would attach and vest – it was paper transactions without any parcel of land as its substratum.
134. In view of the foregoing, my answer to issue number two [2] is therefore threefold. Firstly, the letters of allotments upon which the Plaintiffs underpinned their claim to and in respect of the suit property were rendered redundant and otiose by effluxion of time.
135. Secondly, by the time the city council of Nairobi, now defunct, was purporting to allocate various plots comprised in the suit property to and in favor of the Plaintiffs, the suit property was already private property and thus outside the control of [sic] the city council of Nairobi, now defunct.
136. Thirdly, there is no gainsaying that a letter of allotment per se does not constitute title to land. For good measure, title to land only ensues upon issuance of a letter of allotment, compliance with the terms thereof and ultimate issuance of a Certificate of Title. See *Dr. Joseph N Arap Ngok vs Moijo Olekeiwa* (1997)eKLR.

Issue Number 3 Whether the 1st Defendant acquired lawful rights and/or interests to the suit property and if so, whether the 1st Defendant is entitled to the requisite protection under the law.

137. Other than the claim by and on behalf of the Plaintiffs herein, the 1st Defendant has also laid a claim to and in respect of the suit property.
138. For good measure, the 1st Defendant contends that the suit property was hitherto allocated to and in favor of her [1st Defendant's] Director, who thereafter complied with the terms of the letter of allotment culminating into the issuance of the requisite lease instrument and thereafter a Certificate of Title in favor of the 1st Defendant.



139. Furthermore, the 1st Defendant also tendered and produced before the court a copy of the Judgment and Decree which were issued by the Honorable High Court vide ELC No. 14 of 2009, wherein the Honorable High Court proclaimed the 1st Defendant as the lawful and legitimate proprietor of the suit property.
140. Instructively, the Judgment of the court which was rendered on the 21st of March 2011 and the consequential Decree issued on the 13th of August 2012, have neither been set aside nor varied.
141. In my humble view, the fact that the 1st Defendant was issued with a Certificate of Title and which Certificate of Title has since been vindicated vide a Judgment of the court [differently constituted], vindicates that the 1st Defendant is the lawful proprietor of the suit property.
142. Furthermore, there is no gainsaying that the Judgment of the court which was issued vide ELC No. 114 of 2009 and wherein the 1st Defendant was proclaimed as the registered proprietor of the suit property, was a Judgment in Rem. Invariably, such a Judgment is valid against the whole world unless same is varied and/or set aside.
143. Premised on the foregoing position, I encounter no difficulty in finding and holding that the 1st Defendant herein is the lawful and legitimate proprietor of the suit property and thus same [1st Defendant] is entitled to the requisite protection vide the provisions of Section 24 and 25 of the [Land Registration Act](#), 2012.
144. To buttress the foregoing, I beg to adopt and reiterate the holding of the court in the case of Mohansons (Kenya) Limited versus Registrar of Titles & 2 others [2017] eKLR.
145. For coherence, the court stated and held as hereunder:

(17) The petitioner as a registered proprietor of the suit property has established a strong prima facie case for the grant of the reliefs for the protection of his property rights sought in the petition. I do not agree that the petition is about ownership of the suit property which should be determined by a civil suit rather than by petition for protection of property rights. Having perused petition, I do not accept that the petitioner has violated the rule of specificity of pleading constitutional claims as propounded by *Anerita Karimi Nejru v. A.G No. 1 (1979) KLR 154*. The petitioner as registered proprietor asserts his constitutional right to protection of property under Article 40 of [the Constitution](#). If he 2nd Respondent contends that the title of the petition is vitiated by fraud, misrepresentation or the certificate of title is illegal, unprocedural or obtained through a corrupt scheme, it is for the said respondent to move the appropriate Court by suitable proceedings in that behalf for such determination. In the absence and prior to any such determination, the petitioner is entitled to protection of his undoubted property rights.

(18) As held by the Court of Appeal for East Africa held in *Moya Drift Farm Ltd. v. Theuri (1973) EA 114* a registered proprietor of land is the absolute and indefeasible owner of land and is entitled to take proceedings for trespass and eviction of a trespasser even if he did not have possession of the property. *Spry, V-P at 116*, considered the effect of section 23 of the Registration of Titles Act and held –

“I cannot see how a person could possibly be described as “the absolute and indefeasible owner” of land if he could not cause a trespasser to be evicted.

The Act gives a registered proprietor his title on registration and, unless there is any other person lawfully in possession, such as a tenant, I think that title carries with



it legal possession: there is nothing in the Act to say or even suggest that his title is imperfect until he has physical possession.”

Sir William Duffus, P. *ibid* at p.117 agreed with Spry, JA as follows:

“In any even I agree with the Vice-President that the fact that the appellants were the registered proprietors as owners in fee simple under the Registration of Titles Act, and as such vested with the absolute and indefeasible ownership of the land, was sufficient to vest legal possession of the land in the appellants and that this possession would be sufficient to support the action of trespass against a trespasser wrongly on the land.”

146. Pertinently, my answer to issue number three [3] is twofold. Firstly, the 1st Defendant herein is the lawful and registered proprietor of the suit property and thus same is entitled to the requisite protection in accordance with Article 40(3) of *the Constitution* 2010.
147. Secondly, the 1st Defendant’s rights to and in respect of the suit property have hitherto been upheld *vide* the Judgment of the court rendered *vide* Milimani ELC 114 of 2009, which was a Judgment in Rem and thus binding on the whole world.

Issue Number 4 What reliefs, if any, ought to be granted.

148. The Plaintiffs herein had sought for a plethora of reliefs at the foot of the Plaint dated the 16th of December 2021. For clarity, the Plaintiffs had sought for *inter-alia* an order of permanent injunction as against the 1st Defendant from [sic] interfering with the suit property or any portion thereof.
149. Be that as it may, whilst discussing issue number one [1] elsewhere hereinbefore, this court has found and held that the Plaintiffs have no demonstrable rights and/or interests over and on behalf of the suit property or any portion thereof. Consequently, there is no gainsaying that the Plaintiffs’ plea to and in respect of the suit property is neither tenable nor legal.
150. In any event, it is not lost on this court that an order of permanent injunction cannot issue as against the registered proprietor and/or owner of the suit property, either as sought or at all.
151. To this end, it is instructive to cite and adopt the holding of the Court of Appeal in the case of *Nguruman Ltd vs Jan Bonde Nielsen* (2014) eKLR, where the court stated and held thus:

“It must also be remembered that it is a serious thing to restrain a registered proprietor of a property over what is undeniably his unless there are justifiable grounds to do so.”
152. Other than the foregoing, the Plaintiff had also sought for an order of specific performance to be issued in favor of the 3rd Defendant [the Chief Land Registrar] to compel same to issue to the Plaintiffs [sic] the requisite certificate of titles as pertains to the plots alluded to at the foot of the impugned letters of allotment.
153. However, it is imperative to note that the 3rd Defendant [chief land registrar] cannot be compelled to issue the Plaintiffs with a Certificate of Title until and unless the Plaintiffs can show that same have procured the requisite lease instruments from the County Government of Nairobi or better still from the National Land Commission, which is the body chargeable with the administration and management of [sic] public land.
154. Simply put, the plea for specific performance, which has been adverted to by and on behalf of the Plaintiffs has been sought for in vacuum.



155. Finally, the Plaintiffs sought for an order to revoke and nullify the 1st Defendant's Certificate of Title to and in respect of the suit property. However, there is no gainsaying that this court has found and held that the Plaintiffs herein have no lawful rights and/or interests over the suit property.
156. On the other hand, the 1st Defendant sought for various reliefs at the foot of the Counterclaim dated the 8th of March 2022. For good measure, the 1st Defendant sought to be declared as the lawful and legitimate proprietor of the suit property.
157. Additionally, the 1st Defendant also sought for an order of permanent injunction to restrain the Plaintiffs from remaining on and/or interfering with the suit property. However, it is not lost on the court that the order of injunction sought for is superfluous insofar as the Plaintiffs are admittedly carrying on business on the suit property and unless same are evicted, the orders of injunction would be baseless.
158. Nevertheless, having found and held that the 1st Defendant is the lawful and registered proprietor of the suit property, it would be absurd and amount to dereliction of constitutional mandate, for this court to leave the Plaintiffs in possession of the suit property and by extension, to countenance the infringement of the 1st Defendant's constitutional rights to property.
159. To my mind, even though the 1st Defendant has not impleaded the prayer for eviction, the obtaining circumstances warrant the issuance of an order of eviction, which is a precursor to the issuance of an order of permanent injunction.
160. Finally, the 1st Defendant has also sought for mesne profits and general damages for trespass. Nevertheless, it is instructive to note that the 1st Defendant herein procured and/or obtained a Judgment vide ELC No. 114 of 2009 wherein the city council of Nairobi, now defunct, was directed to undertake appropriate measures to grant vacant possession to the 1st Defendant.
161. Suffice it to point out that despite having in her custody the Judgment and Decree issued vide ELC NO. 114 of 2009, the 1st Defendant herein failed to put in place appropriate mechanism, inter-alia taking out the writ of mandamus to compel the realization of the judgment under reference.
162. In my humble view, the 1st Defendant herein cannot now be heard to complain that same has not been able to take possession of the suit property. Consequently and in this respect, I am not minded to grant any recompense on the basis of general damages.
163. As concerns the plea for mesne profits, it is appropriate to underscore that same has neither been particularly pleaded as required under the Law; nor specifically proved. In this regard, the claim for mesne profits is not maintainable. [See the holding of the Court of Appeal in the case of Christine Nyanchama Oanda v Catholic Diocese of Homa Bay Registered Trustees [2020] eKLR].

Final Disposition:

164. From the foregoing analysis [details in terms of the preceding paragraphs], there is no gainsaying that the Plaintiffs have neither established nor proved their case to the requisite standard.
165. Conversely, the 1st Defendant herein has been able to place before the court sufficient and credible evidence to underpin her claim to and in respect of the suit property.
166. Consequently, and in the premises, the court proceeds to and makes the following orders:
 - i. The suit by the 1st, 2nd, 3rd, 7th, 11 and 13th Plaintiffs be and are hereby struck out.
 - xxvi. The suit by and on behalf of the rest of the Plaintiffs be and is hereby dismissed.



- xxvii. Judgment be and is hereby entered in favor of the 1st Defendant in the following manner:
- a. The 1st Defendant be and is hereby declared as the lawful and legitimate proprietor of L.R No. 209/4844/124.
 - b. The Plaintiffs be and are hereby ordered to vacate and hand over vacant possession of the suit property within 120 days from the date hereof.
 - c. That in default to vacate and hand over vacant possession of the suit property within 120 days from the date hereof, the 1st Defendant shall be at liberty to evict the Plaintiffs from the suit property and in this respect an eviction shall issue without further recourse to court.
 - d. In the event of the Plaintiffs being evicted by the 1st Defendant, the costs of such eviction shall be certified by the Deputy Registrar and same shall be recovered from the Plaintiffs.
 - e. An order of permanent injunction be and is hereby issued restraining the Plaintiffs either by themselves, servants, agents, employees and/or anyone claiming under the Plaintiffs from entering upon, remaining on and/or otherwise dealing with the suit property, in any manner adverse to the interests of the 1st Defendant herein.
- xxviii. Costs of the suit be and are hereby awarded to the Defendants to be borne by the Plaintiffs.
- xxix. Costs of the Counterclaim be and are hereby awarded to the 1st Defendant and same shall be borne by the Plaintiffs.
- xxx. Any other reliefs not expressly granted is hereby declined.

167. It is so Ordered.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 4TH DAY OF APRIL 2024.

OGUTTU MBOYA

JUDGE

In the Presence of:

Benson: Court Assistant

Mr. Omondi h/b for Mr Gachie Mwanza for the Plaintiffs

Mr. Karuga Maina for the 1st Defendant

Ms. Karanja for the 2nd Defendant

Ms. Faith Njuguna [Snr. Litigation Counsel] for the 3rd and 4th Defendants

