



**Onyango v Opondo; Opondo (Plaintiff to the Counterclaim); Onyango & 2 others (Defendant to the Counterclaim) (Environment & Land Case 224 of 2018) [2024] KEELC 3617 (KLR) (2 May 2024) (Judgment)**

Neutral citation: [2024] KEELC 3617 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI  
ENVIRONMENT & LAND CASE 224 OF 2018**

**OA ANGOTE, J**

**MAY 2, 2024**

**BETWEEN**

**MARY WERE ONYANGO ..... PLAINTIFF**

**AND**

**CRISPINE OMONDI OPONDO ..... DEFENDANT**

**AND**

**CRISPINE OMONDI OPONDO ..... PLAINTIFF TO THE COUNTERCLAIM**

**AND**

**MARY WERE ONYANGO ..... DEFENDANT TO THE COUNTERCLAIM**

**FRANCIS MUGO MWOYA ..... DEFENDANT TO THE COUNTERCLAIM**

**JAMES KABERERE GACOKA T/A GACOKA & CO**

**ADVOCATES ..... DEFENDANT TO THE COUNTERCLAIM**

**JUDGMENT**

1. Vide a Complaint dated 5<sup>th</sup> March, 2018, the Plaintiff instituted this suit as against the Defendant seeking the following reliefs;
  - i. Permanent injunction restraining the Defendant, whether by himself, servants, workmen, agents, clients or otherwise howsoever from trespassing on to parcel of land Title No Nairobi/Block 82/4580.
  - ii. An order of mandatory injunction compelling the Defendant, whether by himself, servants, workmen, agents, clients or otherwise howsoever to remove all the structures and buildings he has put up on the Plaintiffs' parcel of land Title No Nairobi/Block 82/4580.



- iii. An order that the Defendant gives vacant possession of parcel of land Title No Nairobi/Block 82/4580 to the Plaintiff or in default, the Plaintiff be at liberty to secure the Defendants' forceful eviction from the parcel of land known as Title No Nairobi/Block 82/4580 with the assistance of relevant law enforcement authorities.
    - iv. Costs of the suit and interest.
  2. It is the Plaintiff's case that she is, and has at all material times been the registered proprietor of all that parcel of land known as Nairobi/Block 82/4580 measuring approximately 0.0173 Ha (hereinafter the suit property); that the Defendant has unlawfully entered into, invaded and encroached onto the suit property and is in the process of erecting and/or constructing structures therein and that the aforesaid entry has been without the Plaintiff's consent and/or authority.
  3. The Plaintiff asserts that the Defendant does not have any proprietary rights over the suit property and cannot continue to use it; that as a result of the Defendant's unlawful occupation, she has been denied the property's use and has suffered loss and damage; that upon discovering the Defendant's trespass, she sought to have him peacefully exit but the same was futile; that she reported the matter to Buruburu Police Station and was issued with an O.B No 30/25/02/012 and that both parties were summoned and it was noted that the Defendant did not have any valid ownership documents.
  4. The Defendant filed a Defence and Counterclaim in which he denied the assertions as set out in the Plaintiff stating that whereas he first acquired the suit property by being defrauded, he thereafter made arrangements with the Plaintiff wherein she agreed to sell him the suit property and that the Plaintiff, through the firm of Amolo Gachoka Advocates, approached him to help her acquire the original title to the suit property by facilitating the processing of the Lease.
  5. According to the Defendant, the aforesaid facilitation was with the understanding that once the original title was released, the firm of Amolo & Gachoka would hold it in trust as a stakeholder and the Plaintiff would subsequently transfer the title to him at the agreed purchase price of Kshs 1.8 million; that to this end, he paid legal fees and stamp duty to the tune of Kshs 200,000 and that it was agreed that the firm of Amolo & Gachoka Advocates would conduct the transaction on behalf of all the parties.
  6. The Defendant states that after he facilitated the processing of the original title, and the same came out, the Plaintiff went to the offices of Amolo & Gachoka Advocates and made away with the title under the false pretext that she was going to make a copy and return the original; that the release of the title was without his consent and that he acquired proprietary rights and/or interests over the suit property when he paid for its stamp duty, and fast tracking the release of the title.
  7. In the Counterclaim, the Defendant seeks as against the Defendants jointly and severally;
    - i. A declaration that the Original Lease Certificate L.R Nairobi/Block 82/4580 was obtained and/or came into the 1<sup>st</sup> Defendants' possession by deceitful means.
    - ii. A declaration that the 2<sup>nd</sup> Defendant on behalf of the 3<sup>rd</sup> Defendant received monies from the Plaintiff to process the Original Lease Certificate L.R No Nairobi/Block 82/4580 on his behalf in view of purchasing the property from the 1<sup>st</sup> Defendant vide their mutual agreement.
    - iii. General damages.
    - iv. Costs of this suit.
    - v. Any other relief that this Honourable Court may deem just and appropriate.



8. The 2<sup>nd</sup> Defendant in the Counterclaim filed a Defence in which he denied the assertions as set out in the Counterclaim. It was his Defence that at all material times, he worked for the law firm of Amolo & Gacoka Advocates; that he only offered services to the 1<sup>st</sup> Defendant in the Counterclaim and that the 3<sup>rd</sup> Defendant was not involved in the transaction between the Plaintiff and 1<sup>st</sup> Defendant in the Counterclaim with respect to the suit property.
9. The 2<sup>nd</sup> Defendant averred that he is aware that the 1<sup>st</sup> Defendant wanted to sell the property but changed her mind and there is in any event no sale agreement; and that the prayers sought by the Plaintiff in the Counterclaim have no basis in law and in fact. The 3<sup>rd</sup> Defendant did not participate in the suit.

### **Hearing & Evidence**

10. The matter proceeded for hearing on 30<sup>th</sup> May, 2022. The Plaintiff, as PW1, adopted her witness statement filed on 11<sup>th</sup> May, 2018 as her evidence in chief and produced the documents of an even date as PEXHB1.
11. It was her evidence that she is the registered owner of the suit property having acquired the same through purchase from Harambee Sacco; that the Sacco put up the property for sale vide an advert in the Daily Nation Newspaper; that pursuant to the advert, she applied for the plot and received a letter of allocation on 18<sup>th</sup> August, 1994 and that she was issued with a Certificate of Lease to that effect on 29<sup>th</sup> May, 2013.
12. It was her testimony that after the purchase, she did not have the funds to develop the suit property and it remained vacant; that sometime in February, 2012, as she went to check on the property, she discovered houses thereon; that she went to the Sacco whose records confirmed the plot was still in her names; that she reported the matter at Buruburu Police Station and that the Defendant was summoned by the Police and could not prove ownership of the suit property.
13. PW1 urged that the Defendant is in unlawful occupation of the suit property and is a trespasser and that despite several attempts, the Defendant has refused to vacate the property and that she knows the Defendant having met him at Buruburu Police Station. It was the evidence of PW1 that she has been on the suit property on several occasions and that there are maisonettes thereon, roofed but not complete.
14. PW1 stated that Francis Mugo, the 2<sup>nd</sup> Defendant in the counter claim, used to work in the firm of Amolo & Gachoka; that she paid the stamp duty but does not have a receipt thereof; that she cannot remember the Advocate who called her to the office to pick up the Lease; that the Defendant built the houses on the suit property in 2012 and that she filed this suit after obtaining the Lease.
15. It was her evidence during re-examination that she paid money for stamp duty at Harambee Sacco; that she never received any money from the Defendant and that she was issued with the title in 2013.
16. The Defendant, DW1, adopted his witness statement dated 11<sup>th</sup> November, 2020 as his evidence in chief and produced the bundle of documents dated 18<sup>th</sup> November, 2020, save for the witness statement of Francis Mugo Mwoya, as DEXHB1.
17. DW1's testimony was that he purchased the suit property sometime in March, 2010 after being informed that the property was being sold at Harambee Sacco by a lady known as Evelyn Kagai; that he visited the property and established that it was vacant; that he intimated his interest in purchasing the property and informed the Vendor who asked that they meet at his Advocates Office, Wagunda & Co Advocates and that the Advocate gave him copies of the search, receipt and Lease showing the land was owned by Evelyn Kagai.



18. According to DW1, he immediately took possession of the suit property and began construction; that he received no objections until 2012 when he had already constructed 2 units of 3 bedroom mansionettes on the property; that in September, 2012, he received a call from one Francis Mugo Mwoya who informed him that they were processing the property's Lease from Harambee Sacco and that the Plaintiff had agreed to settle the matter amicably.
19. He stated that he visited Francis Mugo at the law firm and he personally informed him that the Plaintiff had agreed to sell the property for the sum of Kshs 1.8 million; that as the Plaintiff had no funds, Advocate Mugo asked him to jumpstart the process of preparing the Certificate of Lease and fast track the same by paying the legal fees and stamp duty on behalf of the Plaintiff and that he paid Kshs 200,000 and the Advocate gave him a personal undertaking that the original Lease would not be released to the Plaintiff until they formalize their agreement.
20. DW1 informed the court that after facilitating and paying for the processing of the Certificate of Lease, he waited for the next process in which he would pay the Kshs 1.8 million for the property; that he later learnt that the firm of Amolo & Gachoka Advocates had released the property's title to the Plaintiff who had taken the same under the pretext that she was going to show her family and return it to them and that the said Francis Mugo recorded a statement with his Advocates affirming the same.

### Submissions

21. The Plaintiff's advocate submitted that pursuant to Section 3 (1) of the *Trespass Act*, and as affirmed by the Court in John Kiragu Kimani vs Rural Electrification Authority [2018] eKLR, trespass is an intrusion by a person into the land of another who is in possession and ownership and that the Plaintiff is the registered proprietor of the suit property and is entitled to all the rights appertaining thereto as expressed in Sections 24, 25 and 26 of the *Land Registration Act*. Reliance in this respect was placed on the case of Ocean View Plaza vs Attorney General [2002] eKLR and Isaac Gathungu Wanjohi & Anor vs Attorney General & 6 Others [2012]eKLR.
22. It was submitted that the Defendant has not proved ownership of the suit property as alleged nor has he demonstrated that there was any written agreement for its sale and that as affirmed by the Court in Peter Mbiri Michuki vs Samuel Mugo Michuki[2014]eKLR, and expressed in Section 3(3) of the *Law of Contract Act*, an agreement for disposition of land must be in writing.
23. It was averred by DW1 that the Defendant's testimony that he is willing to pay the sum of Kshs 1.8 million at the direction of the Court is of no essence as Courts do not write contracts for parties. Reliance in this respect was placed on the case of Attorney General of Belize et al vs Belize Telecom Limited & Another[2009], 1 WLR 1980 cited with approval in the case of Eliud Poro Ngele vs Eliud Poro Ngele & Another[2015]eKLR.
24. Counsel submitted that the Defendant has not demonstrated that he obtained the Plaintiff's permission before entering into the suit property and constructing thereon and that his actions are tantamount to trespass; that the suit meets the criteria for the grant of mandatory injunction as discussed by the Court in Malier Unissa Karim vs Edward Oluoch Odumbe[2015]eKLR and that the Defendant has not demonstrated that the Plaintiff's acquisition of the Certificate of Lease was fraudulent, nor that he is a bona fide purchaser for value as set out in Katende vs Haridar & Company Limited[2008]2 E.A 173.
25. The 1<sup>st</sup> Defendant's counsel submitted that Section 3(1) of the *Law of Contract Act* does not make all contracts void and unenforceable if they are not reduced into writing; that oral agreements supported by credible evidence can be and are enforceable and that the attributes of a contract as defined by Blacks



law dictionary 8<sup>th</sup> Edition may be found in an "oral contract, also known as parole contract or simple contract.

26. It was submitted that the Plaintiff and the Defendant entered into a valid oral contract on the basis of which the Defendant constructed on the property and that the Court of Appeal in *Ali Abid Mohammed vs Kenya Shell & Company Limited* [2017] eKLR, stated that even where no words have been used, a contract can be inferred from the parties conduct.
27. Counsel urged that he who comes to equity must come with clean hands and he who seeks equity must do equity; that the Plaintiff did not meet her part of the bargain and tricked her way into getting the original lease from the custody of the firm of Amolo & Gachoka Advocates and that the Plaintiff is not entitled to the orders sought.

### **Analysis and Determination**

28. Having carefully considered the pleadings, testimonies and submissions by the parties herein, the following arise as the issues for determination;
  - i. Whether the Defendant has a legitimate claim to the suit property?
  - ii. What are the appropriate orders to issue?
29. The Plaintiff instituted this suit seeking, inter-alia, permanent injunctive orders restraining the Defendant from trespassing onto the suit property; mandatory injunctive orders compelling the Defendant to remove his structures from the suit property and an order that the Defendant grants her vacant possession of the suit property.
30. It is the Plaintiff's case that she is the lawfully registered proprietor of the suit property; that sometime in 2012, she discovered that the Defendant had trespassed onto the suit property and undertaken construction thereof; that the Defendant has no rights over the suit property and that the aforesaid entry and construction was without her consent and is tantamount to trespass.
31. The Plaintiff adduced into evidence copies of the letter from Harambee Sacco confirming her ownership dated 23<sup>rd</sup> February, 2012, Certificate of Lease dated 29<sup>th</sup> May, 2013, Transfer of Lease dated 16<sup>th</sup> April, 2013, Certificate of Official Search, and rates payment receipts in respect of the suit property.
32. Vide his Counterclaim, the Defendant seeks, inter-alia, for declarations that the original Certificate of Lease was obtained and/or came into the Plaintiff's possession by deceitful means and that the 2<sup>nd</sup> Defendant on behalf of the 3<sup>rd</sup> Defendant received monies from him, to process the original Lease Certificate on his behalf in view of purchasing the property from the Plaintiff as per their mutual agreement.
33. It is noted that while the Defendant's prayers sought above have been sought as against the Defendants in the Counterclaim jointly and severally, vide its Ruling of 7<sup>th</sup> October, 2021, the Court dismissed the Counterclaim as against the 3<sup>rd</sup> Defendant in the Counterclaim.
34. It is the Defendant's case that whereas his initial entry onto the property was on account of being defrauded, the Plaintiff agreed to sell to him the suit property; that to this end, he paid the sum of Kshs 200,000/= being legal fees and stamp duty with the understanding that once the original Certificate of Lease came out, the same would be held by the 3<sup>rd</sup> Defendant until the process of the sale between him and the Plaintiff was undertaken.
35. The Defendant adduced into evidence a copy of the Certificate of Lease dated 29<sup>th</sup> November, 2010, the Certificate of Official search dated 29<sup>th</sup> March, 2010, KCB Bankers Cheques dated 31<sup>st</sup> March, 2010



for Kshs 385,000/= and Kshs 990,000/=; photographs of the house, letter to OCPD Buruburu Police Station dated 22<sup>nd</sup> October, 2018, Letter from LSK; Co-operative Bank Cheque for Kshs 200,000 and correspondence to LSK and the firm of Amolo & Gacoka & Co Advocates. The Defendant also adduced into evidence the copy of the Transfer of Lease dated 16<sup>th</sup> April, 2013 and the Lease dated 29<sup>th</sup> May, 2013.

36. Considering the foregoing narration, it is apparent that both parties lay claim to the suit property. This being so, they are each obligated to prove their respective cases. This principle is succinctly captured in Sections 107, 109 and 112 of the *Evidence Act*. Section 107 of the Act provides as follows:

- “(1) Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.
- (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.”

37. Sections 109 and 112 of the same Act states as follows:

- “109. The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.
- “112. In civil proceedings, when any fact is especially within the knowledge of any party to those proceedings, the burden of proving or disproving that fact is upon him.”

38. The Court of Appeal in *Mumbi M’Nabea vs David M. Wachira* [2016] eKLR discussed the standard of proof in civil liability claims in this jurisdiction thus;

“In our jurisdiction, the standard of proof in civil liability claims is that of the balance of probabilities. This means that the Court will assess the oral, documentary and real evidence advanced by each party and decide which case is more probable. To put it another way, on the evidence, which occurrence of the event was more likely to happen than not...The position was re-affirmed by the Court of Appeal in *Maria Ciabaitaru M’airanyi & Others v. Blue Shield Insurance Company Limited -Civil Appeal No. 101 of 2000* [2005] 1 EA 280 where it was held that:

“Whereas under section 107 of the *Evidence Act*, (which deals with the evidentiary burden of proof), the burden of proof lies upon the party who invokes the aid of the law and substantially asserts the affirmative of the issue, section 109 of the same Act recognizes that the burden of proof as to any particular fact may be cast on the person who wishes the Court to believe in its existence.”

39. It is not in dispute that the suit property is currently registered in the name of the Plaintiff having been registered as such on 29<sup>th</sup> May, 2013 pursuant to the provisions of the Registered *Land Act*. By



dint of the provisions of Section 107 of the *Land Registration Act*, 2012, the law applicable to the title aforesaid is the Registered *Land Act*, (repealed). Section 27 thereof provided as follows:

- “(a) the registration of a person as the proprietor of land shall vest in that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto;
- (b) the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied and expressed agreements, liabilities and incidents of the lease.”

40. Under Section 28, the rights acquired by a proprietor were only subject to any leases, charges and other encumbrances, and to the conditions and restrictions, if any, shown in the register, or the overriding interests set out under Section 30 of the said Act.

41. Section 26(1) of the *Land Registration Act* now provides as follows in this respect:

“The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except—

- (a) on the ground of fraud or misrepresentation to which the person is proved to be a party; or
- (b) where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.”

42. It can be seen from the above provisions that whereas title is protected, the protection can be removed and the title impeached, if it is proved to have been procured through fraud or misrepresentation, to which the person is proved to be a party; or where it is procured illegally, un-procedurally, or through a corrupt scheme. [See *Alice Chemutai Too vs Nickson Kipkurui Korir & 2 Others* [2015] eKLR].

43. Considering the Defendant’s case, he does not appear to be challenging the Plaintiffs acquisition of the suit property per se. It is his case that pursuant to an oral agreement between himself and the Defendants in the Counterclaim, he was to pay monies to facilitate processing of the Lease in the Plaintiff’s names and the Plaintiff would thereafter sell the suit property to him at a consideration of Kshs. 1.8Million.

44. The Defendant admits that his initial entry into the suit property was on account of having been defrauded. The Defendant admits that he was issued with fraudulent documents of title and on their strength entered into the suit property and begun constructions. He claims that after the Plaintiff discovered his presence on the property, she agreed to sell him the property, and that it is on that basis that he paid Kshs 200,000 towards the processing of the title.



45. The agreement for the sale of the property alluded to by the Defendant is not in writing. This runs contra to Section 3(3) of the Law of Contract Act which provides that contracts for disposition in land be in writing. The said section provides as follows;

“No suit shall be brought upon a contract for the disposition of an interest in land unless — the contract upon which the suit is founded—is in writing; is signed by all the parties thereto; and the signature of each party signing has been attested by a witness who is present when the contract was signed by such party:

Provided that this subsection shall not apply to a contract made in the course of a public auction by an auctioneer within the meaning of the Auctioneers Act (Cap. 526), nor shall anything in it affect the creation of a resulting, implied or constructive trust.”

46. This is replicated in almost identical terms in Section 38 of the Land Act, 2012.

47. In the case of *Jacob Wekesa Bokoko Balongo vs Kincho Olokio Adeya & Another* [2020] eKLR the Court of Appeal stated thus;

“Oral agreements for the sale of real estate and or land are generally not worth anything and are unenforceable by dint of the applicable section 3(3) of the Law of Contract Act.”

48. It is clear from the foregoing that where a contract/agreement for disposition of an interest in land, is not reduced into writing, the impugned transaction is illegal, null and void and no claim can be founded thereon.

49. Nonetheless, on account of the proviso set out in Section 3(3) of the Law of Contract Act, an oral agreement for sale of property though void and unenforceable as a contract can in certain circumstances create an interest in property, on the basis of constructive trust or promissory estoppel.

50. This position was affirmed by the Court of Appeal in *Macharia Mwangi Maina & 87 Others vs Davidson Mwangi Kagiri* [2014] eKLR who stated thus;

“In *Yaxley – vs- Gotts & Another*, (2000) Ch 162, it was held that an oral agreement for sale of property created an interest in the property even though void and unenforceable as a contract; but the oral agreement was still enforceable on the basis of a constructive trust or proprietary estoppel. In the instant case, it was the respondent who put the appellants in possession of the suit property not as licensees but with the intention that he was to transfer individual plots purchased by them. The respondent went ahead and received the purchase price. We are of the considered view that the doctrines of proprietary estoppel and constructive trust are applicable and the respondent cannot renege. As Lord Bridge observed in *Llyods Bank Plc – vs- Rosset*, (1991) 1 AC 107,132, a constructive trust is based on “common intention” which is an agreement, arrangement or understanding actually reached between the parties and relied on and acted on by the claimant. In the instant case, there was a common intention between the appellants and the respondent in relation to the suit property.”

51. It is noted that the Defendant has not specifically pleaded the issue of trust. Nevertheless, the Court is cognizant of the fact that trust can be inferred and asserted by the Court based on the prevailing circumstances and considering the evidence presented.



52. This position was affirmed by the Court of Appeal in *Aliaza vs Saul (Civil Appeal 134 of 2017)* [2022] KECA 583 (KLR)(24 June 2022) (Judgment) which stated thus;

“41. Contrary to the submission by the respondent, in the face of these constitutional provisions, the fact that the appellant had not pleaded a constructive trust in his counterclaim does not preclude this Court from inferring such a trust. Moreover, in his written submissions the appellant raised the issue of an implied or constructive trust having arisen in his favour. The respondent did not address this issue in his submissions dated 26 the September 2016. I take the view, on the authority of the decisions in *Odd Jobs v Mubia* [1970] EA 476 and, among other decisions, *Ann Wairimu Wanjohi v James Wambiru Mukabi* [2021] eKLR that though unpleaded, the issue of a constructive or implied trust was left for the determination of the trial court.”

53. The Court has keenly considered the evidence in this respect. It is the Defendant’s case that he entered into a verbal agreement with the Plaintiff in which he facilitated the processing of the original title after which she would sell the property to him.

54. Despite this assertion, no evidence has been demonstrated showing any relationship between the Defendant and the Plaintiff, be it fiduciary or otherwise. There has been no evidence of any communication or correspondence between the Defendant and the Plaintiff; or that the 2<sup>nd</sup> Defendant was working at the behest of the Plaintiff; or that any consideration passed as between the Plaintiff and the Defendant.

55. Indeed, there is no evidence to show that the monies paid to the 2<sup>nd</sup> Defendant were used towards paying the stamp duty and legal fees as alleged. Further, it has been conceded by the Plaintiff that she realized that the Defendant entered onto the suit property in 2012 but only filed the suit in 2018. This has been highlighted by the Defendant. However, by itself, nothing much comes of this as the Plaintiff is still within the legally stipulated timelines for asserting her rights over the property.

56. Ultimately, and considering that no evidence was adduced to show that the Plaintiff, by his acts of commission or omission encouraged the Defendant to develop the suit property, and in the absence of a written agreement between the parties, the Court finds that the Defendant has no claim to the suit property and his Counterclaim fails

57. The Plaintiff seeks among others vacant possession of the suit property, permanent injunctive orders, and mandatory injunctive orders compelling the Defendant to remove the structures on the suit property.

58. It is not disputed that the Defendant is in possession of the suit property and as such the prayers for vacant possession and permanent injunction are warranted. In the same vein, it is not disputed that the Defendant has structures on the property and the mandatory injunctive orders seeking their removal is merited.

59. For those reasons, the Court makes the following final determination;

- a. The Defendant’s Counterclaim be and is hereby dismissed with costs to the Plaintiff.
- b. A Permanent injunction is hereby issued restraining the Defendant, whether by himself, servants, workmen, agents, clients or otherwise howsoever from trespassing on to parcel of land Title No Nairobi/Block 82/4580.



- c. An order of mandatory injunction is hereby issued compelling the Defendant, to remove all the structures on the suit property within 60 days of this Judgement.
- d. The Defendant is hereby ordered to give vacant possession of parcel of land Title No Nairobi/Block 82/4580 within 60 days of the Judgement hereof failure to which eviction shall issue.
- e. The Defendant shall bear the costs of the suit.

**DATED, SIGNED AND DELIVERED VIRTUALLY IN NAIROBI THIS 2<sup>ND</sup> DAY OF MAY, 2024.**

**O. A. ANGOTE**

**JUDGE**

In the presence of;

Mr. Kibathi for Defendant

No appearance for Plaintiff

Court Assistant - Tracy

