



Onunda & another v Odhiambo (Being a Legal Representative of the Estate of Joseph Odhiambo Rabita) (Environment and Land Appeal 19 of 2022) [2023] KEELC 15977 (KLR) (7 March 2023) (Judgment)

Neutral citation: [2023] KEELC 15977 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT HOMA BAY
ENVIRONMENT AND LAND APPEAL 19 OF 2022
GMA ONGONDO, J
MARCH 7, 2023
(FORMELY MIGORI ELC APPEAL NO 5 OF 2020)

BETWEEN

JACOB OLANGO ONUNDA 1ST APPELLANT

JAMES OURA OMBOTO 2ND APPELLANT

AND

PETER OPIYO ODHIAMBO (BEING A LEGAL REPRESENTATIVE OF THE ESTATE OF JOSEPH ODHIAMBO RABITA) RESPONDENT

(Being an appeal from the judgment of Hon Tom Mark Olando (SRM) delivered on 11th December, 2019 in Homa-Bay Senior Principal Magistrate's Court Land Case No 46 of 2018)

JUDGMENT

1. This appeal was generated by a memorandum of appeal filed in court on February 3, 2020 based on grounds 1 to 5 set out on the face thereon.
2. Aluoch Odera learned Counsel for the 2nd appellant has informed this court that there is a consent to have the appeal disposed of.
3. The respondent in person has confirmed the position of the consent.
4. On that account by consent of the appellant's counsel and the respondent in person, judgment be and is hereby entered as proposed in the memorandum of appeal.
5. For clarity, it is hereby ordered that:



- a. This appeal be allowed and the trial court's judgment be set aside and substituted by an order declaring that the 2nd appellant acquired a good title to the suit parcel No Lambwe East/194.
 - b. A declaration that the respondent did not purchase the Land Parcel No Lambwe East/194 from the late Harrison Onditi.
6. No orders as to costs.
 7. Ordered accordingly.

DELIVERED DATED AND SIGNED THIS 7TH DAY OF MARCH 2023.

G.M.A ONG'ONDO

JUDGE

PRESENT:

- a. Aluoch Odera, learned Counsel for the 2nd appellant.
- b. Respondent in person
- c. Fiona, Court Assistant.

