



**Kamau v Kipkios (Environment & Land Case 258 of 2018)
[2025] KEELC 3654 (KLR) (8 May 2025) (Judgment)**

Neutral citation: [2025] KEELC 3654 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ENVIRONMENT & LAND CASE 258 OF 2018**

A OMBWAYO, J

MAY 8, 2025

BETWEEN

JANE WANJIRU KAMAU PLAINTIFF

AND

MUSA KIPKIOS DEFENDANT

JUDGMENT

1. Musa Kipkoech Kipkios filed the suit herein against Jane Wanjira Kamau as case No. 429 of 1990 which suit was transferred to the High Court as *Nakuru HCC No.211 of 2012*. The suit was ultimately transferred to the Environment and Land Court as *Nakuru EL No. 258 of 2018*. The plaintiff prayed for an order of a declaration that the plaintiff is the lawful allottee of plot No 1113.
2. Moreover, he sought an order that the title deed and or land certificate to plot No 1113 be prepared and issued in the name of the plaintiff. He prays for perpetual injunction to restrain the defendant whether by herself, her servants and or agents or otherwise howsoever from procuring preparation and issue of a title deed and or land certificate in her name. The plaintiff prayed for costs of the suit. The defendant filed defence which was later amended on 2nd May 2003. In the amended defence and counter claim the defendant states that she has been in occupation of the land since 1992 and has constructed a house worth Kshs100,000. The plaintiff has his own separate plot. The dispute has been heard by the District Officer, District Commissioner and the decisions have been in his favour. When the matter came up for hearing the plaintiff failed to attend court hence the suit was dismissed for non-attendance.
3. The defendant attended court and adopted her statement dated 4th August 2025. The defendant produced the transfer of shares agreement and guarantee. She was given permission to cultivate and construct a 3 bedroomed permanent house in 1992. She used the house as a store. The plaintiff fenced her land and demolished her house. The land should have been registered in the defendant's name.



4. The defendant states in the counter claim that the plaintiff obtained title fraudulently and that there was a status quo order. The suit land was allocated to him by Kalenjin enterprises on 17th July 1982 after purchasing a share from the company. The defendant prays for an order of rectification of the land register on Mbaruk Block 3/1113 Barut to show the defendants name herein as the registered proprietor. The defendant prays for an order of eviction of the plaintiff. Lastly, that there be permanent injunction restraining the plaintiff from interfering with the land.
5. I have considered the evidence and record and do find that the defendant bought the suit property in 1982 from the plaintiff's father who got the land from the Kalenjin Enterprises. The agreement speaks for itself. The share certificate was transferred from the plaintiff's father to the defendant. He was given permission to construct and she constructed. The plaintiff however, went on to have the land registered in his name despite the same having been purchased by the defendant from his father. I do find that the defendant having purchased the property from the plaintiff's father, he became the beneficial owner of the property and therefore the plaintiff had a duty to transfer the property to the defendant.
6. The defendant has proved his case in the counter claim on a balance of probability and therefore I do grant judgment in terms of rectification of the land register on Mbaruk block 3/1113 Barut to show the defendant's name (Jane W Kipkios) as the registered owner. This court further nullifies the title issued on 27th July 2001 upon the plaintiff Musa K Kipkios. The plaintiff to be evicted from the suit property after the expiry of 90 days. Costs of the suit to the defendant. Orders accordingly.

SIGNED BY: HON. JUSTICE ANTONY O. OMBWAYO

THE JUDICIARY OF KENYA.

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