



Kiplimo v Settlement Fund Trustees & 7 others (Environment & Land Case 58 of 2019) [2025] KEELC 70 (KLR) (22 January 2025) (Ruling)

Neutral citation: [2025] KEELC 70 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT & LAND CASE 58 OF 2019**

**CK NZILI, J
JANUARY 22, 2025**

BETWEEN

PIUS KANDA KIPLIMO PLAINTIFF

AND

SETTLEMENT FUND TRUSTEES 1ST DEFENDANT

COUNTY REGISTRAR TRANS NZOIA COUNTY 2ND DEFENDANT

COUNTY SURVEYOR TRANS NZOIA COUNTY 3RD DEFENDANT

ATTORNEY GENERAL 4TH DEFENDANT

ERNEST KEMBOI CHELIMO 5TH DEFENDANT

MUSA WABWA 6TH DEFENDANT

SUZANNA CHEBOI 7TH DEFENDANT

NATIONAL LAND COMMISSION 8TH DEFENDANT

RULING

1. On 20/7/2022, this court issued an order for the 3rd respondent to survey plot Nos. 1327, 1328, 1329, and 1395 at the Milimani Settlement Scheme and to file a report before the court. The plaintiff had made the application. Pursuant to the order, a report dated 30/11/2022 was tabled before the court. Several findings or recommendations were made, including a revision of the entire scheme map.
2. Subsequently, to this report, the court, at the instance of the parties was informed of other similar matters filed by other parties pending in other courts that are likely to be affected by the proposed recommendations. The 1st - 3rd defendants sought witness summons to the County Land Adjudication and Settlement Officer Trans Nzoia County to testify before the court could make further directions. An order to that effect was made on 16/9/2024. The said officer attended court on 31/10/2024 and



made a recommendation for the whole Scheme to be resurveyed. The officer was also cross-examined and re-examined by the parties' advocates on record.

3. Afterward, the court directed parties to file written submissions regarding the way forward. The 1st - 4th respondents rely on written submissions dated 13/11/2024. Reliance is placed on Nyakinyua Mugumo Tree Women Society -vs.- Nyakinyua Mugumo Tree Ltd [2007] eKLR, that the court can order for a court-controlled inquiry in public interest, through which proprietary rights of the allottees, who hold titles following registration of discharges are preserved and protected during the inquiry.
4. The court has looked at the pleadings by the parties, such as the amended plaint dated 11/11/2019, the 4th defendant's defense dated 22/3/2021, the 3rd defendant's defense and counterclaim dated and filed on 4/12/2023 and the 7th defendant's defense dated 20/11/2021.
5. Other than preliminary rulings, the suit is yet to be set down for hearing on merits. The reports made by the respective officers especially the 3rd defendant and the County Land Adjudication and Settlement Officer, are yet to be adopted by consent of the parties for enforcement purposes as an order or decree of this court. A court may not impose a decision on parties without hearing them on merits. The court may not descend to the arena of the dispute yet it is supposed to be a neutral arbitrator of the matter. The court has not been moved to consolidate all the pending matters involving the Scheme falling in other courts, yet the implications of the recommendations in the two reports shall have profound effects on non-parties to this suit and on other matters pending before other courts.
6. Consequently, I direct that parties shall comply with Order 11 C.P.R. within two (2) weeks from the date hereof and set down the matter for hearing. Parties are at liberty to adopt the reports at the hearing.
7. Orders accordingly.

RULING DATED, SIGNED AND DELIVERED AT KITALE THIS 22ND DAY OF JANUARY, 2025.

HON. C.K. NZILI

JUDGE, ELC KITALE.

