



REPUBLIC OF KENYA



Ndwiga & another (Suing as the Legal Representative to the Estate of the Late Elias Ndwiga Njoka (Deceased)) v Land Registrar Kajiado & 6 others (Environment & Land Case 393 & 380 of 2017 (Consolidated)) [2025] KEELC 4718 (KLR) (24 June 2025) (Judgment)

Neutral citation: [2025] KEELC 4718 (KLR)

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KAJIADO

ENVIRONMENT & LAND CASE 393 & 380 OF 2017 (CONSOLIDATED)

MN GICHERU, J

JUNE 24, 2025

BETWEEN

DIONISIA WANDIRI NDWIGA PLAINTIFF
SUING AS THE LEGAL REPRESENTATIVE TO THE ESTATE OF THE LATE
ELIAS NDWIGA NJOKA (DECEASED)

AND

THE LAND REGISTRAR KAJIADO 1ST DEFENDANT
ELIUD NDUNG’U MUGAMBI 2ND DEFENDANT
WANACHUO INVESTMENT LIMITED 3RD DEFENDANT
SUSAN NYAMBURA NJENGA 4TH DEFENDANT

AS CONSOLIDATED WITH

ENVIRONMENT & LAND CASE 380 OF 2017

BETWEEN

SUSAN NYAMBURA NJENGA PLAINTIFF

AND

OWN A PLOT LIMITED 1ST DEFENDANT
WANACHUO INVESTMENTS LIMITED 2ND DEFENDANT
ATTORNEY GENERAL 3RD DEFENDANT



JUDGMENT

1. Dionisia Wandiri Ndwiga, the Plaintiff in ELC 393 of 2017 and suing as the legal representative of the estate of the late Elias Ndwiga Njoka seeks the following reliefs against the District Land Registrar Kajiado and Eliud Ndungu Mugambi.
 - a. That the Plaintiff is the owner of L.R Kajiado/Kisaju/121 on the register and his name is and has been on the register and should remain so.
 - b. That the Land Registrar Kajiado do file the register to the said land as it should be without unsolicited remarks on it.
 - c. That the name of Eliud Ndungu Mugambi inserted on the register be removed and/or cancelled from the register.
2. The Plaintiff's case is as follows. Firstly, she is the widow of Elias Ndwiga Njoka who is the registered owner of L.R. No. Kajiado/Kisaju/121. He acquired the land from his grandmother Lydia Wakariti Mbugua who was a member of the Women Group that owned the land before the Group transferred it to the Plaintiff's husband. Secondly, from the year 1999 to the year 2013, there was no problem with the land. Thirdly, in the year 2013, the deceased wished to sell his land and got a buyer named Asanali who paid him a deposit of Ksh. 16.5 million. The purchase price for the land was Kshs. 160,000,000/=. Before the deceased could complete the transaction, some unknown persons came up and claimed the land. This made the deceased to be arrested and charged in a criminal case at Ngong Magistrates Court where he was eventually acquitted under Section 215 of the *Criminal Procedure Code*. Fourthly, the Plaintiff came to learn that L.R. No. 121 had been subdivided into many parcels. When she contacted the surveyor who was alleged to have conducted the subdivision, the surveyor denied having conducted any such subdivision. The matter was reported to the Directorate of Criminal investigation who after investigation confirmed that the mutation form for the subdivision was a forged document. The Registry Index Map dated 3-6-2021 confirms that no subdivision ever took place. For the above and other reasons, the Plaintiff prays for the orders as per her claim and the dismissal of the counterclaim by the Defendants herein.
3. In support of her case, the Plaintiff filed the following evidence.
 - i. Witness statements by herself and Dancan Nyaga.
 - ii. Copy of letter dated 26-8-2018 by J.D. Obel.
 - iii. Copy of mutation form dated 6-5-1999 for the subdivision of L.R. No. 121. It is mutation form No. 360640.
 - iv. Copies of mutation form Nos. 074955 and 360643.
 - v. Copy of letter dated 14-3-2022 by J.D. Obel
 - vi. Certified copy of mutation register for J.D. Obel surveyor dated 14-3-2022.
 - vii. Copy of letter by DCI Kajiado dated 31-10-2018.
 - viii. Copy of letter by DCI Kajiado dated 19-3-2019.
 - ix. Copy of a Registry Index Map dated 3-6-2021.



- x. Copy of judgment in HCCC 7 of 2014 Machakos dated 21-11-2014.
4. I have not seen any written statement of defence by the 1st Defendant in ELC Case 393/2017 who is the Land Registrar, Kajiado. Instead the registrar has filed the following evidence.
 - a. Witness statement by Paul Tonui dated 11-6-2021.
 - b. Copies of 3 suspicious green cards for L.R. No. Kajiado/Kisaju/121 with remarks “forgery/ fraud suspected.”
 - c. Copy of application of the consent of the Land Control Board dated 9-10-1984.
 - d. Copy of application for registration and transfer form dated 24-10-1984.
 - e. Copy of payment –receipt No. 3853193.
 5. From the above material one discerns the following, as the Land Registrar’s defence to the Plaintiff’s claim. One, the suit land has three[3] green cards. In the first green card, Elias Ndwiga Njoka is the registered owner at entry No. 3 following a transfer from one Joseph Silipo Ole Kepiro. Two, the second green card has six entries with Elias Ndwiga Njoka transferring the suit land to Eliud Ndungu Mugambi at entry number 5. Three, Elias Ndwiga Njoka had the land transferred to him by Ngara East Women Group after which he transfers the land to Eliud Ndungu Mugambi. Four, all the three green cards are suspicious and both fraud and forgery are suspected. Five, the land records show that Joseph Silipo Ole Kepiro was the original proprietor of the suit land and he transferred it to Ngara East Women Group. Six, there is no evidence in form of documents to prove that Ngara East Women Group transferred the suit land to Elias Ndwiga Njoka or documents to support any transfer from him to Eliud Mugambi. Seven, there are no records to support any transfer from Joseph Ole Kepiro to Elias Ndwiga Njoka. Eight, Elias Ndwiga Njoka and James K. Thimba were charged in Ngong Criminal case No. 82 of 2013 but they were acquitted under Section 215 of the *Criminal Procedure Code*. Finally, there are no records in relation to the subdivision of the suit land or transfer from Own a Plot limited to Wanachuo Investments Limited.
 6. In the case of 380 of 2017, the Plaintiff Susan Nyambura Njenga seeks the following reliefs against Own a Plot Limited, Wanachuo Investments Limited and the Land Registrar Kajiado, the 1st, 2nd and 3rd Defendants respectively.
 - I. A permanent injunction restraining the Defendants, their servants and/or agents from trespassing, alienating, selling, disposing, constructing and/or interfering with the Plaintiff’s possession of L.R. No. Kajiado/Kisaju/1794.
 - II. A declaration that the consolidation done on 27-5-2010 is null and void.
 - III. General damages.
 - IV. Costs of the suit and interest.
 7. The case for the Plaintiff is case No. 380 of 2017 is as follows. She is the registered owner of L.R. No. Kajiado/Kisaju/1794. She has a title deed issued in the year 2003. In the year 2004, she carried out a search and confirmed that the land was registered in her name. Secondly, on 8/9/2014 she carried out another search and learnt that her land had been consolidated with adjacent plots. This was shocking because she never gave her consent to the consolidation nor did she surrender her land to any person and she has in her possession the original title deed to the suit land.
 8. In support of her case, the Plaintiff in ELC No. 380/2017 filed the following evidence.



- i. Her witness statement.
 - ii. Copy of title deed for L.R. No. Kajiado/Kisaju/1794 measuring 0.27 Ha.
9. The 1st Defendant in case No. 380/2017, Own a Plot Limited filed a written statement of defence dated 23-2-2019 in which it states as follows. Firstly, in the year 2010, the 1st Defendant entered into a sale agreement with the officials of Ngara East Women Group for the purchase of L.R. No. Kajiado/Kisaju/1794. Secondly, a search confirmed that the land was owned by the Women Group and the titles were free from any encumbrances. Thirdly, the 1st Defendant met the officials of the Women Group who provided all the necessary documents. Fourthly, the 1st Defendant did not receive any notice from any person of an adverse claim or dispute over the suit property. For the above and other reasons, it prays for the dismissal of the Plaintiffs suit against it.
10. In support of its case, the 1st Defendant filed the following evidence.
- i. Witness statement by Francis Kimotho Mungai dated 8-12-2022.
 - ii. Copies of mutation forms dated 11-6-1984 and 6-5-1999 respectively.
 - iii. Copy of permission to sell issued by Ngara East Women Group dated 13-4-2010.
 - iv. Copy of letter of offer by the 1st Defendant dated 16-4-2010.
 - v. Copy of sale agreement between Ngara East Women Group and the 1st Defendant dated 20-5-2010.
 - vi. Copy of list of members of the Women Group.
 - vii. 15 copies of title deeds filed as a sample.
 - viii. 21 copies of bankers cheques and bank in slips as prove of payment for purchase of the land.
 - ix. Copy of amalgamation mutation form dated 27-5-2010.
 - x. Copy of mutation for L.R. No. 4610.
 - xi. Copies of title deeds for L.R. Nos. Kajiado/Kisaju/4611-4615 dated 31-5-2010 in the name of Own a Plot.
 - xii. Copies of certificates of official search for L.R. No. 4611-4615 all dated 21-10-2010.
11. The 2nd Defendant in ELC Case No. 380 of 2017 Wanachuo, filed a written statement of defence and counterclaim 27-1-2020 in which it avers as follows. One, it is an investment company set up by over 150 members of Jomo Kenyatta University of Agriculture and Technology. Two, it is the registered owner of the suit land which comprises L.R. No. Kajiado/Kisaju/4611, 4612,4613, 4614 and 4615 which were previously Kajiado/Kisaju/121 which measure approximately 39.67 Ha. Three, it acquired the suit parcels from the 1st Defendant through purchase and before purchase it carried out due diligence and established that the land was previously owned by Ngara East Women Group who later subdivided it into L.R. Nos. 1748-1882 which were later consolidated and subdivided into Plot Nos. 4611-15. When carrying out due diligence the 2nd Defendant discovered that the members of Ngara East Women Group had surrendered their title deeds before consolidation. Four, the Plaintiff was neither a member of the Ngara East Women Group nor did she have a beneficial interest in the suit property. It prays for the dismissal of the Plaintiff's suit.



12. In the counterclaim, the 2nd Defendant seeks the following reliefs against Elias Ndwigwa Njoka, Own a Plot Ltd, Lillian M. Bunyasi Asaya, Peter Githinji Munyi, District Land Registrar Kajiado, Susan Nyambura Njenga and Eliud Ndungu Mugambi referred to as the 1st, 2nd, 3rd, 4th, 5th, 6th and 7th Defendants, respectively.
- i. A declaration that the 1st Defendant's title is null and void having been acquired fraudulently.
 - ii. A declaration that the 6th Defendant's title is null and void for having been surrendered for cancellation before issuance of Kajiado/Kisaju/4610.
 - iii. A declaration that the 7th Defendant's title is null and void having been acquired fraudulently.
 - iv. A declaration that Wanachuo is the legal and lawful proprietor of all those parcels of land known as L.R. No. Kajiado/Kisaju/4611, 4612, 4613, 4614 and 4615 [formerly known as Kajiado/Kisaju/121, the suit property] to the exclusion of the 6th Defendant herein.
 - v. Alternatively, and strictly and without prejudice to prayers [a], [b] and [c] above, an order for the full refund of the purchase price of the suit property herein being L.R. No. Kajiado/Kisaju/4611, 4612, 4613, 4614 and 4615 from the 2nd, 3rd, 4th and 5th Defendants in the sum of Kshs. 120,000,000.00.
 - vi. Alternatively, and strictly and without prejudice to prayers [a], [b] and [c] above and in addition to prayer [d] above, an order for compensation and indemnity from 2nd, 3rd, 4th and 5th Defendants for full repayment for the market value of the suit property herein being Kajiado/Kisaju/4611, 4612, 4613, 4614 and 4615 in the aggregated sum of Kshs. 300 million or such other values as may be determined upon quantification by a licensed valuer to be agreed upon by the parties within 14 days of judgment herein or appointed by the court upon failure of such agreement.
 - vii. Interest on [d] and [e] at 14% per annum from 16th March 2012 until payment in full.
 - viii. Interest on [d] and [e] above at 12% per annum from the date of filing the suit until payment in full.
 - ix. Costs of the suit.
 - x. Any other or further relief the court may deem fit to grant.
13. In the defence and the counterclaim, the 2nd Defendant's Wanachuo case is as follows. One, the Company bought the suit land vide a sale agreement dated 8-6-2011. Lillian M Bunyasi Asiya and Peter Githinji Munyi, the 3rd and 4th Defendants signed the sale agreement on behalf of Own a plot, the 1st Defendant. Two, the Company established that the suit property was part of L.R. No. Kajiado/Kisaju/18 which was owned by one Joseph Silipo Ole Kepiro who subdivided it into Kisaju/120 and 121. Ole Kepiro later transferred L.R. No. 121 to the Ngara East Women Group. The said Women Group subdivided the suit land into 135 portions i.e. Kajiado/Kisaju.1748-1882 and title deeds were issued to all 135 members and the said members subsequently sold the property to the 1st Defendant who amalgamated/consolidated the said 135 parcels into Kajiado/Kisaju/4610. Three, before Consolidation of the 135 parcels all the holders of the titles surrendered their title deeds to the District Land Registrar Kajiado [5th Defendant]. The 5th Defendant issued a consolidated title deed for L.R.No. 4610 in the name of Own a Plot, the 2nd Defendant. Wanachuo was not a party to the consolidation of the 135 parcels to L.R. No. Kajiado/Kisaju/4610. Four, the Land Control Board issued the requisite consents for the transfer of the parcels 4611-4615 to Wanachuo. All the procedural steps were complied



with as a result of which Wanachuo became registered as the owner of L.R Nos. 4611-4615 on 16-3-2012. A search carried out on 20-12-2012 confirmed Wanachuo as the registered owner of the 5 parcels. Wanachuo then embarked on the process of subdividing the land amongst its members. Five, in the year 2014, the Plaintiff in case No. 380 filed ELC Case No. 184/2014 at Machakos which was later transferred at Kajiado and registered as ELC 380 of 2017. In the suit, the Plaintiff filed a motion dated 21-11-2014 which sought to restrain Wanachuo from trespassing on L.R. No. Kajiado/Kisaju/1794. The motion was allowed and an injunction issued. The said injunction caused Wanachuo to stop the subdivisions amongst its members. Six, evidence has emerged that the suit land has a set of three[3] green cards. This is a clear indication of fraud on the part of the Defendants in this counterclaim. The particulars of fraud on the part of the Seven[7] Defendants in the counterclaim have been pleaded vide paragraph 32 of the counterclaim. Also pleaded are four[4] particulars of fraud and misrepresentation on the part of the 2nd, 3rd and 4th Defendants. Finally, in the event that the 6th Defendant is found to be the owner of a portion of the suit land known as Kajiado/Kisaju/1794, Wanachuo and its over 150 members have suffered and will continue to suffer loss and damage. For the above and other reasons, Wanachuo prays for the orders in the counterclaim.

14. In support of its defence and counterclaim, Wanachuo filed the following evidence.
 - i. Witness statement by Prof. Hunja Waithaka.
 - ii. Copy of certificate of incorporation of Wanachuo Investment Limited dated 7-10-2010.
 - iii. Copy of sale agreement dated 8-6-2011.
 - iv. Copies of certificates of official search for L.R. Nos. 4611-4615.
 - v. Copies of stamp duty declaration form, pay in slip and application for registration dated 29-2-2012 and transfer dated 21-9-2011.
 - vi. Copies of title deeds for L.R. No. Kajiado/Kisaju/4611-4615 and copies of certificates of official search all dated 16-3-2012.
 - vii. Copy of purposed amalgamation and subdivision of Kisaju/4611-15.
 - viii. Copy of the order dated 2-12-2024.
 - ix. Copies of the green cards.
 - x. An extract of the mutation register.
 - xi. Witness statement by Kennedy Owour Onyango dated 14-12-2022.
15. At the trial on 20/11/2023 and 10/12/2024 at total of nine[9] witnesses testified. They included J.D. Obel, Dionisia Wandiri and Duncan Nyaga for the Plaintiff in ELC Case No. 393 of 2017. In summary, the evidence adduced is as per the script outlined earlier that the Plaintiff's spouse inherited L.R. No. 121 from his grandmother who was a member of Ngara East Women Group. The most remarkable evidence was by JD Obel, the surveyor, who said that mutation form No. 074955 which is purported to have subdivided L.R No. Kajiado/Kisaju/121 was not used for that purpose. According to the register from his office, mutation form No. 074955 was instead used to subdivide LR No. Kajiado / Kitengela/7482. The mutation form is therefore a forgery according to the witness.

The sum total of the evidence of Zablun Adege Odinga is to the effect that the Registry Index Map for the area where the suit land No. Kisaju/121 is situated is not conclusive as to whether the land is subdivided or not. Only an official search would tell if there is any subdivision. He also said that the R.I.M is not up to date. This means there are many subdivisions not captured in the map.



When the Land Registrar testified, she confirmed that the records are missing and there are these are three forged green cards. The only available records prove that the land originally belonged to Joseph Silipo Ole Kepiro who transferred it to Ngara East Women Group.

The two witnesses from Wanachuo Investments Limited Martin Kilo Musa and Kennedy Owour maintained what is contained in the pleadings namely that they bought the land from Own a plot and currently, Wanachuo is the registered owner of the five parcels as per the certificates of official search dated 20-12-2012.

The only witness called by Own a plot Limited, Francis Kimotho Mungai, admitted that Susan Nyambura Njenga the Plaintiff in the case No. 380 of 2017 has not been paid for her land.

16. Counsel for the parties filed written submissions dated 22-4-2025, 6-5-2025, 7-5-2025 and 10-6-2025 respectively. The issues raised in the submissions are as follows.

- i. Whether the Plaintiff in ELC No. 380/2017, Susan Nyambura Njenga has a valid claim over the suit property.
- ii. Whether the Plaintiff in the ELC Case No. 380/2017 has proved her case on a balance of probabilities.
- iii. Who should bear the costs.

The issues identified by counsel for Own a Plot, Mr Ongicho are as follows.

- i. Whether the 1st Defendant in ELC Case No. 393/2017 has any valid claim over the suit land.
- ii. Whether the same Defendant in [i] above was a bona fide purchaser for value without notice.
- iii. Whether the same Defendant has a good title and capacity to transfer L.R. Kajiado/Kisaju/4611, 4612, 4613, 4614 and 4615 to the 2nd Defendant in ELC No. 380/2017 i.e. Wanachuo Investments Ltd.
- iv. What reliefs are available to the parties.

Counsel for the 2nd Defendant in ELC Case No. 380/2017 i.e. Wanachuo Investments Ltd identified five issues as follows.

- a. Whether the Plaintiff in ELC No. 393/2017 has any valid claim over the suit land.
- b. Whether Wanachuo Investments Ltd are the bonafide owners of Kajiado/Kisaju/4611 – 4615[formerly L.R. No. 121].
- c. Whether Wanachuo Investments Limited is entitled to the reliefs sought in their counterclaim.
- d. Undisputed matters between Wanachuo Investment Ltd, Susan Nyambura Njenga and Own a Plot Ltd.

Finally, the Plaintiff in ELC Case No. 393 of 2017 Dionisia Wandiri, raised the following issues.

- i. Whether or not the suit land known as Kajiado/Kisaju/121 was rightfully registered to the Plaintiff.
- ii. Whether or not the purported processes of subdivision, amalgamation and transfers commenced on 6-5-1999 through to 31-5-2010 were legitimate.
- iii. Whether or not the Plaintiff is entitled to the reliefs sought in the suit hereinabove being that his property was sold to unsuspecting buyers.



- iv. Who bears the costs of the suit.
17. I have carefully considered all the evidence adduced in this case by all the parties including the witness statements, the documents and the testimony of the witnesses at the trial. I have also considered the written submissions by learned counsel for the parties, the issues identified and the law cited therein. I find that the issues as identified will determine the dispute. I will deal with the issues on the basis of which submissions were filed first.
18. On the issue of whether Susan Nyambura Njenga has a valid claim over L.R. Kajiado/Kisaju/1794, I find that she has. The first reason is the admission by Francis Kimotho Mungai on behalf of Own a Plot when he stated as follows on 10-12-2024.

“Susan Nyambura has not been paid but were are talking to her.”

This means that Own a Plot Limited sold Susan Nyambura’s Plot No. Kisaju/1794 before they paid her. They should have bought the land from her first before selling it to Wanachuo.

Secondly on this issue, I find that by amalgamating the 135 parcels of land into five parcels, essentially, what the Land Registrar did at the behest of Own a Plot Limited was reparation as per Section 23 of the [Land Registration Act](#). The section provides as follows.

- a. Subject to Section 15 and authentication of the cadastral map, on the application of proprietors of contiguous parcels who are desirous of changing the layout of their parcels, and with the consent in writing of all other persons in whose names any right or interest in the parcels is registered and of any cautioner, the Registrar may-
- i. cancel the registers relation to those parcels and prepare new registers in accordance with the new edition of the cadastral map; or
- ii. refuse to effect reparation if the Registrar considers that the proposed reparation involves substantial changes of ownership, which should be effected by transfers without invoking this section in which case, the Registrar shall direct the proprietors accordingly.
- b. Upon reparation, the new parcels shall vest in persons in whose names they are registered”

My understanding of this provision is that if owners of contiguous parcels desire to change the layout of their parcels, they must give their consent in writing to the Land Registrar. If what took place was reparation, where is the consent in writing of Susan Nyambura Njenga? If it was a transfer where is the transfer form? We may accept that the records were lost in the land registry as narrated by the Land Registrar and the land owners are not to blame for this. The land registry bears the responsibility. Whichever way one looks at it, the fact that Susan Nyambura has not been paid means that she has a valid claim against Own a Plot Limited.

19. On the second of the issues raised by the Plaintiff, I find that she has proved her case on a balance of probabilities because her land has been sold to Wanachuo and she has not been paid the purchase price. Failure to pay consideration renders a sale agreement voidable at the instance of the innocent party. Since she had filed a suit I find the sale void to the extent of L.R. No. 1794 which measures 0.27 Ha.
20. Costs follow the event as per Section 27 of the [Civil Procedure Act](#). I award the costs of case No. 380/2017 to the Plaintiff as against the 1st Defendant i.e. Own a Plot Limited only.
21. Looking at the 1st issue raised by the 1st Defendant in case No. 380/2017, I find that the Plaintiff Dionisia Wandiri Ndwiiga does not have any valid claim over the suit land. There is an incredible story



told by the Plaintiff that Ngara East Women Group bought the suit land from Joseph Silipo Ole Kepero and then transferred the whole of it to Lydia Wakariti Mbugua, the grandmother of Elias Ndwiga Njoka who gave all of it to Elias Ndwiga Njoka. Could 135 women all from different places have bought a parcel of land measuring about 100 acres, given it to only one member called Lydia Wakariki Mbugua who would in turn give it to her grandson, the Plaintiff in ELC 393/2017? I do not believe this story even for a moment.

What makes the story even more incredible is that is not backed by any genuine legal instrument like a sale agreement, a consent of the Land Control Board and a transfer from the women group to the Plaintiff's Grandmother.

Further, the late Elias Ndwiga Njoka did not have any grant to represent the estate of his grandmother Lydia Wakariti or any title deed to show that she ever owned the suit land. The only connection between him and the suit land is the existence of three suspicious green cards each containing details which differ from the details in the other two. The Plaintiff's claim to the suit land is false and untenable.

22. Regarding the second issue raised by Own a Plot Ltd, I find that the doctrine of innocent purchaser for value without notice, that darling of equity, no longer holds sway in view of Article 40[6] which provides that the protection of the right to property does not extend to unlawfully acquired property. This was actually the holding in the case of *Dina Management v County Government of Mombasa and 5 Others* Petition 8[E010] of 2021. At Paragraph 111, the Supreme court said,

“Article 40 of *the Constitution* entitles every person to the right to property subject to the Limitations set out therein. Article 40[6] limits the rights as not extending them to any property that has been found to have been unlawfully acquired. Having found that the 1st registered owner did not acquire title regularly, the ownership of the suit property by the Appellant cannot therefore be protected under Article 40 of *the constitution*. The root of the title having been challenged, as we already noted above the Appellant could not benefit from the doctrine of bona fide purchaser.”

This holding applies to this case in respect to L.R. No. Kajiado/Kisaju/1794 only.

23. I find that the 1st Defendant in case No. 380/2017 i.e. Own a Plot Limited has good title to the rest of the suit land except Kajiado/Kisaju/1794 because no other member of the Ngara East Women Group has come forward to claim the land. There is also evidence to show that some of the members were paid for the land.
24. Coming to the issues raised by Wanachuo, I reiterate that the Plaintiff in ELC No. 393/2017 has no valid claim at all over the suit land. See the reasons given in paragraph 21 of this judgment. As for the 2nd issue, I find that Wanachuo are bona fide owners of L.R. Kajiado/Kisaju/4611, 4612, 4613, 4614 and 4615 except for parcel No. Kajiado /Kisaju/1794 measuring 0.27 hectares. See the reasoning in paragraph 19 of this Judgment.
25. Finally, I find that the Plaintiff in case No. 393/2017 was never lawfully registered as the owner of L.R. No. 121. He has nothing to show that the land was transferred to his grandmother Lydia Wakariti by Ngara East Women Group. Secondly, his only claim to the suit land is three suspicious green cards which are not only contradicting each other but also flagged as forgery by the land registry.

Secondly, the only fault proved regarding the subdivision, amalgamation and transfers between 1999 and 2010 is failure to obtain the consent of Susan Nyambura before amalgamating her land with other land parcels and failure to pay the purchase price to her.



26. In regard to the third and final issue, I find that the Plaintiff is not entitled to any of the reliefs sought in ELC case No. 393/2017 because there is no evidence that L.R. No. Kajiado/Kisaju/121 ever belonged to Elias Ndwiga Njoka or Lydia Wakariti Mbugua, his alleged grandmother.

27. In conclusion and for the reasons already given, I enter judgment for Susan Nyambura Njenga, the Plaintiff in case No. 380/2017 as per prayers [a] and [d] of the Plaint dated 21-11-2014.

Regarding Wanachuo's counterclaim dated 27-1-2020, I enter judgment in its favour in terms of prayers [a], [c], [d] but subject to the land owned by Susan Nyambura Njenga measuring 0.27 hectares and [i], costs being against the Plaintiff [Dionisia Wandiri] and Own a Plot Limited only.

Finally regarding ELC Case No. 393 of 2017, I dismiss the suit with costs to the Defendants.

It is so ordered.

DATED, SIGNED AND DELIVERED VIRTUALLY AT MURANG'A THIS 24TH DAY OF JUNE, 2025.

M.N. GICHERU

JUDGE.

Delivered online in the presence of; -

Court Assistant – Mwangi Njonjo

Plaintiffs' Counsel – Brian Kariithi

Susan Njenga'a Counsel – Miss Anyiela

Own a Plot's Counsel – Mr. Ongicho

Wanachuo's Counsel – Miss Ouma

Attorney General – Miss Kerubo.

