



Ng'ang'a & another v Ndeti & another (Environment & Land Case 62 of 2023) [2025] KEELC 4735 (KLR) (24 June 2025) (Judgment)

Neutral citation: [2025] KEELC 4735 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MACHAKOS
ENVIRONMENT & LAND CASE 62 OF 2023**

NA MATHEKA, J

JUNE 24, 2025

BETWEEN

ANNASTASIA WANGUI NG'ANG'A 1ST PLAINTIFF

ISAAC WAIRAGU KARIUKI 2ND PLAINTIFF

AND

MUSYOKI NDETI 1ST DEFENDANT

WILLY NDETI 2ND DEFENDANT

JUDGMENT

1. It is the Plaintiffs' case that the 1st Plaintiff was the registered owner of all that parcel of land situated at the Mavoko Municipality in Machakos containing by measurement 1.841 Hectares or thereabouts being LR. No. 337/1000 (I.R.No. 226329). On or about 13th November, 2020, the 1st Plaintiff vide an Agreement sold to the 2nd Plaintiff for valuable consideration the property but the transfer of the said property from the 1st Plaintiff to the 2nd Plaintiff has been slowed because the Defendants have built residential iron sheets structures on the land where they have leased the same to more than fifty (50) tenants who are illegal squatters and/or trespassers on the land because they are on the land without the consent of the Plaintiffs despite the 1st Plaintiff being the legal registered owner of the land with a valid title of ownership.
2. It is the Plaintiffs case that the Defendants are trespassing and/or illegal squatters are on the land illegally without the consent or licence of the Plaintiffs and ought to be evicted therefrom which is the Plaintiffs case.
3. The Plaintiffs prays for Judgment against the Defendants jointly and severally for;
 - a. An order of permanent injunction against the Defendants, their servants, agents, employees and/or through whoever against trespassing on L.R. No. 337/1000 (I.R. No. 226329).



- b. An order of Eviction of all persons living thereon of all the demolition of all the temporary iron sheet residential houses and all other structures built by the Defendants on L.R. No. 337/1000 (I.R. No. 226329).
 - c. That costs of and incidental to this suit.
 - d. Any other/such other/further orders as this Honourable Court may deem fit/just to grant.
4. This court has considered the evidence and submissions therein. The Defendants were served but failed to attend court and the matter proceed exparte. PW2 testified that she is the registered owner of all that parcel of land situated at the Mavoko Municipality in Machakos containing by measurement 1.841 Hectares or thereabouts being LR. No. 337/1000 (I.R No. 226329). That on or about 13th November, 2020, the 1st Plaintiff vide an Agreement sold to the 2nd Plaintiff for valuable consideration the property. PW1 corroborated her evidence. The PW1 produced the certificate of title and a transfer document showing it was transferred to the 1st Plaintiff as PEx1. They produced a sale agreement showing the same was sold to the 2nd Plaintiff by the 1st Plaintiff PEx5. This evidence has not been controverted.
5. It is not disputed that the suit land belongs to the Plaintiffs. The Land Registration Act is very clear on issues of ownership of land and Section 24(a) of the Land Registration Act provides as follows;

“Subject to this Act, 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.”

Section 26 (1) of the Land Registration Act states as follows;

“The Certificate of Title issued by the Registrar upon registration ... 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... 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.”
6. The Plaintiffs state that the Defendants have built residential iron sheets structures on the land where they have leased the same to more than fifty (50) tenants who are illegal squatters and/or trespassers on the land because they are on the land without the consent of the Plaintiffs despite the 1st Plaintiff being the legal registered owner of the land with a valid title of ownership. This evidence has not been controverted. I find that the 2nd Plaintiff is bonafide purchaser and has a legitimate expectation not only to be in possession of the plot but also to obtain the title. I find that the Plaintiffs have proved their case on a balance of probabilities and I grant the following orders;
- 1. An order of permanent injunction against the Defendants, their servants, agents, employees and/or through whoever against trespassing on L.R. No. 337/1000 (I.R. No. 226329).
 - 2. The Defendants their servants, agents, employees and/or through whoever are to vacate the suit land L.R. No. 337/1000 (I.R. No. 226329) within the next 90 days from the date of service of this order and in default eviction order to issue.
 - 3. No order as to costs as the matter was undefended.



It is so ordered.

DELIVERED, DATED AND SIGNED AT MACHAKOS THIS 24TH DAY OF JUNE 2025.

N.A. MATHEKA

JUDGE

