



Karanja & another (Suing as the Administrators of the Estate of Joseph John Karanja - Deceased) v Mbugua & 4 others (Environment and Land Case E400 of 2024) [2025] KEELC 4631 (KLR) (23 June 2025) (Ruling)

Neutral citation: [2025] KEELC 4631 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT AND LAND CASE E400 OF 2024
CA OCHIENG, J
JUNE 23, 2025**

BETWEEN

**EDWARD MUKUNDI KARANJA 1ST PLAINTIFF
VERONIKA WANJIKU KARANJA 2ND PLAINTIFF
SUING AS THE ADMINISTRATORS OF THE ESTATE OF JOSEPH JOHN
KARANJA - DECEASED**

AND

**BRIAN KAGOMBE MBUGUA 1ST DEFENDANT
NAIROBI CITY COUNTY GOVERNMENT 2ND DEFENDANT
THE CHIEF LAND REGISTRAR 3RD DEFENDANT
DIRECTOR OF SURVEYS 4TH DEFENDANT
THE ATTORNEY GENERAL OF KENYA 5TH DEFENDANT**

RULING

1. What is before Court for determination is the Plaintiffs’ Notice of Motion application dated 25th September 2024 where they seek the following Orders:
 - a. Spent.
 - b. Spent.
 - c. Pending the hearing and determination of the suit, an order of injunction be issued against the 1st Defendant whether by himself, his servants, agents, employees or whomsoever restraining him from trespassing, occupying, disposing off, alienating, encroaching, claiming ownership



of the property known as LR No.22XX9/X4/2 and subsequently upon conversion registered as Nairobi Block Number 1X7/6X3 or continuing any form of development/ construction over the said property.

- d. The officer commanding Karen police station and/or the police officer in charge of the police station nearest to the said property do forthwith ensure compliance with and enforcement of the orders of this Honourable Court.
 - e. Costs of this application be awarded to the Plaintiffs/Applicants.
2. The application is premised on grounds on its face and on the 1st Plaintiff's supporting affidavit. He avers that Joseph John Karanja (deceased) was the legal registered owner of LR No. 2XX9/X4 and upon his death on 4th February 1988, ownership of the said property devolved to his beneficiaries. Further, upon issuance of confirmed Letters of Administration, the administrators of his estate commenced the process of subdivision of the said property for purposes of distribution to his beneficiaries of which, they submitted a proposed subdivision plan incorporating the intended subdivisions to the Nairobi City County.
 3. He explains that as a condition for permission to subdivide, the Ministry of Lands directed that part of the land be earmarked for public utility. He contends that upon registration of the subdivision and preparation of the Survey Plan, a Deed Plan was prepared whereby subdivisions were assigned fresh IR and title numbers. Further, that the said Deed Plan obtained indicated that LR No. 2XX9/X4/2 was to be surrendered for public utility but the parcel is yet to be formally surrendered to Nairobi City County, for public utility purpose as the estate is still in possession of the original title.
 4. He avers that to the Plaintiffs' surprise, on 9th September 2024, they learnt of an ongoing illegal construction of a perimeter wall surrounding LR No. 2XX9/X4/2, which they reported to Karen Police Station. Subsequently, they became aware that a private developer had allegedly managed to procure an Allotment Letter with respect to the suit land and processed a title, being Nairobi Block number 6X3/187, which was allegedly made possible by the direct actions or omissions of the 2nd to 4th Defendants at the behest of the 1st Defendant. He reiterates that unless injunctive orders are issued, the purpose of earmarking the property as a public utility plot will be defeated.
 5. The application is opposed by the 1st Defendant who filed a replying affidavit. He avers that he is the beneficial and registered owner of Nairobi Block Number 1X7/6X3 formerly L.R. No. 2XX9/X4/2 as per the records held by the 3rd Defendant. He claims that administrators of the estate of Joseph John Karanja (Deceased) earmarked and surrendered the said parcel to the 2nd Defendant. Further, that the parcel was held by the Administrators of the estate of Joseph John Karanja (Deceased) as a Leasehold for a period of 99 years but upon expiry of the Leasehold, they failed to renew the lease as required by law thus it reverted back to the 2nd Defendant, which in consultation with the National Land Commission is allowed to allot, allocate, lease and/or convert public land for private use in accordance with the Land (Allocation of Public Land) Regulations, 2017 and the Land (Conversion of Land) Rules, 2017.
 6. He claims that vide an Allotment Letter dated the 18th September 2020, the National Land Commission in consultation with the 2nd Defendant, allotted and leased LR. No. 2XX9/X4/2 to the 1st Defendant for a term of ninety (99) years from 1st March 2020, for a consideration of Kshs. 400,000/=. Further, that the parcel thereafter underwent conversion and was allocated and registered as Nairobi Block Number 1X7/6X3 in line with the Land Registration (Registration Units) Order and the Ministry of Land and Physical Planning Conversion Manual, April 2021. Further, on 31st July 2024, he was issued with a title deed for the suit land. He contends that the process of allocation, leasing and issuance of title to the suit land, by the 2nd Defendant was above board and that the Plaintiffs'



will not suffer any prejudice if the orders sought are not granted given that they are not the registered and/or beneficial owners of the suit land.

7. The 1st Defendant also filed Grounds of Opposition contending that since the Plaintiffs have no proprietary rights and have not demonstrated any other interest in the suit land, they lack interest and locus standi to file the Plaint and application dated the 25th September 2024.
8. The 2nd Defendant opposed the instant application vide a replying affidavit sworn by Geoffrey Cheruiyot, its Director of Survey. He avers that the Plaintiffs are not entitled to the orders sought citing failure to demonstrate grounds for grant of injunctions. Further, that the 2nd Defendant had no role to play in the acquisition of title to the suit land. He insists that the 2nd Defendant is not privy to the dispute between the Plaintiffs and the 1st Defendant in respect to proprietorship of the suit land.
9. The application was canvassed by way of written submissions.

Submissions.

10. In their submissions, the Plaintiffs provided a background of the dispute herein and insisted that they had met the threshold for grant of injunctions as established in the case of *Giella v Cassman Brown & Co Ltd* [1973] EA 358. They argued that they had established a prima facie case since they challenge the legitimacy of the 1st Defendant's title, which was issued in violation of their proprietary rights under Article 40 of *the Constitution* as well as Section 26 of the *Land Registration Act*. Further, that surrender of the suit land once completed was solely meant to be for public utility and nothing else.
11. They further submitted that the 1st Defendant failed to demonstrate an interest in the suit land and title issued in its favour, contrary to the Supreme Court's decision in *Dina Management Limited vs County Government of Mombasa & 5 others* (Petition 8 (E010) of 2021) [2023] KESC 30 (KLR). They stated that the acts of the 1st Defendant as pleaded in the Plaintiffs' supporting affidavit are illustrative of the need to preserve the substratum of the suit.
12. On his part, the 1st Defendant submitted that the Plaintiffs failed to discharged the burden to satisfy that they are seized of the requisite locus standi to mount and maintain the Plaint and instant Application and the same should be dismissed. Further, that the Plaintiffs having admitted to have surrendered the suit land to the 2nd Defendant and after the said surrender, the Plaintiffs right and claim over the suit land extinguished and the 2nd Defendant was at liberty to deal with it.
13. He also submitted that Section 9 of the *Land Act* provides that any land may be converted from one category, while Rule 4 of the Land (Conversion of Land) Rules provides for Conversion of public land to private land. Further, that Section 12 of the *Land Act* provides for allocation of public land, while Regulation 3 of the Land (Allocation of Public Land) Regulations provides for the different methods of allocation of public land.
14. In its submissions, the 2nd Defendant reiterated that it has no legal mandate in the issuance of titles under the *Land Registration Act* as the mandate solely vests in the Land Registrar, pursuant to Section 26 of the *Land Registration Act*, thus it is not a proper party against whom an injunction can issue. Further, that there is no evidence linking the 2nd Defendant to the alleged fraud or illegality. It submitted that the Plaintiff failed to establish proprietary rights and imminent danger of infringement that cannot be remedied through ordinary legal remedies. Further, that they cannot suffer irreparable harm over land that was intended for public benefit adding that even on a balance of convenience, the Plaintiffs' suit falls short of the legal standards required for interlocutory injunctive relief.



15. To support its arguments, it relied on the following decisions: *Rajesh Pranjivan Chudasama v Sailesh Pranjivan Chudasama* [2014] KECA 250 (KLR); *Giella v Cassman Brown* [1973] EA 358; *Pamba Ong'weno Amila v John Juma Kutolo* [2015] eKLR and *Central Bank of Kenya Limited -V- Trust Bank Limited & 4 Others* [Civil Appeal No. 215 of 1996] (UR).

Analysis and Determination.

16. I have considered the instant Notice of Motion application including the respective affidavits, Grounds of Opposition and rivalling submissions and the only issue for determination is whether the Plaintiffs are entitled to an order of interlocutory injunction to restrain the Defendants from the suit land, pending the outcome of this suit.
17. The Plaintiffs seek orders restraining the 1st Defendant from interfering with the parcel of land known as LR No. 22XX9 /X4 / 2 and subsequently registered as Nairobi Block Number 1X7 /6X3 upon conversion. They contend that the parcel is a subdivision of LR No. 2XX9/X4, which was registered to Joseph John Karanja (deceased), who was the legal registered owner and which parcel was surrendered as public utility, to the 2nd Defendant by his personal representatives as a pre-condition for subdivision. The 1st Defendant claims to be the registered owner of the suit land, while the 2nd Defendant claims that the Plaintiffs failed to meet the threshold for grant of injunctions. The 1st Defendant also challenges the Plaintiffs' locus standi, asserting that they lack any legal interest to file the suit since they surrendered the suit land to the 2nd Defendant.
18. In relying on the principles on injunctions as espoused in the case of *Giella v Cassman Brown* [1973] EA 358, I will proceed to decipher whether the Plaintiffs have established a prima facie case to warrant the orders of interlocutory injunctions as sought.
19. It is not in dispute that the deceased owned the suit land. Further, that the 1st Defendant has acquired a Certificate of Title to the suit land. The 1st Defendant insists that the Plaintiffs' only had a lease for 99 years. Further, that the Plaintiffs earmarked and surrendered land parcel number LR. No. 2XX9/ X4/2 to the 2nd Defendant, but did not provide any documentation to that effect. The 1st Defendant argues that the Plaintiffs do not have proprietary interest over the suit land and hence do not have locus standi to institute this suit.
20. I note the administrators of the deceased estate commenced the process of subdivision of the said property for purposes of distribution to the beneficiaries of which, they submitted a proposed subdivision plan incorporating the intended subdivisions to the Nairobi City County.
21. The Plaintiffs explain that as a condition for permission to subdivide the deceased land, the Ministry of Lands directed that part of the land be earmarked for public utility. Further, upon registration of the subdivision and preparation of the Survey Plan, a Deed Plan was prepared whereby subdivisions were assigned fresh IR and title numbers. Further, that the said Deed Plan obtained indicated that LR No. 2XX9/X4/2 was to be surrendered for public utility, but the parcel is yet to be formally surrendered to Nairobi City County.
22. Looking at the documents presented, it is clear that the deceased indeed owned the suit land. Further, the beneficiaries had sought to subdivide the suit land and were directed by the Ministry of Lands that a portion of the said land was to be earmarked for public utility. I note upon registration of the subdivision and preparation of the Survey Plan, a Deed Plan was indeed prepared whereby subdivisions were allocated fresh IR numbers. It emerged that during the said period, the 1st Defendant was issued with a Letter of Allotment for the surrendered land earmarked for public utility and later processed his title to the suit land. It is my considered view that since the deceased estate owned the suit land, which



was supposed to be public utility and was still in possession of their Certificate of Title, it is not clear how the said land was again hastily converted to private land and a title deed issued to the 1st Defendant.

23. I opine that even though the National Land Commission issued a Letter of Allotment to the 1st Defendant over the said land, there is no indication on the process of the alleged conversion nor why the said land should not have reverted back to the Plaintiffs. It has emerged that the 1st Defendant has commenced to fence off the suit land. From the foregoing, I opine that the Plaintiffs have indeed established a prima facie case to warrant the orders of interlocutory injunction as sought.
24. Further, since now the 1st Defendant holds a Title to the suit land which had initially belonged to the deceased estate's beneficiaries and is fencing it, I find that the Plaintiffs will suffer irreparable harm which cannot be compensated by way of damages and the balance of convenience tilts in favour of protecting the substratum of this suit.
25. Even though the Plaintiffs have established a prima facie case noting that the suit land is now registered in the name of the 1st Defendant, I will not grant the orders as sought but direct that pending the outcome of this suit, an obtaining status quo be maintained and no party should interfere with the suit land nor change its topography.
26. In the circumstances, I find the instant Notice of Motion application merited and will allow it in the following terms:
 - a. Obtaining Status Quo be maintained where no party should dispose of the suit land nor change its topography pending outcome of this suit.
 - b. The officer commanding Karen police station and/or the police officer in charge of the police station nearest to the said property do forthwith ensure compliance with and enforcement of the orders of this Honourable Court.
 - c. Each party to bear their own costs.

DATED, SIGNED AND DELIVERED VIRTUALLY AT NAIROBI THIS 23RD DAY OF JUNE 2025

CHRISTINE OCHIENG

JUDGE

In the presence of:

Bett holding brief for Ojiambo SC for Plaintiff

Ms Gathira holding brief for Dr. Kamotho for 1st Respondent

Ms Wairimu Holding brief for Wario for 2nd Respondent

Court Assistant: Joan

