



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MOMBASA

ELC NO.178 OF 2016

1. MARGARET KAMENE MULWA

2. LOTHAR ROLF SCHAFFARA..... PLAINTIFFS

VERSUS

1. PARADISE BAY LIMITED

2. MWANAIDI MWINYI MTOTO

3. REGISTRAR OF TITLES, Kwale

4. ATTORNEY GENERAL.....DEFENDANTS

JUDGMENT

1. The Plaintiffs instituted this suit by way of plaint dated 30th June 2016 which was amended on 14th February 2017 seeking the following orders:

a. A declaration that the plaintiffs are the rightful, lawful and/or bona fide owners of the property known as KWALE/DIANI/99.

b. A declaration that the 2nd defendant has no lawful interest in the suit property and hence the purported transfer to and registration of the 1st defendant as the owner of the property known as KWALE/DIANI/99 is invalid, null and void.

c. As order compelling the 3rd defendant to cancel and/or revoke the title to the suit property issued in the name of the 1st defendant and any memorial or entry in the register which is in the name of the 1st defendant in respect of the property known as KWALE/DIANI/99 and the register to rectify to that effect.

d. A permanent injunction to restrain the 1st defendant, whether by itself or through its agents, servants and/or employees or through anyone deriving title through them from entering, occupying, leasing, transferring, charging, selling and/or dealing in any manner whatsoever with the property known as KWALE/DIANI/99.

e. Costs of this suit and interest at such rate and for such period as this honourable court may deem fit to grant.

f. Any such or/further relief as this honourable court may deem appropriate.

2. In the Amended plaint, the plaintiffs have pleaded that by a sale agreement dated 20th February, 1996, they purchased the property known as Kwale/Diani/99 measuring about 2 hectares (hereinafter referred to as “the suit property”) from one Mariam Mwanajeni for a consideration of Kshs.800,000.00. The plaintiffs aver that they were registered jointly as the absolute and indefeasible owners of the suit property and issued with title deed on 28th January 1997. They aver that they are in possession of the suit property and have erected a temporary structure thereon where their caretaker resides in and have also drilled a borehole. The plaintiffs further aver that sometime in March, 2016, the 1st defendant, its directions, officers and/or agents colluded with the 2nd defendant to fraudulently, illegally, unlawfully, irregularly and/or wrongfully procure registration of the suit property in the name of the 1st defendant. The plaintiffs have given particulars of irregularities, illegalities, fraud and/or collusion on the part of the 1st defendant, its directors and/or officials and/or agents and the 2nd defendant. The plaintiffs aver that they are apprehensive that unless the 1st defendant, its directors, agents, employees and/or servants are

restrained by this Honourable Court, they may deal with the suit property in a manner that is adverse to the plaintiff's interest in the suit property and the plaintiffs stand to suffer irreparably.

3. Margaret Kamene Mulwa, the 1st plaintiff, testified on behalf of the plaintiffs as PW1. She stated that the 2nd plaintiff is her husband and that they live in Germany. She further stated that they purchased the suit property measuring about 2 hectares in 1997 from one Mariam Hamisi Mwanajeni for a consideration of Kshs.800,000.00. PW1 testified that she met the seller who had no title and that she conducted due diligence with her advocate, Mr. Musinga to confirm ownership. She stated that they made enquiries from the village elder, the area chief and the lands office and established that Mariam Hamisi Mwanajeni was indeed the owner of the property. PW1 produced a sale agreement dated 20th February, 1996 prepared by Musinga & Co Advocates and signed by all the parties in the presence of Mr. Daniel Musinga Advocate.

4. PW1 stated that she also inspected the land in the presence of her advocate and a surveyor and established that the land was vacant. That the surveyor was instructed to identify and place the beacons. PW1 testified that a title deed was then issued to them on 28th January, 1997. The title deed was produced as P.exhibit No. 2. PW1 also produced a certificate of official search dated 17th October, 2014 (p.exhibit No. 3) which showed the land was registered in the plaintiffs names. PW1 stated that the purchase price was paid in full together with the advocates fees and transfer costs. That the payments were made through Musinga & Company Advocates and produced the receipts as p.exhibits Nos. 4 – 7, adding that an initial sum of Kshs.10,000 was paid directly to the vendor on 14th January, 1996. PW1 stated that the vendor had a witness by the name Salim Mwinyi who is her son.

5. PW1 stated that they constructed a worker's house on the suit property in the year 2012 and drilled a borehole in 2013. That they were mainly cultivating on the suit property and that since 1997, no one has claimed ownership of the same.

6. PW1 testified that around May, 2016, the plaintiffs' worker who resides on the suit property informed her that there was a white man who threatened to burn him up in the house. PW1 stated that she sent someone to conduct a search at the Kwale Land Registry and the search dated 14th June 2016 showed the registered owner as Paradise Bay Limited, the 1st defendant herein. The plaintiffs then decided to sue the 1st defendant. The plaintiffs also enjoined Mwanaidi Mwinyi Mtoto, the 2nd defendant to the suit upon discovering that she was the one who allegedly sold the suit property to the 1st defendant. PW1 stated that she was informed that the 2nd defendant was the daughter of Mariam Hamisi Mwanajeni, the person who sold the land to the plaintiffs.

7. PW1 testified that the 2nd defendant acquired a title deed dated 26th April 2016 fraudulently. That there had never been any dispute or court order or the National Land Commission decision which could have led to the cancellation of the plaintiffs' title over the suit property. The plaintiffs aver that they have never been summoned by the police or by the 3rd defendant. As such PW1 testified that the 2nd defendant had no right or interest to transfer to the 1st defendant. The plaintiffs then prayed for the cancellation of the title deeds issued in the names 1st and 2nd defendants and for the plaintiffs to be declared the lawful owners of the suit property. The plaintiffs further prayed for costs of the suit.

8. The 1st and 2nd defendants responded to the plaintiffs' suit and filed amended statement of defence and counterclaim dated 3rd July 2017. The 1st and 2nd defendants denied that the plaintiffs are in possession of the property known as KWALE/DIANI S.S./99. They further denied the particulars of irregularities, illegalities, fraud and collusion attributed to them and instead accused the plaintiffs of irregularly and unlawfully acquiring title to the suit property. The 1st defendant averred that it is the lawful owner of the suit property, stating that it purchased the suit property known as KWALE/DIANI SS/99 measuring 1.996 ha from the 2nd defendant who is a daughter of the late Mariam Hamisi Mwanajeni, the allottee of the suit property at a consideration of Kshs.8,000,000.00. The 1st defendant averred that it carried out due diligence by applying for a search of the suit property at the Lands registry, Kwale, making an application for consent of the Land Control Board, obtaining letter of consent, carrying out valuation of the suit property, paying for the transfer after which it was issued with a title deed on 24th May, 2016. The 1st defendant averred that the 2nd defendant acquired ownership of the suit property by transmission after obtaining a grant of administration of the estate of her deceased mother in Succession Cause No. 250 of 2014 in the Kadhi's Court at Kwale.

9. In their counter-claim the 1st and 2nd defendants prayed for the following orders:

a. An order compelling the 3rd defendant to cancel and/or revoke the alleged title deed issued in the joint names of the 1st and 2nd plaintiffs in respect of the suit property KWALE/DIANI S.S./99.

b. A permanent injunction to restrain the 1st and 2nd plaintiffs whether by themselves or through their agents, assigns, servants and/or employees from occupying transferring, entering, leasing, charging, selling or in any manner dealing whatsoever with the suit property known as KWALE/DIANI S.S./99.

c. A declaration that the 1st and 2nd plaintiffs alleged title deed in respect of property known as KWALE/DIANI S.S./99 issued in their joint names was obtained irregularly, unlawfully and/or by fraud and is therefore invalid.

d. A declaration that the 1st defendant is the bona fide and/or lawful owner of the property known as KWALE/DIANI S.S./99.

e. The 1st and 2nd plaintiffs suit be dismissed with costs and interests as this Honourable court may deem fit.

f. Any other order or further relief that this honourable court may deem fit.

10. DW1, Paul Van Beveren testified and stated that he is a director of the 1st defendant company. He stated that on 20th January, 2016, he

went to his advocates, J Thongori & Company Advocates who carried out due diligence and showed him the copy of the Green Card and Certified search in the name of the 2nd defendant. That he was later shown adjudication letter in the name of the deceased. That after due diligence, land was transferred to the 1st defendant company. He stated that they obtained letter of consent, valuation and paid for the stamp duty. That in May, 2016, he received the title deed after which he carried out another search which confirmed the 1st defendant as the registered owner of the property. DW1 stated that he paid the family of the 2nd defendant the sum of Kshs.8 million as consideration. He urged the court to dismiss the plaintiff's suit.

11. The 2nd defendant, Mwanaidi Mwinyi Mtoto testified as DW2. She is the daughter of the original allottee, Mariam Hamisi Nimajeni (deceased). DW2 testified that upon the demise of her late mother, she left the land with her children. That the deceased passed on before acquiring title. She stated that they continued cultivating the land and later agreed as siblings that one of them follow up the title deed of the land. She stated that they went to the Kadhi's court at Kwale where she was appointed the administratrix of the estate of her deceased mother and issued with a title deed. She stated further that when they reached the Lands Registry, they found that their mother's name was missing from the records although it was there earlier. That they were advised to go to the National Land Commission who gave them a letter which they took to the police where they made a report. That they were later invited to the National Land Commission where they went and were given a letter and their documents. That they took the documents to the Directorate of Criminal Investigations who scrutinized it and gave them a letter which they took to the Lands Registry where they were issued with a title deed. That after that, they entered into a sale agreement with 1st defendant who bought the property for consideration of Kshs.8,000,000.00.

12. The 3rd and 4th defendants filed their statement of defence dated 25th August 2016 on 9th September, 2016 in which they denied the allegations raised in the plaint, stating that if there were any illegalities or fraud, they were not privy to the same and put the plaintiffs' to strict proof thereof.

13. Dick James Safari, the 3rd defendant testified as DW3. He stated that as per the records in their custody, the property known as Kwale/Diani Settlement Scheme/99 is currently registered in the name of Paradise Bay Limited, the 1st defendant herein, having been registered on 25th May, 2016. DW3 stated that as per their records the first allottee of the suit land was Nimajeni Mwamajeni who was registered on 10th March 1992. That later on Succession in Cause No. 250 of 2014, the property was registered on transmission to Mwanaidi Mwinyi Mtoto, the 2nd defendant herein on 26th April 2016. DW3 testified that it was evident that the original green card must have been misplaced whereafter a new Green Card was opened vide Gazette Notice No. 3401 dated 23rd October, 2015. He further stated that he was aware that there is a letter dated 25th April 2016 from the Directorate of Criminal Investigations concerning alleged fraudulent transfer of land parcel number Kwale/Diani/99. That the said letter stated that the decision of the National Land Commission was that the land reverts back to Mwamajeni and therefore it was that decision that led to the Gazette Notice. DW3 stated that he could not establish fraud in the file. He produced certified copies of the parcel file as an exhibit.

14. The plaintiffs' counsel submitted that it is not disputed that one Mariam Hamisi Mwamajeni, also known as Nimajeni Mwamajeni was the 1st allottee of the suit property and was registered on 10th March, 1992. Counsel urged the court to find that as at 20th February, 1996, the said Mariam Hamisi Mwamajeni had a registered interest in the suit property which was capable of being transferred. Counsel further urged the court to find that the plaintiffs were legitimately registered on 28th January, 1997 as owners of the suit property after purchase from the 1st allottee. The plaintiffs' counsel submitted that there was no letter or decisions by the National Land Commission and/or the National Land Management Board produced calling for the revocation or cancellation of the plaintiffs' title. Counsel urged the court to find that there was no decision made by the National Land Commission and/or the National Land Management Board or any competent tribunal for the cancellation of the plaintiffs' title. Counsel relied on the case of **of Samuel Odhiambo Oludhe & 2 Others –v- Jubilee Jumbo Hardware Limited & Another (2018)eKLR** where the court held that:

“The real title holder having led evidence that they neither sold nor transferred the suit land to the defendant, is prima facie evidence that the defendant got the suit land unprocedurally.”

The plaintiffs' counsel urged the court to find that the 2nd defendant obtained the registration of the suit property fraudulently and perpetuated the fraud further by selling the property to the 1st defendant. It was counsel's submission that the plaintiffs have proved fraud on the part of the 2nd defendant to the required standard.

15. The plaintiffs' counsel submitted that the 3rd defendant had no right or power to cancel the plaintiffs' title and that its action did not fall within the provisions of Section 142 (1) of the Registered Land Act (repealed) and that the purported revocation due to alleged fraud flies in the face of the express provisions of Article 40 (3) and 47 of the Constitution of Kenya.

16. The plaintiffs' counsel further submitted that the plaintiffs have proved fraud on the part of the 1st defendant who cannot be described as an innocent purchaser for value without notice. The plaintiffs' counsel submitted that the 1st defendant's title is impeachable under Section 26 (1) (b) of the Land Registration Act, 2012, and relied on the case of **Elijah Makeri Nyagw'ra –v- Stephen Mungai Njuguna & Another (2013)eKLR** and **Petronillah Nafuna Khaemba –v- Attorney General & 7 Others (2019)eKLR**, and urged the court to find that the plaintiffs are the lawful owners of the suit property and to revoke and/or cancel the 1st defendant's title. Further, the plaintiff's counsel urged the court to find that the doctrine of constructive trust and proprietary estoppel are applicable in the circumstances of this case. Counsel relied on the case of **Patrick M. Situma –v- Felix Wafula Khaemba (2019)eKLR**, and submitted that the 1st and 2nd defendants defence and counter claim should be dismissed with costs and the plaintiffs suit allowed as prayed.

17. Counsel for 1st and 2nd defendants submitted that he 1st defendant is an innocent buyer for value without notice and that the 1st defendant acquired the property lawfully and that ownership of the same cannot be challenged on account of fraud or misrepresentation which the defendants were not party to. Counsel cited the provisions of Section 23 (1) of the Registrations of Titles Act (repealed) and Section 26 (1) (a) and (b) of the Land Registration Act, 2012, and relied on the case of **David Peterson Kiengo & 2 Others –v- Kariuki Thuo**

(2012)eKLR. It was further submitted that the plaintiffs have not proved fraud and counsel relied on the case of **Vijay Morjaria –v- Nansingh Madhusingh Darbar & Another (2002)eKLR.** The 1st and 2nd defendants counsel further submitted that the plaintiffs' acquisition of the suit property was not procedural and lawful and thus their title should be nullified and cancelled. They urged the court to dismiss the plaintiffs' claim and allow the counter-claim with costs.

18. Counsel for the 3rd and 4th defendants submitted that it is clear that the 1st defendant having brought the land in the year 2016, has never taken possession since the plaintiffs have always been on the suit property since 1997. That it would then raise eyebrows on how the 1st defendant was able to buy land which had someone use in occupation and with some developments on it. It was therefore submitted that the 1st defendant did not carry out due diligence before buying the property. Counsel for the 3rd and 4th defendants submitted that it was difficult to ascertain the first transaction between the plaintiffs and Mariam Mwamajeni and the second transaction between the 1st and 2nd defendants since the records was said to be misplaced and further because DW3 did not do the registration himself.

19. I have considered the parties' pleadings, evidence and submissions. From the pleadings filed, the evidence tendered during the trial and the submissions made, the main issues for determination are whether the plaintiffs lawfully acquired the suit property and whether they are holding a valid title; whether the registration of the 2nd defendant as owner was lawful and whether the subsequent sale, transfer and registration from the 2nd defendant to the 1st defendant was regular or was it illegal and fraudulent. The other issues to consider are whether the plaintiffs are entitled to the reliefs sought in the amended plaint or whether the 1st and 2nd defendants are entitled to the reliefs sought in the counter-claim.

20. From the evidence on record and the documents produced, it is evident that the suit property belonged to one Mariam Hamisi Mwamajeni (now deceased) who was the original or first allottee. According to the evidence of the Land Registrar Kwale, who testified as DW3, the records at the land registry indicated that Mariam Hamisi Mwamajeni was registered on 10th March, 1992. According to DW 3, the land was by transmission registered in the name of the 2nd defendant as trustee on 26th April, 2016 and the 2nd defendant executed a transfer to the 1st defendant which was registered on 24th May, 2016.

21. It was the plaintiffs' evidence that they purchased the suit property from the late Mariam Hamisi Mwamajeni. The plaintiffs' produced the sale agreement dated 20th February 1996 between them and the deceased which was drawn by the firm of Musinga & Company Advocates as P.exhibit No. 1. The said sale agreement showed the purchase price was Kshs.800,000.00 which the plaintiffs state that they paid in full to the seller through Musinga & Company Advocates who were the advocates for the parties. The plaintiffs also produced receipts which they stated was for payment of the purchase price, stamp duty, transfer charges and advocates fees. The plaintiffs' evidence was that the land was transferred and registered in their names and title deed issued to them on 28th January, 1997. The plaintiffs' are still in possession of the original title deed that was issued to them and the same was produced as p.exhibit no. 3. In addition, the plaintiffs produced a certificate of official search dated 17th October, 2014 which confirmed that the plaintiffs were registered as owners of the suit property on 28th January, 1997. In his evidence Dw3 confirmed that the said certificate of search was signed by a Land Registrar, Mr. Ngetich whom he knew. It was the plaintiffs evidence that they took possession of the property in 1997 and later constructed their workers house in 2012 and drilled a borehole in 2013. The plaintiffs evidence was that they did not encounter any interference until around May, 2016 when the 1st defendant laid claim on the property, alleging that it had purchased it from the 2nd defendant. It is however, the plaintiffs case that the 2nd defendant obtained title to the property illegally, fraudulently and/or irregularly, and subsequently transferred it to the 1st defendant. It is the plaintiffs case that the title held by the 1st defendant is invalid, null and void.

22. The 2nd defendant on her part, contends that suit property was registered in her name by transmission and under Islamic Law as heir and trustee of the original allottee/owner and that the subsequent sale and transfer to the 1st defendant was lawful.

23. In this case, the plaintiffs have tendered documentary evidence that show that they purchased the suit property from the original allottee/owner. DW3 confirmed that the record at the lands office confirmed that the 1st allottee of the property was Mariam Hamisi Mwamajeni who was registered as owner on 10th March 1992. The plaintiffs evidence was that upon purchasing the land from Mariam Hamisi Mwamajeni, they were registered owners and issued with a title deed on 28th January, 1997. DW3 testified that some records from the parcel file were misplaced and are missing. The witness however, confirmed that he knew Mr. C. K. Ngetich, the Land Registrar, who signed the search that confirmed that the plaintiffs were registered as proprietors on 28th January 1997. The question then that arises is, if the plaintiffs were registered as proprietors and issued with title deed on 28th January, 1997, which title deed the plaintiffs still hold, when did the property revert to the original owner, Mariam Hamisi Mwamajeni (deceased) to enable the 2nd defendant acquire the same by way of transmission and thereafter transfer it to the 1st defendant? Whereas the 2nd defendant alleges that the plaintiffs acquired title to the property fraudulently, and that the matter was reported and investigated by the police and the National Land Commission who purportedly revoked the plaintiffs' title, I note that the application to be registered by transmission was made much earlier in July 2014. Although the 1st and 2nd defendants claim that the registration of the suit property in the name of the plaintiffs was fraudulent, there was no evidence availed before court to explain under what circumstances the names of the plaintiffs were deleted and in their place, the name of the deceased entered in the register before the 2nd defendant was registered by transmission and title issued and the property subsequently transferred to the 1st defendant. In my considered view, neither the police nor the National Land Commission had the power or authority under the law to cancel the plaintiffs' names and replace it with that of the deceased without due process and without affording the plaintiffs a hearing. Whereas the 2nd defendant accused the plaintiffs of fraudulently causing the suit property to be registered in their names, the 2nd defendant on her part has not satisfied the court as to how the name of the original owner who was already deceased, came to be registered as owner of the suit property while the record indicated that the plaintiffs were registered owners of the property. The 2nd defendant cannot claim to have been registered by transmission when the evidence on record indicates that the suit property was already in the plaintiffs' names, and not the name of the original owner.

24. From the evidence on record, it is the finding of this court that indeed there was a valid agreement between the plaintiffs and Mariam Hamisi Mwamajeni made on 14th January 1996. I find the evidence on record sufficient to prove that the plaintiffs lawfully acquired and are

the rightful owners of the suit property.

25. Have the plaintiffs proved fraud on the part of the defendants? The plaintiffs' evidence is that they took possession and occupation of the suit property after purchasing the same and that they enjoyed undisputed possession until the year 2016. The 2nd defendant's case is that she acquired the property through transmission. However, having arrived at a finding that the plaintiffs lawfully acquired the suit property from the deceased, it is also my finding that the property was no longer available for transfer through transmission to the 2nd defendant. The documents produced by the 1st and 2nd defendants from the National Land Commission and the Directorate of Criminal Investigations questioning the plaintiffs acquisition of the suit property and recommending revocation of the plaintiffs title are of no legal effect. Moreover, there was no evidence that the plaintiffs were invited to defend their title before the recommendation for revocation if any, was done.

26. Whereas the 2nd defendant alleges that she followed the process of transmission as per the order of the Kadhi's Court in Succession Cause No. 250 of 2014, it is apparent that this was just a ploy used to cause the property registered in the 2nd defendant's name before it was immediately transferred to the 1st defendant. What is more puzzling is that the 2nd defendant in her evidence referred to consultation between her and her siblings, but none of the alleged siblings appears in any of the documents including the succession proceedings before the Kadhi's court. I note also that whereas the 2nd defendant in her evidence stated that they were being assisted by one Abdalla in following up with Succession proceedings and lodging complaints with the National Land Commission and the Directorate Criminal Investigation, DW1 in his statement claimed that he was approached by the family of the late Mariam Hamisi Nimajeni to assist them financially in their Succession Cause. DW1 testified that he resides very close to suit property. If that be the case, then it is apparent that he knew that the 2nd defendant was not in possession of the suit property. Instead, it was the plaintiffs worker who was residing on the land. The 1st defendant could not therefore be taken as an innocent purchaser for value without notice. I find the evidence presented by the plaintiffs more credible than that of the defendants. It is my finding that the plaintiffs have proved fraud on the part of the 1st and 2nd defendants.

27. The 1st defendant relies on the title in its name to prove ownership. Section 26 (1) of the Land Registration Act provides as follows:

“26. (1) The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor 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, subject to the encumbrances, easements, restrictions and conditions in the certificate, and the title of that proprietor shall not be challenged except-

a) On 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.”

28. **Although the 1st defendant is holding another title in respect of the suit property, that title is impeachable by virtue of Section 26 (1) of the Land Registration Act. It is clear that the manner in which the 2nd defendant obtained title to the suit property was patently irregular, illegal and fraudulent, and therefore the 1st defendant's title to the suit property cannot stand. I find the evidence on record sufficient to prove that the plaintiffs are the rightful owners of the suit property and therefore entitled to the reliefs sought in the amended plaint. Although the 1st and 2nd defendants have raised issues of irregularities in the manner the suit property was acquired and registered in the plaintiffs' names, in my view, the allegations were vague and general. The defendants failed to demonstrate that the sale and the subsequent transfer and registration in favour of the plaintiffs by the original allottee of the suit property was obtained illegally, unprocedurally or through a corrupt scheme. The defendants failed to demonstrate that the said transfer and registration were tainted with illegality or breach of statutory provisions. In the absence of any tangible evidence implicating the plaintiffs with any impropriety or illegality, I am not persuaded that they are not holding a good title having purchased the property from the original owner, who is a mother to the 2nd defendant. It is therefore my finding that the plaintiffs title is valid.**

29. Having considered and reviewed all the evidence and material placed before the court, I find that the 1st and 2nd defendants have not proved their counter-claim on a balance or probabilities. I find that the plaintiffs have proved their case against the defendants and I enter judgment in the following terms:

a. A declaration be and is hereby made that the plaintiffs are the rightful, lawful and bona fide owners of the property known as KWALE/DIANI/99

b. An order be and is hereby issued compelling the 3rd defendant to cancel and/or revoke the title to the suit property in the name of the 1st defendant and to delete all entries in the register which is in the name of the 1st and 2nd defendants in respect of the suit property known as Kwale/Diani/99 and rectification of the register to restore the plaintiffs names therein.

c. An order of permanent injunction in terms of prayer (d) of the amended plaint.

d. The 1st and 2nd defendants counter-claim is dismissed with costs.

e. The plaintiffs shall have costs of the suit.

DATED, SIGNED and DELIVERED at MOMBASA electronically by email due to COVID-19 Pandemic this 30th day of July 2020

C.K. YANO

JUDGE

IN THE PRESENCE OF:

Yumna Court Assistant

C.K. YANO

JUDGE