



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT

AT MACHAKOS

ELC. CASE NO. 15 OF 2003

ARGOS FURNISHERS LIMITED.....PLAINTIFF

VERSUS

SAMUEL MUSILA & 37 OTHERS....DEFENDANTS

JUDGMENT

1. In the Amended Complaint dated 29th December, 2003, the Plaintiff averred that on 12th February, 1997, it entered into an Agreement with the 1st Defendant for the purchase of parcel of land known as Machakos Town Block II/221 (*the suit property*); that the said land was later registered in its favour and that despite the said sale, the 1st Defendant has continued to retain the temporary kiosk structures on the suit property.
2. The Plaintiff averred that prior to purchasing the suit property, the 1st Defendant had put onto the suit property the 2nd to 38th Defendants and allowed them to take possession of the suit property; that the 1st Defendant had misrepresented to the Plaintiff that the suit property was vacant and that the Defendants acts have caused him great loss.
3. The Plaintiff's prayers are for an order against the 1st Defendant for the removal of the temporary kiosk structures erected on the suit property; an order of injunction restraining the Defendants and their agents from occupation and use of the suit property; general damages for trespass and loss of use of the suit property and the costs of the suit.
4. In their Defence, the 2nd to 38th Defendants averred that the suit property, Plot No. Machakos Town Block 11/221, was originally allocated to them in or about 1969 by the Municipal Council of Machakos (*then known as Masaku Urban Council*), for purposes of putting up commercial stalls, (*Kiosks*).
5. The 2nd to 38th Defendants further stated that in or about 1970, they contracted the 1st Defendant, who was a Councilor in Masaku Urban Council, to put up kiosks for them on the said plot, which the 1st Defendant did, and that they paid him for his services. It was averred that the 38 Defendants have been in occupation of the suit property since 1970, and do have substantial business investments thereon.
6. It was averred that in 1997, the 1st Defendant filed in this court Machakos High Court Civil Suit No. 126 of 1997 against the 2nd to 38th Defendants, among other people, alleging that the suit property was his, and seeking to have the 2nd to 38th Defendants evicted therefrom and that the said suit was dismissed with costs by this Honourable Court on 29th May, 2004.
7. The 2nd to 38th Defendants averred that they have acquired title to the suit property by reason of adverse possession, having exclusively and openly occupied the land for over 40 years and that any purported acquisition of title to the suit property by the 1st Defendant was unlawful, and was made subject to their proprietary interests having been on the suit property for a period of over forty (40) years.
8. The 2nd to 38th Defendants averred that they have, since the year 1970, been in exclusive occupation and use of the suit property, and have business premises thereon, wherein they have carried on businesses and commercial activities since the year 1970; that the Plaintiff is not, and has never been in occupation or use of the suit property and that the Plaintiff does not have developments on the land.
9. It was averred by the 2nd to 38th Defendants that the transfer of the suit property to the Plaintiff by the 1st Defendant did not, and cannot supersede their already acquired proprietary rights and interest in the said property.
10. In the Counter-claim, the 2nd to 38th Defendants averred that since the year 1970, they have been in open and exclusive continuous occupation of the suit property, and have acquired title thereto by reason of adverse possession thereof, and should be registered as the

owners thereof.

11. The 2nd to 38th Defendants further averred that their acquired proprietary right to the suit property was not extinguished by the filing of the 1st Defendant's Machakos High Court Civil Suit No. 126 of 1997, which was dismissed with costs on 29th May, 2003, and the subsequent transfer of the property by the 1st Defendant to the Plaintiff herein.

12. The 2nd to 38th Defendants claim against the Plaintiff is for:

- a. A declaration that the 2nd to 38th Defendants have acquired title to Plot No. Machakos Town Block 11/221 by reason of adverse possession.
- b. An order that the Plaintiff's name be cancelled from the register for Plot No. Machakos Town Block 11/221 situated in Machakos Town, and the plot be registered in the names of the 2nd to 38th Defendants.
- c. A permanent order of injunction restraining the Plaintiff, its agents, servants and/or contractors, and each and every one of them from selling, transferring, charging, entering, developing, or in any other way interfering with Plot No. Machakos Town Block 11/221.
- d. The costs of the suit and the Counter-claim.

The Plaintiff's case:

13. The Plaintiff's Director, PW1, informed the court that the Plaintiff was incorporated on 4th December, 1984; that towards the end of 1996 and early 1997, the Plaintiff decided to purchase a plot within Machakos town; that the Plaintiff retained the services of a land agent/broker namely Jackson Mulinge to search for the plot and that in January, 1997, the agent advised the Plaintiff that he had identified a vacant /undeveloped plot land title No. Machakos Town Block 2/221 within Machakos town owned by the 1st Defendant.

14. It was the evidence of PW1 that the official search confirmed that the plot was registered in the name of the 1st Defendant and the title was clean; that the Plaintiff entered into an Agreement for purchase of the property on 12th February, 1997 and that the Plaintiff paid the agreed consideration of Kshs.3,300,000 and subsequently the plot was transferred to the Company on 27th February, 1997.

15. PW1 stated that between March-April, 1997, the Plaintiff's Directors visited the site with an architect to plan the development of the plot but found that the plot was occupied by many people and iron sheets kiosks were constructed thereon; that the Plaintiff realized that it had been duped by the land agent/broker together with the seller and that upon engaging the seller on the issue, the seller admitted his misrepresentation and undertook to evict the occupants.

16. PW1 stated that the seller informed the Plaintiff that he had sued the occupants for eviction vide MACHAKOS HCCC No. 126 of 1997 which suit was dismissed on the ground that Samuel Musila was not the registered proprietor of the plot.

17. PW1 stated that the seller, Samuel Musila, died in 2006; that the 2nd -38th Defendants are still in occupation of the suit property operating businesses from the kiosks which are still erected thereon and that the Defendants have all along been aware that the plot is owned by the Plaintiff and they ought to be evicted for the Plaintiff to get vacant possession of its plot.

18. PW1 testified that the Plaintiff is also entitled to general damages for trespass against the Defendants for the trespass equivalent to lost rent for the period they have been in occupation since 1997 up to date.

19. In cross-examination, PW1 stated that when he visited the land in 1997 in the company of his father and the land broker, the same was vacant except for the 37 kiosks which were on the land; that there were people trading in the said kiosks and that he didn't know when those people took occupation of the land.

20. It was the evidence of PW1 that he was not aware if the 2nd to 38th Defendants took occupation of the suit property in 1970. PW1 stated that he was not aware that the 1st Defendant had been advised to get an alternative plot and that the 1st Defendant had assured him that he will be able to evict the 2nd to 38th Defendants.

The Defence case:

21. The 33rd Defendant, DW1, was stood down. The 30th Defendant, DW2, informed the court that the suit property herein, plot number Machakos Town Block 11/221 situated in Machakos town, was previously known as plot number 909/546 and that the said plot was duly allocated to him and his Co-Defendants, together with other small scale traders by the Municipal Council of Machakos (*previously known as Masaku Urban/Town Council*) in or about the year 1969.

22. It was the evidence of DW2 that together with other small-scale traders, they took possession and occupation of the suit property in or about 1970, and constructed thereon temporary business stalls (*popularly known as Kiosks*), and that they have carried on business thereon ever since.

23. DW2 stated that in or about 1970, him and his Co-Defendants contracted the 1st Defendant, Samuel Musila (*now deceased*), who was

then a Councillor, to build the said Stalls (*Kiosks*) for them on the suit property and that the 1st Defendant unlawfully and secretly got himself registered as the owner of the said plot in or about 1994 and obtained a Title Deed thereof in his name.

24. It was the evidence of DW2 that the 1st Defendant (*Samuel Musila*) did not, however, in any way occupy the suit plot; that in the year 1997, the said Samuel Musila (*the 1st Defendant herein*) sued both himself and his Co-Defendants herein and several other small scale traders in Machakos Civil Suit No. 126 of 1997, seeking to evict them from the suit property; that the said suit was, however, dismissed with costs on 29th May, 2003 and that the Plaintiff herein filed the present suit shortly after dismissal of HCCC No. 126 of 1997 on 29th May, 2003.

25. It was the evidence of DW2 that by the time Sammy Musila filed Machakos HCCC No. 126 of 1997, him and his Co-Defendants had been on the suit land for over twenty seven (27) years, and had already acquired the rights to be registered as proprietors of the suit property by reason of adverse possession. DW2 stated that the Plaintiff's title to the suit land is subject to their said right over the property.

26. DW2 stated that in its full Council meeting held on 21st February, 1974, Masaku Urban/Town Council deliberated on the unlawful act of Sammy Musila of taking the Defendants' said land, and resolved that Sammy Musila should apply for an alternative plot.

27. In cross-examination, DW2 stated that they used to pay to the 1st Defendant Kshs. 350 per kiosk for the use of the land; that the 1st Defendant used to give them a receipt upon payment and that they have been on the land since 1970. According to DW1, most Defendants had lost the receipts that the 1st Defendant issued them and that she was testifying on behalf of the Defendants who have kiosks on the suit property.

28. The Land Registrar, DW3 stated that the suit land is a 99 years Leasehold, the Lease having been registered in favour of the 1st Defendant in 1974 for a term of 33 years which expired in 1994 and that he surrendered the Lease and was subsequently issued with another Lease on 23rd May, 1994; that the previous title was issued under the RTA and that the Plaintiff was registered as the owner of the land in 1997.

29. The Chief Officer in charge of Lands at the County Government of Machakos, DW4, informed the court that L.R. No. 909/546 belonged to the County Council of Masaku and that the title was converted from the RTA title to the Registered Land Act title to read Machakos Town Block 2/221.

30. According to DW4, in the year 1974, the Council in its meeting noted that the 1st Defendant was allocated the suit property without following the laid down procedures; that the Council recommended that the 1st Defendant surrenders the plot so that he could be allocated a different plot and that the Council noted that the 1st Defendant had constructed stalls on the land.

31. According to the evidence of DW4, it is the people who were in occupation of the stalls standing on the suit property that have been paying to the County Government the requisite licence fees and that the land is still in the name of the Plaintiff.

Submissions:

32. The Plaintiff's advocate submitted that the Plaintiff purchased the suit land from the 1st Defendant vide a Sale Agreement dated 12th February, 1997; that pursuant to the said Agreement, the Certificate of Lease was issued to the Plaintiff and that the land register of the suit property produced by Machakos County Land Registrar confirms that the property was registered in the name of the County Council of Masaku on 28th February, 1974.

33. Counsel submitted that the Certificate of Lease was transferred to the 1st Defendant on 24th May, 1994 and that the land register confirms that the suit property is currently registered in the name of the Plaintiff for a Lease of 99 years from 1st January, 1970.

34. Counsel submitted that the Defendants pleaded in their Defence that they were allocated the suit land in or about 1969 by the Municipal Council of Machakos (*then known as Masaku Urban Council*) and that they have been in occupation of the suit land since 1970; that the Defendants did not produce in evidence the Letter of Allotment and that the finding by the Court of Appeal that the Defendants are "*merely licensees or at least tenants at will of a party who is not the owner of the property in dispute*" extinguished the Defendants' claim over the suit land.

35. The Plaintiff's counsel submitted that since 1970, the Defendants did not bring any action against either the lessor or the first lessee who is the 1st Defendant; that the Defendants did not seek for the enjoinder of the lessor (*Municipal Council of Machakos*) in this suit and that the Defendants, having failed to challenge ownership of the suit property by the 1st Defendant, the Certificate of Title issued to the Plaintiff on 27th February, 1997 is conclusive evidence of ownership of the suit property by the Plaintiff as provided for under Section 26 of the Land Registration Act, 2012.

36. Counsel submitted that the Plaintiff was registered as the owner of the suit land in 1997 and filed the present suit in 2003 which is a period of six (6) years after acquiring ownership of the property. Consequently, it was submitted, the claim of adverse possession against the Plaintiff cannot be sustained in the circumstances of the present suit.

37. The 2nd to 38th Defendants' advocate submitted that PW1 confirmed that before he bought the suit plot, he viewed the same from a far and saw that it was full of Kiosks with people carrying on businesses therein; that he did not, and has never stepped onto the suit property and that the Plaintiff knew of the 2nd-38th Defendants' presence and interest in the suit property before he bought it. The Plaintiff cannot

purport, it was submitted, to have been a *bona fide* Purchaser for value without notice.

38. Counsel submitted that the 2nd – 38th Defendants have never been the 1st Defendant’s tenants and/or licensees, and were never, at any given time, been the 1st Defendant’s tenants as alluded to in the Plaintiff’s 2nd amended Plaintiff and that the 2nd-38th Defendants acquired title/right to title to the suit property herein long before the dismissed High Court Suit (*No. 126 of 1997*) was filed, and long before the present suit was filed.

39. It was submitted that the Plaintiff, who clearly admits in his second amended Plaintiff, that the 2nd- 38th Defendants were trading and carrying on business on the suit plot even before he (*the Plaintiff*) bought it, has no competent suit as the limitation period started running from the date his predecessor in title (*Sammy Musila*) acquired title to the suit land in 1970 and that the 2nd-38th Defendants had already acquired prescriptive rights to the suit property by reason of adverse possession thereof.

40. The Defendant’s counsel submitted that the Plaintiff’s suit herein is *res judicata* by dint of Section 7 of the Civil Procedure Act, as a similar suit/claim, being Machakos High Court Civil Suit No. 126 of 1997, filed by the 1st Defendant (*Plaintiff’s predecessor in title*), was dismissed by the High Court on 29th May, 2003.

41. Counsel submitted that the Plaintiff has not proved his case on a balance of probability, and that its case is both incompetent, statute-barred and *res-judicata*.

42. While relying on the case of *Parklands Properties Ltd vs. Patel [1981] KLR 53*, it was submitted that the issue of whether possession of a piece of land is adverse is a matter of evidence, and a decision thereon depends upon whether the party alleging adverse possession successfully establishes the particulars of adverse possession pleaded.

43. Further, it was submitted, in proving a claim based on adverse possession of land, the claimant must state the precise period of adverse possession, which must be proved by clear unequivocal evidence. (*Ithingo vs. Thunduu [1981] KLR 1997*); precisely state and prove when the time of adverse possession started to run and prove that the claimant’s adverse possession of the land in issue has been open, continuous, uninterrupted, without force, and is based on a claim of right.

44. Counsel relied on the case of *Peter Mbiri Michuki vs. Samuel Mugo Micuki [2014] eKLR*, where the Court of Appeal emphasized that:

“The Plaintiffs have to prove that they have used this land which they occupy as of right:- *nec vi, nec clam, nec precario* (no force, no secrecy and no persuasion).

45. It was submitted that as pleaded and proved by the 2nd- 38th Defendants, the 2nd- 38th Defendants have proved their claim to the suit property based on their adverse possession thereof; that they have proved that the suit property, previously known as Plot No.909/546, was, in 1970, set aside and given/allocated to them by the allocating authority (*Machakos Urban Council*) and that they, as a matter of right, entered and took possession of the suit property in 1970, and started carrying on their respective trade/businesses thereon in 1970.

46. Counsel submitted that the 2nd -38th Defendants have proved their claim against the Plaintiff on a balance of probability, and that Judgment be entered in favour of the 2nd -38th Defendants against the Plaintiff as prayed in the Counter-claim.

Analysis and findings:

47. It is not in dispute that the Plaintiff is the registered proprietor of land known as Machakos Town Block 11/221. Although the Plaintiff has prayed for the removal of the temporary kiosk structures erected on the suit property and for an order of injunction restraining the Defendants and their agents from occupation and use of the suit property, the 2nd – 38th Defendants are seeking to be declared the owners of the land by virtue of having been in occupation and possession of the suit land uninterrupted for more than twelve (12) years.

48. Section. 7 of the Limitation of Actions Act provides as follows:

“An action may not be brought by any person to recover land after the end of twelve years from the date the cause of action accrued to him or, if it first accrued to some person through whom he claims, to that person.”

49. Section 38(1) of the Act provides as follows:

“Where a person claims to have become entitled by adverse possession to land registered under any of the Acts cited in section 37 of this Act, or land comprised in a lease registered under any of those Acts, he may apply to the High Court for an order that he be registered as the proprietor of the land or lease in place of the person then registered as proprietor of the land.”

50. The courts have put the above provisions of the law and the doctrine of adverse possession into context. In the case of *Kimani Ruchine vs. Swift Rutherford & Co. Ltd [1980] KLR*, the court held as follows:

“The Plaintiffs have to prove that they have used this land which they claim, as of right: *nec vi, nec clam, nec precario*...The possession must be continuous. It must not be broken for any temporary purposes or any endeavours to interrupt it or by any recurrent consideration.”

51. In *Teresa Wachuka Gachira vs. Joseph Mwangi Gachira (2009) eKLR*, the Court of Appeal held as follows:

“There is no proof of exclusive, continuous and uninterrupted possession of the land for twelve years or more before the suit against her was filed. Possession could have been by way of fencing or cultivation depending on the nature, situation or other characteristics of the land. Periodic use of the land is not inconsistent with the enjoyment of the land by the proprietor.”

52. In *Benjamin Kamau Murima & Others vs. Gladys Njeri, Civil Appeal No. 213 of 1996*, the Court of Appeal held as follows:

“The combined effect of the relevant provisions of Sections 7, 13 and 17 of the Limitation of Actions Act, Chapter 22 of the Laws of Kenya is to extinguish the title of the proprietor of land in favour of an adverse possession of that land.”

53. The Supreme Court of India, in *Karnataka Board of Wakf vs. Government of India & Others (2004) 10 SCC 779*, stated as follows:

“In the eye of law, an owner would be deemed to be in possession of a property so long as there is no intrusion. Non-use of the property by the owner even for a long time won't affect his title. But the position will be altered when another person takes possession of the property and asserts a right over it. Adverse possession is a hostile possession by clearly asserting hostile title in denial of the title of true owner. It is a well-settled principle that a party claiming adverse possession must prove that his possession is 'nec vi, nec clam, nec precario', that is, peaceful, open and continuous. The possession must be adequate in continuity, in publicity and in extent to show that their possession is adverse to the true owner. It must start with a wrongful disposition of the rightful owner and be actual, visible, exclusive, hostile and continued over the statutory period.”

54. In *Mtana Lewa vs. Kahindi Ngala Mwangandi [2015] eKLR* the Court of Appeal defined adverse possession as follows:

“Adverse Possession is essentially a situation where a person takes possession of land, asserts rights over it and the person having title to it omits or neglects to take an action against such person in assertion of his title for a certain period, in Kenya 12 years.”

55. In the case of *Peter Mbiri Michuki vs. Samuel Mugo Micuki [2014] eKLR*, the Court of Appeal emphasized that for one to succeed in a claim of adverse possession, he must prove that he has used the land which he occupies as of right: - *nec vi, nec clam, nec precario (no force, no secrecy and no persuasion)*.

56. The subject matter in the suit herein is parcel number Machakos Town Block 11/221, which was previously registered in the name of Sammy Musila, the 1st Defendant herein. The 1st Defendant is said to have died during the pendency of the suit herein.

57. The evidence presented by the 2nd -38th Defendants and their witnesses herein has it that the suit property, previously known as Plot No. 909/546, was in 1970 set aside by the County Council of Masaku/Machakos Town Council and allocated to the 2nd-38th Defendants who were, and still are, small scale traders in Machakos Town. The 2nd to 38th Defendants took occupation of the suit property in 1970 and started carrying on their respective businesses thereon. DW2 produced in evidence receipts showing the licence fees the kiosk owners used to pay to the then Masaku/Machakos Town Council.

58. The evidence of the 2nd to 38th Defendants was that they contracted the 1st Defendant, (*who was a Councilor in the Town Council of Machakos*) to construct business premises/structures (*also known as kiosks*) on the suit property for their respective businesses, which the 1st Defendant did and was paid.

59. It is the 2nd to 38th Defendants' case that since 1970, they have continuously, openly and without force occupied and carried on their businesses on the suit property and have been paying all relevant charges/revenue to the allocating authority which has, pursuant to promulgation of the Constitution 2010, become the County Government of Machakos.

60. The 2nd -38th Defendants informed the court that the 1st Defendant (*Sammy Musila*) secretly acquired the suit property in 1970, and that vide the Full Council Minutes dated 21st February, 1974, the Town Council of Machakos directed Sammy Musila to surrender the suit plot (*then known as Plot No. 909/546*) as he had not been allocated the same. The Minutes were produced in evidence.

61. Again, in its Minutes dated 26th October, 1977, the Town Council of Machakos directed the 1st Defendant (*Sammy Musila*) to surrender the Lease for the suit property (*then known as Plot No. 909/546*) to the said Council in exchange for another plot.

62. The said Council's Minutes of 21st February, 1974 and 26th October, 1977 on the suit property (*then known as Plot No. 909/546*) were produced in evidence as exhibits in this court by the Machakos County Government's Chief Officer in charge of Lands. The said witness further produced documents demonstrating that the suit property herein was previously known as plot number 909/546, and was registered in the name of the 1st Defendant in 1974.

63. Indeed, the Land Registrar, DW3, corroborated the evidence of the Chief Officer in charge of Lands that the suit land is a 99 Leasehold, the Lease having been registered in favour of the 1st Defendant in 1974 for a term of 33 years which expired in 1994 and that the 1st Defendant surrendered the Lease and was subsequently issued with another Lease on 23rd May, 1994. The 1st Defendant then transferred the Lease to the Plaintiff in 1997.

64. Although the 1st Defendant never surrendered the Lease on the suit property in 1974 and 1977 as demanded by the allocating authority, he never objected to the 2nd - 38th Defendants' open and continuous occupation and use of the suit property, neither did he require them to vacate therefrom.

65. It was only in the year 1997, some twenty-eight (28) years after the Plaintiff got himself registered as the owner of the suit property, that he (*the 1st Defendant*) sued the 2nd - 38th Defendants vide Machakos High Court Civil Suit No. 126 of 1997 seeking to evict them from the suit property. The suit was, however, dismissed with costs by the High Court vide its Ruling dated 29th May, 2003.

66. The evidence produced in this court shows that as early as 1971, the 2nd to 38th Defendants were already paying the then Masaku Town Council licence fees to use the kiosks which were constructed on the suit property by the 1st Defendant. Indeed, although the said kiosks/stalls were put up by the 1st Defendant, and although the suit property was registered in favour of the 1st Defendant in 1974, there is no evidence to show that the 2nd to 38th Defendants ever paid rent to the 1st Defendant.

67. Having not been the tenants of the 1st Defendant, and having occupied the stalls on the suit property and paid the licence fees to the then Masaku Town Council since 1974 when the 1st Defendant was registered as the proprietor of the suit land, the 2nd - 38th Defendants occupied the suit land *neq vi, neq clam, neq precario* (no force, no secrecy and no persuasion).

68. Although the filing of the suit in 1997 by the 1st Defendant was an interruption of the 2nd - 38th Defendants' occupation of the suit property, the said interruption occurred after twelve (12) years had lapsed from the date they occupied the suit property. Indeed, by the time the 1st Defendant filed the suit in 1997, the 2nd - 38th Defendants' rights over the suit property had already crystallized due to their occupation of the land since the 1974 when the 1st Defendant became the registered owner of the land.

69. Indeed, the 1st Defendant's right over the suit property was already extinguished by the year 1997 when he purported to transfer it to the Plaintiff. As confirmed by PW1, the 2nd - 38th Defendants were already in occupation of the land by February, 1997 when the Lease was transferred to the Plaintiff. It was the evidence of PW1 that he didn't know when the 2nd to 38th Defendants took occupation of the suit property.

70. The Plaintiff thus knew of the 2nd - 38th Defendants' presence and interest in the suit property before it bought it. The Plaintiff cannot therefore purport to have been a *bona fide* Purchaser for value without notice. The Plaintiff's title to the suit property does not supersede the 2nd -38th Defendants' prescriptive rights thereto.

71. The Plaintiff's title, just like its predecessor's title, is caught up by the provisions of Section 7 of the Limitation of Actions Act. For the purpose of the 2nd to 38th Defendants' claim, time started running in 1974, when the 1st Defendant became the registered proprietor of the suit property. Consequently, and pursuant to the provisions of Section 38(1) of the Limitation of Actions Act, the 2nd to 38th Defendants should be registered as the proprietors of the suit property.

72. For those reasons, I dismiss the Plaintiff's Amended Plaintiff with costs and allow the 2nd to 38th Defendants' Amended Counter-claim as follows:

a. A declaration be and is hereby issued that the 2nd to 38th Defendants have acquired title to parcel of land known as Machakos Town Block II/221 by reason of adverse possession.

b. An order be and is hereby issued that the Plaintiff's name be cancelled from the register for parcel of land known as Machakos Town Block II/221 and the said land to be registered in the names of the 2nd - 38th Defendants or their representative (s) forthwith.

c. A permanent injunction be and is hereby issued restraining the Plaintiff, its agents, servants and or representatives, and each and every one of them from selling, transferring, charging, entering, developing or in any other way interfering with parcel of land known as Machakos Town Block II/221.

d. The Plaintiff to pay the costs of the suit and the Counter-claim.

DATED, SIGNED AND DELIVERED IN MACHAKOS THIS 30TH DAY OF OCTOBER, 2020.

O. A. ANGOTE

JUDGE