



Condos v Gregorio & another (Environment and Land Case 49 of 2020) [2025] KEELC 6514 (KLR) (29 September 2025) (Ruling)

Neutral citation: [2025] KEELC 6514 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MALINDI
ENVIRONMENT AND LAND CASE 49 OF 2020
FM NJOROGE, J
SEPTEMBER 29, 2025**

BETWEEN

GREEN HOLIDAY CONDOS APPLICANT

AND

ANTONIO DI GREGORIO 1ST RESPONDENT

DISTRICT LAND REGISTRAR MOMBASA 2ND RESPONDENT

RULING

1. The application before me is dated 11th December 2024. It seeks an order that the plaintiff’s suit filed on 8th July 2020 be dismissed for want of prosecution and that the cost of the application and the entire suit be awarded the 1st defendant applicant.
2. The application is supported by the sworn affidavit of Antonio Di Gregorio, the 1st defendant/ applicant.
3. The application was served and an affidavit of service dated 12th September 2025 sworn by Dennis Musembi Kiema was filed.
4. The application is unopposed.
5. The applicant filed submissions dated 26th May 2025 in support of the motion. Counsel stated that the suit was filed on 8th July 2020 and on 30th January 2023 a ruling was delivered on the Preliminary Objection lodged by the 1st defendant. After that, no action was taken for a period of 2 years thus prompting the applicant to file the present application.
6. I have referred to the court record in this matter and found that after the ruling delivered on 30th January 2023, no action was taken in the matter until the present application for dismissal for want of prosecution was filed by the 1st defendant.



7. Consequently, I agree with the applicant's counsel's submission that the plaintiff has failed to take in the reasonable steps for over 2 years to prosecute the instance suit and that the continued pendency is prejudicial to the defendant.
8. Order 17 rule 2 of the Civil Procedure Rules provides that in any suit in which no application has been made or step taken by either party for one year, a party to the suit may apply for its dismissal.
9. The application file by the 1st defendant is therefore merited and I grant it in terms of prayer number 1 and 2 of the Notice of Motion dated 11th December 2024.

DATED, SIGNED AND DELIVERED AT MALINDI VIA ELECTRONIC MAIL ON THIS 29TH DAY OF SEPTEMBER 2025.

MWANGI NJOROGE

JUDGE, ELC, MALINDI.

