



REPUBLIC OF KENYA



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**Nyaga v Ananga & 8 others (Environment and Land Appeal E125 of 2021)  
[2025] KEELC 6450 (KLR) (16 September 2025) (Judgment)**

Neutral citation: [2025] KEELC 6450 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MERU  
ENVIRONMENT AND LAND APPEAL E125 OF 2021  
BM EBOSO, J  
SEPTEMBER 16, 2025**

**BETWEEN**

**PHARIS NYAGA ..... APPELLANT**

**AND**

**ESTHER ANANGA ..... 1<sup>ST</sup> RESPONDENT**

**CHARLES MEEME MAUTA ..... 2<sup>ND</sup> RESPONDENT**

**ISAIAH NTARANGWI KIREMA ..... 3<sup>RD</sup> RESPONDENT**

**NTOTHIRINGI SAMSON ..... 4<sup>TH</sup> RESPONDENT**

**MUNGANIA MUKARIA JOSEPH ..... 5<sup>TH</sup> RESPONDENT**

**SUSANA NKIROTE ..... 6<sup>TH</sup> RESPONDENT**

**SILAS MUTHEE KAMERO ..... 7<sup>TH</sup> RESPONDENT**

**MERU NORTH DISTRICT ..... 8<sup>TH</sup> RESPONDENT**

**THE HON ATTORNEY GENERAL ..... 9<sup>TH</sup> RESPONDENT**

*(An Appeal against the Judgment of the Principal Magistrate Court at Maua [Hon. A. G. Munene, PM] dated 17/11/2021 in Maua Chief Magistrate Civil Case No. 97 of 2015)*

**JUDGMENT**

**Introduction**

1. This appeal challenges the Judgment rendered on 17/11/2021 by the Principal Magistrate Court at Maua [Hon, A G Munene PM], in Maua CMC Civil Case No. 97 of 2015. The appellant was the plaintiff in the said case. He lost his claim against the respondents. The three key issues that tell for determination in the case were: (i) Whether the appellant was at all material times the



adjudicated and recorded owner of land parcel number 2919 within Amwathi/Maua Adjudication Section; (ii) Whether parcel numbers 8667, 7092, 7264, 7549, 911 and 12148 were subdivisions fraudulently created out of parcel number 2919 within the Amwathi/Maua Adjudication Section; and (ii) Whether the adjudication records and the registrations relating to the alleged subdivisions should be annulled and the parcels revert to the appellant. These are the three key issues that, invariably, fall for determination in this first appeal. Before I analyse and dispose the issues, I will briefly outline the background to the appeal; the grounds of appeal; and the parties' respective submissions in the appeal.

## Background

2. The appellant instituted Meru High Court Civil Case No. 159 of 2010 against the respondents, seeking: (i) a declaration that parcel number 2919 in Amwathi/Maua Adjudication Section was his land, and that parcel numbers 8667, 7092, 7264, 7549, 911 and 12148 were unlawfully created out of it; (ii) an order that parcel number 2919 was unlawfully transferred from him and shared amongst the 1st – 7th respondents and should be transferred back to him and the same be reflected in the adjudication register; (iii) costs of the suit and interest at court rate.
3. Upon establishment of the Environment and Land Court (the ELC), the case was transferred to the new court. On 15/4/2015, the ELC (Njoroge J) transferred the case to Maua Chief Magistrate Court where it was registered as Maua CMC Civil Case No. 97 of 2015.
4. The case of the plaintiff was that, he was at all material times the lawful adjudicated and recorded owner of parcel number 2919, located in Amwathi/Maua Adjudication Section. In 1996, the 1st – 8th respondents unlawfully and fraudulently colluded and “took away” the said land and proceeded to subdivide it into parcel numbers 8667, 7092, 7264, 7549, 911 and 12148 which they shared amongst the 1st - 7th respondents. He itemized various particulars of fraud on part of the said respondents. He averred that he had the consent of the Adjudication Officer to institute the suit.
5. The 1st, 2nd, 5th and 7th respondents filed a joint statement of defence dated 14/12/2010 in which they contested the appellant's claim and denied the allegations made by the appellant. They specifically denied fraud and further denied the allegation that their parcels were created out of parcel number 2919. They urged the court to dismiss the claim.
6. The record does not bear pleadings of the 3rd, 6th, 8th and 9th respondents [the impugned judgment of the trial court indicates that the 4th and 6th respondents are deceased).
7. The 4th respondent filed a defence dated 16/12/2010 in which he contested the appellant's claim and denied the allegation that their parcels were created out of parcel number 2919. He contested the appellant's averment that he had a valid consent to institute the suit. He averred that his land, parcel number 7264 “came from his forefathers” and the site of the land had never changed.
8. During trial, the appellant testified as PW1 and closed his case without leading further evidence. He adopted his written witness statement dated 14/3/2012. His evidence was that parcel number 2919 was located in Amwathi/Maua Adjudication Section and measured 3.75 acres. He bought the said land from one Daniel M'Miiru in 1974. He planted trees on the land and grew maize and beans on it. In 1992, he discovered that his land had been subdivided into several parcels and had been given to the respondents without his knowledge. He complained to the Provincial Adjudication Officer at Embu who ordered investigations into his complaint. He added that the investigation report recommended that the land was to “remain demarcated where it was before being subdivided”. This was, however, not done.



9. During cross-examination, the appellant testified that the sale agreement through which he acquired parcel number 2919 was not among his exhibits. He added that he did not have adjudication records relating to his ownership of parcel number 2919. He further stated that he did not have the investigation report which was alluded to in the letters he produced as exhibits. He did not have photographs of his developments on the suit land. He did not have any DLASO proceedings relating to the suit land. He confirmed that at one time, he served as the Demarcation Officer in Amwathi/Maua Adjudication Section.
10. Esther Ananga [1st respondent] testified as DW1. Charles Meme Mauta (2nd respondent) testified as DW3. Silas Muthee Kamero [3rd respondent] testified as DW4. In addition, the 1st respondent led evidence by Michael Iruki who testified as DW2. He stated that he was the one who gathered the land owned by the 1st respondent. He sold the land to one Gitonga who in turn sold it to the 1st respondent.
11. The District Land Adjudication and Settlement Officer [Joseph Mbai] testified as DW5. He produced a report dated 26/5/2021 relating to parcel numbers 8667, 911 and 12148 and a report dated 26/5/2021 relating to parcel number 7092. The two reports bore adjudication history of the four parcels. None of them bore the name of the appellant as an adjudicated or recorded owner.
12. Upon conclusion of trial and upon receipt of submissions from the parties, the trial court rendered the impugned judgment in which it found that the appellant had failed to prove his case against the respondents. He dismissed the appellant case with costs.

## Appeal

13. Aggrieved by the findings and decree of the trial court, the appellant brought this appeal, advancing the following seven  
(7) grounds of appeal:
  1. That the Honourable Learned Trial Magistrate erred in law and fact in reaching a finding that was contrary to the evidence adduced during the trial.
  2. That the Honourable Trial Magistrate erred in law and fact in basing his decision on irrelevant and remote matters.
  3. That the Honourable Trial Magistrate erred in law and fact in finding that the appellant had not discharged his burden of proof on ownership of the suit lands and or that the same were subdivisions of L.R Amwathi/Maua/2919.
  4. That the Learned Trial Magistrate erred in law and fact in failing to note that in the course of the hearing, the burden of proof shifted to the respondents and that the respondents had, therefore, failed to discharge that burden to the standard of proof required by law.
  5. That the Learned Trial Magistrate erred in law and fact in failing to make a finding that the respondents had failed and or fallen short of availing crucial public documents in their custody among them, the adjudication register and which documents would have informed a fair and just determination of the suit before him.
  6. That the Learned Trial Magistrate erred in law and fact in delivering a judgment that overlooked and was contrary to the mandatory provisions of Section 15 of the [Land Adjudication Act](#) Cap 284 Laws of Kenya, thereby prejudicing the appellant.



7. That the Learned Trial Magistrate erred in law and fact in ignoring and failing to find that the respondents were bound by their own pleadings and that their statement of defence was but a mere denial that raised no single issue for trial.
14. The appellant urged this court to allow the appeal and set aside the impugned judgment in its entirety and decree the respondents to bear costs of the appeal.

### **Appellant's Submissions**

15. Acting in person, the appellant filed written submissions dated 20/2/2025 and further submissions dated 9/5/2025. He identified the following as the two issues that fell for determination in the appeal: (i) Whether or not the appellant discharged his burden of proof on ownership of parcel number 2919, Amwathi/Maua Adjudication Section; and (ii) Who should bear costs of this appeal and those of the suit in the trial court.
16. On whether he discharged his burden of proof, the appellant submitted that he produced letters dated 20/6/1996, 5/7/1996 and 28/11/2002 indicating that the Provincial Adjudication Officer and the Director of Land Adjudication and Settlement directed investigations into his complaint. He added that investigations were done and a finding was made to the effect that he was the owner of the suit land, which he described as "No. 219". He contended that his evidence was not controverted by the respondents. He added that he testified before the trial court that the respondents' parcels were subdivisions created out of "parcel number 219", hence he discharged his burden of proof.
17. Citing Sections 107 (1) and 109 of the *Evidence Act* and case law, the appellant argued that he fully discharged his burden of proof and the burden shifted to the respondents to demonstrate how they obtained their titles. He contended that the respondents failed to discharge the shifted burden. The appellant argued that the respondent could not rely on their titles as evidence of ownership because the said titles were fraudulently obtained.
18. On costs, the appellant cited Section 27 of the *Civil Procedure Act* and submitted that, having expended money prosecuting this appeal and the suit in the lower court, he was entitled to costs of the appeal and costs of the suit in the lower court.

### **The 1st Respondent's Submissions**

19. The 1st respondent filed written submissions dated 24/4/2025 through M/s Mutembei & Kimathi Advocates. Counsel for the 1st respondent submitted that the 1st respondent tendered and led evidence demonstrating that she bought her land [parcel number 8667] from one Stephen Gitonga who was the registered proprietor at the time of purchase, adding that the 1st respondent conducted due diligence before purchasing the land. Counsel further pointed out that the 1st respondent led evidence by DW2 who was the original owner of the land, adding that DW2 testified that he was the original owner of the parcels now owned by the 1st and the 7th respondents respectively.
20. Counsel for the 1st respondent added that upon being summoned by the court, the District Land Adjudication and Settlement Officer testified that the respondents' parcels did not originate from parcel number 2919 and that parcel number 2919 did not exist in the adjudication records. Counsel further pointed out that the DLASO gave the ownership history of parcel number 8667 and further testified that, there was no connection between the 1st respondent's land and parcel number 2919 claimed by the appellant.
21. Citing of Section 26 of the *Land Registration Act*, counsel submitted that whereas the appellant alleged fraud, he failed to prove fraud against the 1st respondent or to demonstrate that the 1st respondent's



title was fraudulently acquired. In conclusion, counsel for the 1st respondent cited Section 30 of the [Land Adjudication Act](#) and submitted that the appellant's suit was bad in law and ill-fated, on the ground of want of jurisdiction. Counsel urged the court to dismiss the appeal.

### **2nd, 5th and 7th Respondents' Submissions**

22. The 2nd, 5th and 7th respondents filed written submissions dated 4/4/2025 through M/s Meenye & Kirima Advocates. Counsel for the three respondents identified the following as the three issues that fell for determination in the appeal: (i) Whether the appellant discharged his burden of proof; (ii) Whether the impugned judgment was contrary to the provisions of the [Land Adjudication Act](#); and (iii) Who should bear costs of the appeal.
23. On whether the appellant discharged his burden of proof, counsel cited Section 107 of the [Evidence Act](#) which placed the burden of proof on the appellant and submitted that, the appellant failed to demonstrate to the court that he was the registered owner of parcel number 2919. Counsel faulted the appellant for failing to produce any registration documents in his favour, adding that the appellant, similarly, failed to substantiate claims of fraud. Counsel added that the appellant failed to demonstrate that the parcels owned by the respondents were subdivisions created out of his alleged parcel. Counsel further argued that the letters which the appellant relied on were not sufficient because they did not disclose information relating to the registration status of the land in question.
24. Counsel pointed out that the 2nd respondent tendered evidence establishing that he was the registered proprietor of parcel number Amwathi/Maua 7092 while the 7th respondent tendered evidence establishing that he bought parcel number Amwathi/Maua/12148 from the 6th respondent. Counsel added that the defences and evidence of the respondents were corroborated by the District Land Adjudication and Settlement Officer who testified that the appellant had not filed any claim to challenge the entries in the relevant adjudication register.
25. On whether the impugned judgment was contrary to the provisions of the [Land Adjudication Act](#), counsel submitted that, the said frameworks contained a clear mechanism on how a dispute in an adjudication section was supposed to be ventilated. Counsel faulted the appellant for failing to pursue the dispute resolution mechanisms provided under the Act. Counsel urged the court to dismiss the appeal with costs.

### **8th and 9th Respondents' Submissions.**

26. The 8th and 9th respondents were represented in this appeal by the Honourable Attorney General who filed written submissions dated 5/5/2025 through M/s Esther Wairimu, Senior State Counsel. The Learned Senior State Counsel submitted that the issue which fell for determination in the appeal was whether the appellant discharged his burden of proof. Counsel submitted that whereas the appellant alleged that the respondents' parcels were fraudulently and unlawfully created from parcel number 2919, Amwathi/ Maua Adjudication Section, he failed to produce any document to prove ownership of parcel number 2919. Counsel further submitted that the appellant never filed any claim or objection at the Office of the DLASO. Counsel further pointed out that the appellant did not tender evidence to show that the respondents' parcels were subdivisions created out of parcel number 2919, Amwathi/ Maua Adjudication Section.
27. The Learned State Counsel observed that the respondents tendered titles relating to Amwathi/ Maua/7092 and 12148 as well as confirmation of ownership of parcel number 8667, adding that the DLASO tendered reports indicating that there was no record to suggest that the respondents' parcels originated from parcel number 2919. Counsel further submitted that the DLASO testified that the appellant never lodged any claim or objection in relation to the parcels on which he testified. Counsel



observed that the *Land Adjudication Act* contained elaborate dispute resolution mechanisms during the process of land adjudication. Citing case law, counsel argued that the appellant failed to prove fraud as required under the law.

28. On costs, counsel cited Section 27 of the *Civil Procedure Act* and submitted that the appellant should bear costs of the appeal.

### **Analysis and Determination**

29. I have read and considered the original record of the trial court; the record filed in this appeal; the grounds of appeal; and the parties' respective submissions in the appeal. The three key issues to be determined in the appeal are: (i) Whether, at all material times, the appellant was the adjudicated and recorded owner of land parcel number 2919 within Amwathi/Maua Adjudication Section; (ii) Whether parcel numbers 8667, 7092, 7264, 7549, 911 and 12148 were subdivisions fraudulently created out of parcel number 2919 within Amwathi/Maua Adjudication Section; and (iii) Whether the adjudication entries and the registrations relating to the alleged subdivisions should be annulled and the parcels revert to the appellant. When the three issues are determined, the determinations will answer the broad question as to whether the appellant proved his case to the required standard. I will be brief in my sequential analysis of the three issues. Before I do that, I will briefly outline the principle that guides this court when exercising appellate jurisdiction. I will also outline the law on burden of proof and on pleading and proof of fraud.
30. The task of a first appellate court was summarized by the Court of Appeal in the case of *Susan Munyi v Keshar Shiani* (2013) eKLR as follows:
- “As a first appellate court our duty of course is to approach the whole of the evidence on record from a fresh perspective and with an open mind. We are to analyze, evaluate, assess, weigh, interrogate and scrutinize all of the evidence and arrive at our own independent conclusions.”
31. The principle was similarly outlined in *Abok James Odera t/a A J Odera & Associates v John Patrick Machira t/a Machira & Co Advocates* [2013] eKLR as follows:
- “This being a first appeal, we are reminded of our primary role as a first appellate court, namely, to re-evaluate, re-assess and re-analyze the extracts on the record and then determine whether the conclusions reached by the learned trial judge are to stand or not and give reason either way.”
32. The law on burden of proof in civil cases is contained in Sections 107, 108 and 109 of the *Evidence Act*. The framework in the three sections provides as follows:
- “107. Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.
- (2) When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.
108. The burden of proof in a suit or proceeding lies on that person who would fail if no evidence at all were given on either side.



109. The burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence, unless it is provided by any law that the proof of that fact shall lie on any particular person.”
33. The law on pleading and proof of fraud is well-settled. A party ventilating a claim of fraud is required to specifically plead and strictly prove fraud to a level that is higher than the balance of probabilities but not necessarily one beyond reasonable doubt as in criminal cases. In *Kinyanjui Kamau v George Kamau* (2015) the Court of Appeal outlined the relevant principle as follows:
- “...It is trite law that any allegations of fraud must be pleaded and strictly proved. See *Ndolo vs Ndolo* (2008) 1 KLR (G & f) 742 wherein the court stated that: “...We start by saying that it was the respondent who was alleging that the will was a forgery and the burden to prove that allegation lay squarely on him. Since the respondent was making a serious charge of forgery or fraud, the standard of proof required of him was obviously higher than that required in ordinary civil cases, namely proof upon a balance of probabilities; but the burden of proof on the respondent was certainly not one beyond a reasonable doubt as in criminal cases” ...“In cases where fraud is alleged, it is not enough to simply infer fraud from the facts.”
34. The first issue in this appeal is whether, at all material times, the appellant was the adjudicated and recorded owner of land parcel number 2019 within Amwathi/Maua Adjudication Section. The appellant contended that he was the owner of a piece of land which he described as parcel number 2919 Amwathi/Maua Adjudication Section. He contended that his land was fraudulently and illegally subdivided to create the six parcels that were the subject matters of the suit in the lower court. On their part, the respondents contested the appellant’s claim. They tendered evidence tracing the roots of their titles. They denied the allegation that their parcels were fraudulent subdivisions created out of parcel number 2919, Amwathi/Maua Adjudication Section. The DLASO testified that the respondents’ parcels were on Demarcation Map Sheet No. 5/5 and were in the Adjudication Records. Under the [Land Adjudication Act](#), the demarcation map and the adjudication records constitute the adjudication register in an adjudication section. The DLASO was categorical that the 4 parcels he was invited to testify on were not created out of parcel number 2919.
35. Did the appellant discharge his burden of proof on this question? I do not think. The suit giving rise to this appeal was initiated by the appellant when land adjudication and consolidation was ongoing in Amwathi/Maua Adjudication Section. The appellant was, in essence, challenging the adjudication register that reflected the respondents or the respondents’ predecessors as the adjudicated and recorded owners of their respective parcels. The [Land Adjudication Act](#) availed to the appellant a total of four statutory organs/fora through which he was to challenge the adjudication records and the demarcation map (the adjudication register). The four fora are: (i) the adjudication committee; (ii) the arbitration board; (iii) the adjudication officer/adjudication register objection; and (iv) the appeal to the Minister/CS.
36. For reasons that only the appellant knows, he ignored all the above statutory dispute resolution mechanisms. He stated in his witness statement that in 1992, he discovered that his land had been subdivided into several parcels and had been given to the respondents. For 18 years, he did not bother to challenge the demarcation map and the adjudication records through the mechanisms availed to him by the statute. He filed the suit giving rise to this appeal in 2010.
37. Having chosen to seek redress in the court after 18 years, it was expected that the appellant would tender/lead evidence establishing that: (i) he acquired the suit land in 1974 through purchase and he was in actual possession of the suit land throughout; (ii) the suit land existed on the demarcation map



as parcel number 2919; (iii) he was adjudicated to be the legitimate owner of the land during all the stages of adjudication; (iv) at all material times, the adjudication register reflected him as the owner of the suit land; (v) the demarcation map was fraudulently altered to create the impugned parcels; (vi) the adjudication records were fraudulently altered to remove his name; and (vii) the respondents were fraudulently entered in the adjudication register as owners of the land.

38. During trial, the appellant did not tender any evidence establishing the date when Amwathi/Maua Adjudication Section was declared and when the demarcation map containing parcel number 2919 was prepared. He did not tender any documentary evidence containing the adjudication records he was relying on. He did not tender any documentary evidence establishing that he purchased parcel number 2919 in 1974 from one Daniel M’Miiru. He did not tender any demarcation map reflecting parcel number 2919. He did not tender any adjudication records reflecting him as the adjudicated and recorded owner of parcel number 2919. As observed earlier, the demarcation map and the adjudication records, together constitute the adjudication register. The appellant was expected to tender, as evidence, the adjudication register he was relying on to allege that there was fraud.
39. The essence of adjudication is to ascertain and record rights and interests in land in a declared adjudication section. Without evidence demonstrating that parcel number 2919 existed on the demarcation map and in the adjudication records, and that he was the legitimate adjudicated owner of the said parcel, the appellant failed to discharge his burden of proof.
40. The appellant relied on a letter which he attributed to the Provincial Land Adjudication and Settlement Officer. The letter was dated 5/7/1996 and was addressed to the District Land Adjudication and Settlement Officer, Nyambene District. It reads as follows:

“RE: Land Complaint Pharis Nyaga P/No.2919 A/Maua Adjudication Section

Please refer to your letter No. LND/LA/10/5/Vol VI dated 28th February 1996.

After going through your investigations report which you carried out I concurred with your findings. However, I would suggest that the remaining portion of land about 0.17 Acres in respect of Mr. Nyaga be included and demarcated together with the 1.20 Acres during the implementation and please keep me informed of the progress.

(C K MBUI)

For: Provincial Land Adjudication And Settlement Officer – Eastern Province

CC: The Land Adjudication/Settlement Officer

Igembe Central

Mr Nyaga

41. The above letter did not contain anything conclusive. It made reference to a report and to findings that were in the report. The appellant elected not to tender the report as evidence so that the respondent and the trial court would have the opportunity to interrogate it. Equally significant, the appellant did not tender evidence demonstrating that the respondents were invited to participate in the investigations. For the above reasons, I do not find any useful evidential value in the correspondence which formed the fulcrum of the appellant’s case.
42. Consequently, the finding of the court on the first issue is that the appellant failed to prove that he was, at all material times, the adjudicated and recorded owner of parcel number 2919 Amwathi/Maua Adjudication Section.



43. The second issue is whether parcel numbers 8667, 7092, 7264, 7549, 911 and 12148 in Amwathi/Maua Adjudication Section were subdivisions that were fraudulently created out of parcel number 2919 within Amwathi/Maua Adjudication Section. The law placed on the appellant the burden of proving that the above parcels were created out of parcel number 2919. The starting point was for the appellant to prove that parcel number 2919 existed on the legitimate demarcation map of the area and that he was the recorded owner of the said parcel in the adjudication records. He did not produce any demarcation map. He did not produce any adjudication record. He relied on an inconclusive letter that made reference to an undisclosed investigation report. He did not produce the investigation report. He did not establish possession or occupation of the suit land on the ground.
44. The DLASO was summoned by the trial court and gave evidence relating to 4 out of the 6 parcels that were the subject matters of the suit in the trial court. He traced the history of each of the four parcels. According to the DLASO, none of them was a subdivision created out of parcel number 2919.
45. The appellant alleged fraud on part of the respondents. It, however emerged during trial that some of the respondents were second or third generation owners. Their predecessors were not joined as defendants in the suit. Secondly, no attempt was made by the appellant to prove fraud on part of any of the respondents. The appellant did not prove fraud on part of any of the respondents. Consequently, it is the finding of this first appellate court that the appellant failed to prove that the six parcels were created out of parcel number 2919.
46. In light of this court's findings on the first and second issues, it follows that there was no basis for annulling the adjudication entries and the registrations relating to the six parcels that were in contest. Similarly, there was no merit in the appellant's plea for an order vesting the six parcels in his name.
47. Consequently, the answer to the broad question in this appeal is that the appellant failed to prove his case to the required standard.
48. On costs, the general principle in Section 27 of the *Civil Procedure Act* is that costs follow the event. No special circumstances have been demonstrated to warrant a departure from the general principle. Consequently, the appellant will bear costs of the appeal.
49. Before I make the disposal order, there are two issues that emerged out of my reading of the appeal record and the original record. The first issue relates to the DLASO's consent which the appellant relied on. The consent was valid for 60 days. It was issued on 24/9/2010. The suit was subsequently filed in the High Court at Meru on 26/11/2010. This was outside the 60 days.
50. Secondly, in paragraph 5 of his written witness statement dated 1/10/2013, the appellant stated that in 1992, he discovered that his land had been subdivided into several parcels and had been given to the respondents. He filed the suit giving rise to this appeal in 2010. The limitation period for bringing action to recover land is 12 years. Having elected not to pursue the claim under the organs established by the *Land Adjudication Act*, I doubt that the appellant had an enforceable cause of action 18 years after he discovered the alleged fraud. I deliberately elected not to consider the above two issues because they were not canvassed before this court.
51. In the end, for the reasons outlined above, I have not found merit in this appeal. The appeal is rejected and dismissed for lack of merit. The appellant shall bear costs of the appeal.

**DATED, SIGNED AND DELIVERED AT MERU THIS 16TH DAY OF SEPTEMBER, 2025.**

**B M EBOSO [MR]**

**ELC JUDGE**



In the Presence of:

Ms. Asuma holding brief for Mr. Mutembei for the 1st Respondent

Ms. Murugi for the 2nd, 5th and 7th Respondents

Ms. Wairimu for the 8th and 9th Respondents

Court Assistant - Tupet

