



**Otieno (Sued as the Legal Representative of the Estate of Joseph Otieno Rombo alias Ombuya Rombo Deceased) v Pande (Sued as the Legal Representative of the Estate of Pande Rombo, Deceased) & another (Environment and Land Case 301 of 2015) [2025] KEELC 6480 (KLR) (29 September 2025) (Judgment)**

Neutral citation: [2025] KEELC 6480 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISUMU  
ENVIRONMENT AND LAND CASE 301 OF 2015  
SO OKONG'O, J  
SEPTEMBER 29, 2025**

**BETWEEN**

**ELIZABETH ALICE OTIENO ..... PLAINTIFF  
SUED AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF JOSEPH  
OTIENO ROMBO ALIAS OMBUYA ROMBO DECEASED**

**AND**

**FRAQCNIS ODHIAMBO PANDE (SUED AS THE LEGAL REPRESENTATIVE  
OF THE ESTATE OF PANDE ROMBO, DECEASED) ..... 1<sup>ST</sup> DEFENDANT  
PENINNAH AKINYI OGIRA (SUED AS THE LEGAL REPRESENTATIVE  
OF THE ESTATE OF ROBERT ROMBO OMEDO ALIAS OLIECH ROMBO)  
DECEASED) ..... 2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. This suit was brought by Joseph Otieno Rombo alias Ombuya Rombo, deceased (hereinafter referred to as “the deceased Plaintiff”) against Pande Rombo and Oliech Rombo through a plaint dated 5<sup>th</sup> October 2011. The plaint was amended on 18<sup>th</sup> November 2023, following the deaths of Pande Rombo and Oliech Rombo, and further amended on 22<sup>nd</sup> July 2024, following the death of the deceased Plaintiff. The current Plaintiff, Elizabeth Alice Otieno, is the legal representative of the estate of the deceased Plaintiff. The 1<sup>st</sup> Defendant is the legal representative of the estate of Pande Rombo, also known as Charles Pande Rombo, while the 2<sup>nd</sup> Defendant is the legal representative of the estate of Robert Rombo Omedo, alias Oliech Rombo (hereinafter referred to as “the deceased Defendants”).
2. The deceased Plaintiff averred that at all material times, all that parcel of land known as Title No. Kisumu/Nyahera/1189 (hereinafter referred to as “the suit property”) was registered in the names



of the deceased Plaintiff, Joseph Otieno Rombo alias Ombuya Rombo, the deceased Defendants, Pande Rombo alias Charles Pande Rombo and Oliech Rombo alias Robert Rombo Omedo, and Rosa Abongo Rombo as tenants in common in equal shares of ¼ each. Rosa Abong'o Rombo (hereinafter referred to only as "Rosa") is also deceased. The deceased Plaintiff averred that the deceased Defendants, Rosa, and he acquired the suit property from the deceased Plaintiff's and the deceased Defendants' father, who was also Rosa's husband, who pointed out to each of them the location of their shares in the suit property.

3. The deceased Plaintiff averred that over the years, each of the joint owners of the suit property used their respective portions of the property peacefully in anticipation of a subdivision being undertaken so that each of them could get a separate title for their portion of the property. The deceased Plaintiff averred that in March 2011, the deceased Defendants suddenly started claiming that the deceased Plaintiff had no right to use his portion of the suit property because he had moved out of his father's homestead and set up his home elsewhere in keeping with the customs of his community. The deceased Plaintiff averred that in March, May, July and September 2011, the deceased Defendants chased away the deceased Plaintiff and his workers from his portion of the suit property, claiming that he had no interest in the same. The deceased Plaintiff averred that the deceased Defendants violated his right to use his share of the suit property. The deceased Plaintiff averred that the deceased Defendants had their own shares of the suit property, which they had occupied with their families for many years.
4. The deceased Plaintiff prayed for judgment against the deceased Defendants for a permanent injunction restraining the deceased Defendants or anyone claiming through them from interfering with the deceased Plaintiff's use or occupation of his portion of the suit property, an order for the Land Registrar Kisumu to partition the suit property so that each joint owner could have a separate title, damages for trespass, and costs of the suit.
5. The deceased Defendants filed a joint statement of defence on 20<sup>th</sup> June 2016 in which they denied the deceased Plaintiff's claim in its entirety. The deceased Defendants averred that the suit property was owned by their deceased father. The deceased Defendants denied that Rosa was one of the joint owners of the suit property. The deceased Defendants admitted that each joint owner's portion of the suit property was clearly marked. The deceased Defendants averred that the deceased Plaintiff moved from his portion of the suit property to the deceased Defendants' portion. The deceased Defendants denied that they chased the deceased Plaintiff from his portion of the suit property. The deceased Defendants urged the court to dismiss the deceased Plaintiff's suit.
6. After the death of the deceased Defendants, their legal representatives decided to act in person. The legal representative of the estate of the deceased 1<sup>st</sup> Defendant filed an amended statement of defence dated 24<sup>th</sup> January 2024, which was on the same terms as the original joint defence of the deceased Defendants.
7. At the trial, the deceased Plaintiff told the court that he had applied for the subdivision of the suit property so that each of the registered owners could have a separate title for his portion. He stated that he sued the deceased Defendants because they objected to the subdivision. The deceased Plaintiff adopted his witness statement dated 18<sup>th</sup> November 2023 as part of his evidence in chief and produced his bundle of documents also dated 18<sup>th</sup> November 2023 as exhibits. The deceased Plaintiff stated that the legal representative of the estate of the deceased 1<sup>st</sup> Defendant was his nephew, and the legal representative of the estate of the deceased 2<sup>nd</sup> Defendant was his sister-in-law. He stated that the deceased 2<sup>nd</sup> Defendant was his brother, while the deceased 1<sup>st</sup> Defendant was his step-brother. He stated that his deceased father, Charles Rombo Oliech, had four wives, Kure Rombo, Julia Rombo, Jeniffer Rombo and Rosa Rombo (Rosa), who were all deceased. He stated that apart from his father's



first wife, the other wives occupied and lived on the suit property. He stated that the land adjudication was done in the area where the suit property is situated in the 1970s. He stated that at the time, his father was deceased, while his three wives who lived on the suit property were alive. He stated that the suit property was registered in the names of the deceased Defendants, Rosa and him. He stated that Rosa was his stepmother and that the suit property was registered in their names on 1<sup>st</sup> August 1980 as tenants in common in equal shares. He stated that his prayer to the court was for the suit property to be subdivided so that each owner could have a separate title for his share.

8. Francis Odhiambo Pande (DW1), the legal representative of the estate of the deceased 1<sup>st</sup> Defendant, was the first to give evidence for the Defendants. DW1 adopted his witness statement dated 24<sup>th</sup> January 2024 as part of his evidence in chief and produced the documents attached thereto as a bundle as D.EXH.1. DW1 admitted that the suit property was registered in the names of the deceased Defendants, the deceased Plaintiff and Rosa as tenants in common in equal shares of ¼ each. DW1 told the court that the shares of each of the registered owners of the suit property, as indicated in the register of the property, did not correspond with the shares held by the parties on the ground. DW1 stated that the deceased Plaintiff's mother was entitled to one share, his (DW1) grandmother, one acre share, Rosa, 1/8 share, and an unnamed beneficiary 1/ 8 share in the suit property. He stated that that was how the land was divided on the ground and how it should have been registered during the land adjudication. He stated that Rosa gave him her share of the suit property before she died. He stated that the deceased Plaintiff was entitled only to his deceased mother's share of the suit property. He stated that he was only occupying his grandmother's share of the suit property and that the court should maintain the status quo on the ground. He stated that his grandfather, Charles Rombo Oliech, gave each of his wives a portion of the suit property and that the court should not depart from the manner in which he carried out the distribution of the property. He stated that the parties had buried many relatives on the suit property, and he would not wish to have the portion of the property on which he had buried his relatives to be given to another person.
9. DW1 called three witnesses. His first witness was Gordon Oliech Ogada (DW2). DW2 told the court that the parties to the suit were his relatives. He adopted his witness statement dated 2<sup>nd</sup> February 2024 as his evidence in chief. In his witness statement, he stated that the suit property was the homestead of Charles Rombo Oliech. He stated that in 1987, Rosa gave the legal representative of the estate of the deceased 1<sup>st</sup> Defendant (DW1) her share of the suit property in his (DW2) presence. He stated that Rosa gave her share of the suit property to DW1 as a gift in consideration of the work that DW1 had done for her.
10. DW1's second witness, was ALOO JOSHUA (DW3). DW3 told the court that the parties to the suit were known to him and that they were his neighbours. He adopted his undated witness statement filed in 2024 as his evidence in chief. In the statement, he stated that the suit property was the homestead of Charles Rombo Oliech. He stated that Rosa, who was a member of his church, told them that she had given her portion of the suit property to DW1.
11. DW1's last witness, was AGRY KASUKU (DW4). DW4 told the court that the parties to the suit were his relatives and neighbours. DW4 adopted his witness statement dated 2<sup>nd</sup> February 2024 as his evidence in chief. In the statement, DW4 stated that the suit property was the homestead of Charles Rombo Oliech. He stated that in 1989, the said homestead was subdivided into two portions, portion "A" for the family of Julia Odongo Rombo and portion "B" for the family of Jenipher Awuor Rombo. He urged the court to maintain the status quo.
12. The legal representative of the estate of the deceased 2<sup>nd</sup> Defendant, PENINNAH AKINYI OGIRA alias PENINNAH AKINYI OLIECH (DW5), testified after DW1 and his witnesses, and called one



witness. DW5 told the court that she was the widow of the deceased 2<sup>nd</sup> Defendant, Robert Oliech Rombo. She stated that she wanted the suit property subdivided so that she could get her deceased husband's share of the same. She stated that she had no objection to the prayer by the deceased Plaintiff seeking the partitioning of the suit property so that each joint owner thereof could get a title to his share of the property.

13. The legal representative of the deceased, 2<sup>nd</sup> Defendant's witness, was PETER ANYANGE OMOTH (DW6). DW6 told the court that he was the Chief of North Kisumu Location and that the parties to the suit were known to him as they were residing in Nyahera Sub-Location within North Kisumu Location. DW6 told the court that the dispute over the suit property was referred to the chief's office for determination, but the same was not resolved. He stated that the dispute was over the sharing of the suit property.

### **Analysis and Determination**

14. After the close of evidence, the parties were directed to make closing submissions in writing. The deceased Plaintiff and the legal representative of the deceased 1<sup>st</sup> Defendant filed submissions dated 16<sup>th</sup> January 2025 and 1<sup>st</sup> April 2025 respectively, while the legal representative of the deceased 2<sup>nd</sup> Defendant relied on the pleadings and the evidence on record.
15. I have considered the pleadings, the evidence tendered by the parties, and the submissions on record. The issues arising for determination in this suit, in my view, are the following;
  1. Whether the deceased Plaintiff, the deceased Defendants and Rosa Abongo Rombo (Rosa) owned particular portions of the suit property;
  2. Whether the suit property should be partitioned so that each registered owner can have a separate title for his share of the property;
  3. Whether the deceased Plaintiff is entitled to the reliefs sought; and
  4. Who should bear the costs of the suit?

### **Whether the deceased Plaintiff, the deceased Defendants and Rosa Abongo Rombo (Rosa) owned identifiable portions of the suit property.**

16. The suit property was registered under the Registered [Land Act](#), Chapter 300 Laws of Kenya (now repealed). Section 103 of the Registered [Land Act](#) provided as follows:
  - (1) Where any land, lease or charge is owned in common, each proprietor shall be entitled to an undivided share in the whole, and on the death of a proprietor his share shall be administered as part of his estate.
  - (2) No proprietor in common shall deal with his undivided share in favour of any person other than another proprietor in common of the same land, except with the consent in writing of the remaining proprietor or proprietors of the land, but such consent shall not be unreasonably withheld.
17. It is not disputed from the evidence on record that the suit property was registered in the names of the deceased Plaintiff, the deceased Defendants and Rosa Abongo Rombo (Rosa) as tenants in common



in equal undivided shares of ¼ each. In *Kurshed Begum Mirza v. Jackson Kaibunga* [2017] eKLR, the court stated as follows on tenancies in common:

“.....By definition, a tenancy in common is a tenancy by two or more persons, in equal or unequal undivided shares, with each person having the right to possess the whole property but no right of survivorship. The central characteristic of a tenancy in common is that each tenant is deemed to own by himself, a physically undivided part of the entire parcel (see. *Black’s Law Dictionary*, 9th Edn and *Thomas F. Bergin & Paul G. Haskell*, ‘Preface to *Estates in Land and Future interests* 54 2nd Edn, 1984).”

18. In *Megarry & Wade*, *The Law of Real Property*, 17<sup>th</sup> Edition at pages 493 and 494 paragraphs 13-009 to 13-012, the authors have stated as follows regarding the nature of a tenancy in common:

- “1. “The tenants hold in undivided shares. Unlike joint tenants, tenants in common hold in undivided shares. Each tenant in common has a distinct share in property which has not yet been divided among the co-tenants. Thus tenants in common have quite separate interests. The only fact which brings them into co-ownership is that they both have shares in a single property which has not yet been divided among them. While the tenancy in common lasts, no one can say which of them owns any particular parcel of land.
2. There is no right of survivorship. The size of each tenant’s share is fixed once and for all and is not affected by the death of one of his companions. When a tenant in common dies, his interest passes under his will or intestacy, for his undivided share is his to dispose of as he wishes...
3. Only the unity of possession is essential. Although the four unities of a joint tenancy may be present in a tenancy in common, the only unity which is essential is the unity of possession. In particular, it should be noted that the unity of interest may be absent and the tenants may hold unequal interests, so that one tenant in common may be entitled to a one-fifth share and the other to four-fifths, or one may be entitled for life and another in fee simple”.

19. In *John Mbogua Getao v. Simon Parkoyiet Mokare & 4 others* [2021] eKLR, the Supreme Court stated as follows regarding the characteristics of a tenancy in common:

“...Therefore, the type of tenure operative in a group ranch under the Land (Group Representatives) Act, is what is known at common law as “a tenancy in common”, as opposed to “a joint tenancy” (the ingredients of which may be clarified in future litigation). Members of the group ranch are “tenants in common” as opposed to “joint tenants”.

[40] At common law, each co-owner is as much entitled to possession of any part of the land as the others. He cannot point to any part of the land as his own to the exclusion of the others; if he could, there would be separate ownership and not co-ownership. No one co-owner has a better right to the property than another. Tenants in Common hold in undivided shares. Each tenant in common has a distinct share in property which has not yet been divided among the co-tenants. The only fact which brings them into co-ownership is that they both have shares in a single property which has not yet been divided among them. Therefore, while the tenancy in common lasts, no one can say which of



them owns any particular parcel of land. (See Megarry and Wade, ‘The Law of Real Property’ 6th Edition Pages 477 and 480).”

From the evidence on record, I am of the view that the registered owners of the suit property were occupying and/or using identified portions of the suit property, but which portions had no settled boundaries. The registered owners of the suit property were, in my view, occupying and/or using the said portions of the suit property as part of their undivided, distinct shares of ¼ each in the suit property rather than as owners of the particular portions. It is therefore my finding that none of the registered owners of the suit property was entitled to a particular portion of the suit property.

**Whether the suit property should be partitioned so that each registered owner can have a separate title for his share of the property.**

20. As mentioned earlier, the suit property was registered under the Registered [Land Act](#) (now repealed). This suit was brought before the enactment of the [Land Registration Act 2012](#). Under the Registered [Land Act](#) and the [Land Registration Act 2012](#) which repealed it, the registered proprietors of land held under a tenancy in common can agree to bring to an end the tenancy in common through partitioning of the property, and where the parties are unable to agree either on the partition or the mode of partition, any of the registered proprietors can apply to the Land Registrar to carry out the partition. Under the Registered [Land Act](#), the Land Registrar has the power to carry out the partition in any manner deemed appropriate where the parties do not agree on the partition, while the [Land Registration Act 2012](#) provides several factors that the Land Registrar has to consider while undertaking a partition.
21. Section 104 of the Registered [Land Act](#) provides as follows:
  - (1) An application in the prescribed form to the Registrar for the partition of the land owned in common may be made by -
    - (a) any one or more of the proprietors; or
    - (b) any person in whose favour an order has been made for the sale of an undivided share in the land in execution of a decree, and, subject to the provisions of this Act and of any written law by or under which minimum areas or frontages are prescribed or the consent of any authority to a partition is required, the Registrar shall effect the partition of the land in accordance with any agreement of the proprietors in common or, in the absence of agreement, in such manner as the Registrar may determine.
  - (2) Partition shall be completed by closing the register of the parcel partitioned and opening registers in respect of the new parcels created by the partition and filing the agreement or determination.
22. Section 94 of the [Land Registration Act 2012](#) provides as follows:
  - (1) Any of the tenants in common may, with the consent of all the tenants in common, make an application, in the prescribed form, to the Registrar for the partition of land occupied in common and subject to the provisions of this Act and of any other written law applying to or requiring consent to a sub-division of land and of any covenants or conditions in a certificate of a land, the Registrar shall effect the partition of the land in accordance with the agreement of the tenants in common.



- (2) An application, may be made to the Registrar, in the prescribed form, for an order for the partition of land owned in common by—
- (a) any one or more of the tenants in common without the consent of all the tenants in common; or
  - (b) any person in whose favour an order has been made for the sale of an undivided share in the land in execution of a decree.
- (3) The Registrar may, after hearing the applicant and any of the other tenants in common who wish to appear and be heard, make an order for the partition of land having regard to—
- (a) whether the provisions of this Act, any other written law regulating the subdivision of land and any covenants and conditions in a land have been or will be complied with if the partition is effected;
  - (b) the nature and location of the land;
  - (c) the number of tenants in common and the extent of their respective shares particularly, the extent of the share of any tenant in common by whom or on whose behalf the application has been made;
  - (d) the value of any contribution made by any tenant in common to the cost of improvements to or the maintenance of the land or buildings occupied in common;
  - (e) where the tenants in common are spouses or the tenants in common who do not agree on the partition are dependants of or related to the tenants in common, whether the interests of those tenants in common who have not agreed to the partition have been or will be adequately provided for as a consequence of or after the partition is effected, and particularly, a spouse or dependants of the tenant in common who is applying for the partition will not be rendered homeless by the partition;
  - (f) in respect of an application made by a person referred to in subsection (2)(b), whether the interests of the spouse or any dependants of the tenant in common whose share is to be sold in execution of a judgment or decree, will be adequately catered for and particularly, any spouse or dependants will not be rendered homeless by the sale;
  - (g) if the tenants in common are pastoralists, whether the tenants in common who have not agreed to the partition will, after the partition, still retain grazing rights, including grazing rights created by an easement in the partitioned land, to sufficient land of the quality and nature and in the location customarily used by those pastoralists;
  - (h) the proper development and use of the land and whether it may be adversely affected by the partition applied for;
  - (i) the hardship that would be caused to the applicant or applicants by the refusal to an order in comparison with the hardship that would be caused to any other person by making the order; and
  - (j) any other matters that the Registrar considers relevant.
- (4) The Registrar may make the order for partition subject to such limitations and conditions, including conditions relating to the payment of compensation to those tenants in common who have not agreed to the partition, by the tenants in common who have applied for the



partition and how the expenses and costs of the partition are to be borne, as the Registrar may consider just and reasonable.

23. In the case before me, the parties did not agree on the partitioning of the suit property. The dispute was however not limited to the partitioning of the suit property. The deceased Defendants had claimed that the deceased Plaintiff had no interest in the suit property and had prevented him from continuing to use the property. I am of the view that in the circumstances of this case, the deceased Plaintiff could not have successfully applied to the Land Registrar for the partitioning of the suit property. The deceased Plaintiff's claim against the deceased Defendants extended beyond partition to damages for trespass and injunction, which the Land Registrar could not deal with. It is this court which has the jurisdiction to grant the reliefs that the deceased Plaintiff sought against the deceased Defendants. The legal representatives of the deceased Defendants did not, in their evidence, oppose the partitioning of the suit property. According to the legal representative of the estate of the deceased 1<sup>st</sup> Defendant, the suit property had already been partitioned on the ground, and the court should order the partitioning of the suit property in a manner that maintains the status quo existing on the ground. As for the legal representative of the estate of the deceased 2<sup>nd</sup> Defendant, she had no objection to the partitioning of the suit property.
24. I am not in agreement with the legal representative of the estate of the deceased 1<sup>st</sup> Defendant that the suit property should be partitioned into two in accordance with the decision of the Assistant Chief's Panel of Elders made on 14<sup>th</sup> September 1989. The said decision did not consider the legal ownership of the suit property and the nature of the land tenure under which the property was held. The partitioning of the suit property must consider the interests of all the registered owners of the suit property and their interests in the property. The mode of partitioning of the suit property suggested by the legal representative of the estate of the deceased 1<sup>st</sup> Defendant will dispossess the estates of the deceased 2<sup>nd</sup> Defendant and Rosa of their shares and interests in the suit property. The legal representative of the estate of the deceased 1<sup>st</sup> Defendant did not convince me that Rosa transferred her interest in the suit property to him. No written agreement or instrument of transfer of Rosa's share in the suit property to the legal representative of the estate of the deceased 1<sup>st</sup> Defendant was produced in evidence. In the absence of such a transfer, the estate of Rosa must get her share of the suit property upon partition, like the rest of the other joint owners of the suit property. The legal representative of the estate of the deceased 1<sup>st</sup> Defendant can pursue his interest, if any, in Rosa's share of the suit property after the partition. It is my finding that a case has been made for the partitioning of the suit property.

#### **Whether the deceased Plaintiff is entitled to the reliefs sought.**

25. I have set out earlier in the judgment the reliefs sought by the deceased Plaintiff. As a joint owner of the suit property together with the deceased Defendants and Rosa, the deceased Plaintiff had a right to occupy, use and enjoy the suit property. The legal representative of the estate of the deceased Plaintiff is therefore entitled to an injunction restraining the legal representatives of the estates of the deceased Defendants from interfering with the estate of the deceased Plaintiff's use and occupation of the suit property. The legal representative of the estate of the deceased Plaintiff is also entitled to an order for the partitioning of the suit property. Since the deceased Plaintiff did not have a right to any particular portion of the suit property, the acts of trespass alleged against the deceased Defendants have not been established. The deceased Plaintiff is therefore not entitled to the claim for damages for trespass. On the issue of costs, the parties are close relatives, and the dispute before the court concerned a property in which they all have an interest. I am of the view that for the sake of family cohesion, each party shall bear its costs of the suit so as not to escalate the dispute further.



## Conclusion

26. In the final analysis and for the foregoing reasons, I hereby make the following orders in the matter;
1. The Land Registrar, Kisumu County, and the Provincial Surveyor, Nyanza Region, shall visit with notice to the parties, all that parcel of land known as Title No. Kisumu/Nyahera/1189 (the suit property) and shall locate and identify on the ground with the assistance of the parties; the portion of the property on which Ombuya Rombo alias Joseph Otieno Rombo had his home before he vacated the property, the portion of the property on which the family of Pande Rombo alias Charles Pande Rombo has their home, the portion of the property on which the family of Oliech Rombo alias Robert Rombo Omedo has their home, and the portion of the property on which Rosa Abongo Rombo had her home before she died.
  2. The Land Registrar, Kisumu County, with the assistance of the Provincial Surveyor, Nyanza Region, shall undertake the partitioning of all that parcel of land known as Title No. Kisumu/Nyahera/1189 into four (4) equal portions, in favour of the deceased registered owners of the suit property, namely, Ombuya Rombo alias Joseph Otieno Rombo, Pande Rombo alias Charles Pande Rombo, Oliech Rombo alias Robert Rombo Omedo and Rosa Abongo Rombo, due allowance being given for access roads as determined by the surveyor.
  3. The partition/subdivision of the parcel of land known as Title No. Kisumu/Nyahera/1189 shall, as much as is practically possible, respect the homes/occupation/former occupation on the ground, by the families of the deceased registered owners of the suit property, namely, Ombuya Rombo alias Joseph Otieno Rombo, Pande Rombo alias Charles Pande Rombo, Oliech Rombo alias Robert Rombo Omedo and Rosa Abongo Rombo, as identified above, but shall ensure that all the four (4) portions are equal irrespective of the areas occupied, formerly occupied or used by the parties or their families on the ground.
  4. The homes currently existing on the ground, if any belonging to the families of the deceased registered owners of the suit property, namely, Ombuya Rombo alias Joseph Otieno Rombo, Pande Rombo alias Charles Pande Rombo, Oliech Rombo alias Robert Rombo Omedo and Rosa Abongo Rombo, shall as much as practically possible, fall in separate/distinct partitioned/subdivided portions of the suit property.
  5. The Land Registrar, Kisumu County, shall register the four (4) portions resulting from the aforesaid partitioning of Title No. Kisumu/Nyahera/1189 into the names of Ombuya Rombo alias Joseph Otieno Rombo (deceased), Pande Rombo alias Charles Pande Rombo (deceased), Oliech Rombo alias Robert Rombo Omedo (deceased), and Rosa Abongo Rombo (deceased).
  6. The Land Registrar, Kisumu County, shall take all care and attention and shall employ the assistance of the Provincial Surveyor, Nyanza Region, to ensure that, as much as practically possible, the portion of Title No. Kisumu/Nyahera/1189, currently occupied by the family of Francis Odhiambo Pande, is the one registered in the name of Pande Rombo alias Charles Pande Rombo (deceased), and the portion of Title No. Kisumu/Nyahera/1189, currently occupied by the family of Peninnah Akinyi Ogira is the one registered in the name of Oliech Rombo alias Robert Rombo Omedo (deceased).
  7. The Land Registrar, Kisumu County, shall take all care and attention and shall employ the assistance of the Provincial Surveyor, Nyanza Region, to ensure that, as much as practically possible, the portion of Title No. Kisumu/Nyahera/1189, on which Ombuya Rombo alias Joseph Otieno Rombo (deceased) had his home before he vacated the property as would be



pointed out by the parties is the one registered in his name, and the portion of land on which Rosa Abongo Rombo (deceased) had her home before her death as will be pointed out by the parties is the one registered in her name.

8. The full costs of the visits to the suit property by the Land Registrar, Kisumu County, and the Provincial Surveyor, Nyanza Region, survey, partition, and registration of the new titles shall be shared by the Plaintiff and the Defendants equally.
9. A permanent injunction is issued restraining the Defendants from interfering with the estate of the deceased Plaintiff's occupation and use of the deceased Plaintiff's portion of land Title No. Kisumu/Nyahera/1189.
10. Either party shall be at liberty to apply limited to orders 1, 3, 4, 5, 6 and 7 above.
11. Each party shall bear its costs of the suit.

**DELIVERED AND SIGNED AT KISUMU ON THIS 29<sup>TH</sup> DAY OF SEPTEMBER 2025**

**S. OKONG'O**

**JUDGE**

Judgment delivered virtually through Microsoft Teams Video Conferencing Platform in the presence of:

Ms. Anuro for the Plaintiff

The 1<sup>st</sup> Defendant in person

The 2<sup>nd</sup> Defendant in person

Ms. Anne-Court Assistant

