



**Mwamule Company Limited v Chief Land Registrar & 2 others (Environment and Land Case 105 of 2019) [2025] KEELC 4684 (KLR) (12 June 2025) (Judgment)**

Neutral citation: [2025] KEELC 4684 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIRONMENT AND LAND CASE 105 OF 2019  
EK MAKORI, J  
JUNE 12, 2025**

**BETWEEN**

**MWAMULE COMPANY LIMITED ..... PLAINTIFF**

**AND**

**CHIEF LAND REGISTRAR ..... 1<sup>ST</sup> DEFENDANT**

**FABIAN CAMPANELLA ..... 2<sup>ND</sup> DEFENDANT**

**PAOLA CAMPANELLA ..... 3<sup>RD</sup> DEFENDANT**

**JUDGMENT**

1. In a plaint dated November 26, 2019, the plaintiff sought the following reliefs against the defendants:
  - a. A declaration confirming that the Plaintiff is the exclusive and legally registered owner of L.R. No. N1883 (Originally Number 424/31, representing a half ( $\frac{1}{2}$ ) undivided share) (hereinafter referred to as "suit property"), which was registered on March 30, 2015;
  - b. A declaration stating that the suit property allegedly registered in the names of Fabia Campanella and Campanella Paola is null and void due to its irregular and fraudulent issuance, and ordering that the 1st defendant cancel the entries;
  - c. The 1st defendant should be directed to rectify the records at the Lands Registry to reflect ownership of the suit property, L.R. No. N1883 (Original Number 424/31 (one half  $\frac{1}{2}$  undivided share) in the name of the Plaintiff;
  - d. A permanent injunction shall be issued against the defendants, including their servants, assigns, successors, agents, and/or auctioneers, whether individually, jointly, or otherwise, from:



- i. Entering into any sale agreement or selling, transferring, disposing of, pledging, leasing, charging, or in any other manner alienating or dealing with L.R. No. N1883 (Original Number 424/31 (one half ½ undivided share) (suit property);
  - ii. Making any alterations in the state, condition, ownership, or occupation of the subdivided properties or any part thereof;
  - iii. Interfering in any manner with the deceased's interest in the subdivided properties, including the beneficiaries' right of occupation and enjoyment of the suit property.
  - iv. Costs of this suit
  - v. Any other relief that this court considers appropriate.
2. During the hearing, the plaintiff presented a single witness, Ernest Murimi, who testified as PWI, substantially affirming his witness statement.
3. From his testimony, this lawsuit is predicated upon the following grounds: The subject property, L.R. NO. 1883 (Original Number 424/31, representing a one-half (½) undivided share) was initially registered in the name of Rocchi Pompeo. The property was subsequently transferred to the plaintiff via a donation from the registered owner to the Social Ministry Research Network Centre (Sominerec), which was granted on October 9, 2006. Sominerec, as the donee, designated Mwamule Company Limited, the plaintiff in this matter, as its corporate trustee responsible for the holding and administration of immovable properties. This appointment was formalized through a Trust Deed dated September 1, 2014, which stipulated that the plaintiff would be recognized as the actual registered owner of the subject property, thereby establishing the plaintiff's rightful ownership.
4. To facilitate the successful transfer of the donation to the donee, the original owner, Rocchi Pompeo, executed a Special Power of Attorney in favor of Mr. Ceriani Claudio Cesare Alfredo, empowering him to execute all requisite documents for the transfer to the donee. The Special Power of Attorney, dated September 26, 2012, was duly registered in the Malindi Coastal Registry on March 3, 2015. On March 16, 2015, the plaintiff and Mr. Ceriani Claudio Cesare executed the Indenture of Conveyance, thereby formally transferring the subject property to the plaintiff. This Indenture of Conveyance was registered on March 30, 2015, at the Coastal Registry, wherein the plaintiff was acknowledged as the owner of the half share of the subject property, while the 2nd and 3rd defendants owned the remaining half.
5. Consequently, a Certificate of Postal Search dated May 7, 2015, was procured from the Malindi Coastal Lands Registry, confirming the plaintiff's registration as the legal proprietor of the half share of property L.R. No. 1883. In August 2019, the director of the plaintiff visited the subject property, only to discover that the 2nd and 3rd defendants were occupying the plaintiff's half share, incorrectly asserting that they were the registered proprietors of the entirety of the subject property, thereby excluding the plaintiff from ownership. In light of these developments, the plaintiff was compelled to obtain a Certificate of Postal Search for the subject property, dated August 14, 2019, which corroborated the plaintiff's concerns by revealing that, indeed, the 2nd and 3rd defendants had been registered as owners of the entire subject property. Consequently, the plaintiff has initiated the present suit to reclaim its property, which had been unlawfully transferred to the 2nd and 3rd defendants without the plaintiff's knowledge.
6. The 1st defendant filed their statement of defense dated May 5, 2021, in response to the plaintiff's request that the suit be dismissed with costs. 1<sup>st</sup> defendant called no witness.



7. The 2nd and 3rd defendants assert they have not engaged in fraudulent activities regarding the property. Fabia Campanella (DWI), the 2nd defendant, testified for himself and his sister, Campanella Paola, the 3rd defendant. They deny all fraud allegations and claim the plaintiff must provide substantial evidence. The defendants state that they acquired the property through adverse possession, as supported by a ruling from Justice Angote on September 14, 2016, in Malindi ELC No. 132 of 2015 (OS). This judgment is active and has never been overturned. They have maintained peaceful possession of the property without permission or deceit against the plaintiff or any previous owners for over 12 years, before and after the court's ruling, and still possess it peacefully today.
8. The 2nd and 3rd defendants question the plaintiff's title, claiming it resulted from fraud. The plaintiff contends that Mr. Rocchi Pompeo, the registered owner, authorized Ceriani Claudio Cesare Alfredo via power of attorney to transfer the donated property to Sominerrec. In contrast, the 2nd and 3rd defendants assert that the evidence presented by the plaintiff, including a special power of attorney dated September 26, 2012, registered on March 3, 2015, is flawed. The alleged fraud is detailed in the documents by an indenture of conveyance dated March 16, 2015. It is identified the donee of the power of attorney who executed the indenture on behalf of the alleged Rocchi Pompeo, specifically naming Ceriani Claudio Cesare. Furthermore, there is a significant distinction that establishes that the individual named in the power of attorney is indeed Ceriani Claudio Cesare Alfredo Marco Nicola. Consequently, it is impossible for him to be identified as Ceriani Claudio Cesare or as Ceriani Claudio Cesare Alfredo.
9. The 2nd and 3rd defendants further assert that the plaintiff's declaration of trust dated September 1, 2014, was unregistered despite being drafted by the plaintiff's advocates, which prevented its use to register the suit property for the plaintiff. A deed of trust must be registered, and the alleged transfer to the plaintiff failed due to improper registration, rendering the transfer irregular and fraudulent. The plaintiff approaches equity with unclean hands and has not provided registration documents, which casts doubt on their integrity.
10. The 2nd and 3rd defendants argue that when filing the adverse possession suit, the plaintiff had no valid registration for the suit property, which was nonexistent—the postal searches indicated equal ownership shares of the suit property, excluding Rocchi Pompeo. A search revealed that Rocchi Pompeo had acquired registration of the suit property, leaving the plaintiff with an undivided one-half share. This situation led them to seek court approval for adverse possession, as they had maintained exclusive possession during the relevant period.
11. From the pleadings and prologue, along with the written submissions from the parties, I outline the following issues for court determination:
  - (1) Whether the plaintiff has locus standi;
  - (2) Whether the claim is statute-barred;
  - (3) Whether the matter is res judicata;
  - (4) Whether to declare the plaintiff as the registered proprietor of a half share in the property, entitled to court protection;
  - (5) Whether the 2nd and 3rd defendants' acquisition of the plaintiff's half share title was appropriate;
  - (6) Whether to order the cancellation of the 2nd and 3rd defendants' title and rectify the register; and



- (7) Who bears the costs of the suit.
12. The 1st defendant, in its statement of defense dated May 5, 2021, specifically in paragraph 12, contended that the lawsuit is legally invalid on the grounds of res judicata. I find no mention of the issues of locus standi or limitation raised in this context as submitted in the final submissions by the 1st defendant. According to the record, the witness for the plaintiff testified as a director of the company and had the authority to testify. Nothing was produced to the contrary. Furthermore, the plaintiff asserts that it became aware of the fraud in 2019 concerning this matter; therefore, I conclude that there is no merit to these two issues.
13. Regarding the substantive issue of res judicata raised by the 1st defendant, the plaintiff asserts that this matter was adjudicated by Olola J., who issued a ruling on May 12, 2022. The esteemed judge delivered this ruling after the 2nd and 3rd defendants filed a motion to dismiss the suit, citing grounds of res judicata. In examining the prerequisites for the doctrine of res judicata to apply, the court referred to the Court of Appeal decision in Kenya Commercial Bank Limited v Benjoh Amalgamated Limited [2017] eKLR. The learned judge denied the application and ordered that the defendants bear the associated costs. This matter is reported as Mwamule Company Limited v Chief Land Registrar & 2 others [2022] KEELC 3670 (KLR). The learned judge reached the following conclusion:
- “That being the case, the two defendants could not purport as they did on August 3, 2015, to file ELC Case No 132 of 2015 against the said Rocchi Pompeo and Angello Ricchi as the owners of the other half share of the suit land. The two had long gifted the land to the plaintiff company, which had subsequently been registered as a co-owner prior to the institution of the suit. There is no evidence at this stage that the plaintiff herein was a party to the suit and/or that the same was brought to its attention.
14. Given the fact that the plaintiff was already registered as a co-owner of the suit land together with the defendants, the suit previously instituted for adverse possession by the defendants could only have been the result of gross negligence on their part and/or a massive attempt to mislead the court and abuse its process. It is little wonder that a perusal of the judgment of the court rendered on September 14, 2016, reveals that the persons named as the 1<sup>st</sup> and 2<sup>nd</sup> respondents therein did not enter appearance and/or respond to the claim. They had no obligation to do so as they had already relinquished any interests they had on the land.
15. Arising from the foregoing, it was clear to me that the present suit is not res judicata. The plaintiff herein, who was a registered owner of the subject half undivided share in LR No 1883, neither knew of the existence of the suit nor were they given a chance to be heard on the same. In addition, it was clear to me that the issues in the present suit were not the same as those directly and substantially in issue in the former suit. In the matter before me, the plaintiff raises the substantial question of whether its interest as a legally registered proprietor to land can be defeated in the manner it was done herein and without notice or being heard thereon.
16. In the circumstances herein, it was apparent that the judgment delivered on September 14, 2016, in Malindi ELC 132 of 2015 was a consequence of misrepresentation and non-disclosure of material facts on the part of the 2<sup>nd</sup> and 3<sup>rd</sup> defendants. The plaintiff was and remains the legal owner of the subject



land as per the indenture dated March 16, 2015. Such registration is indeed prima facie evidence that the person named therein as proprietor of the land is the absolute and indefeasible owner, and the same can only be challenged on grounds of fraud or if obtained illegally or as a result of misrepresentation. The 2<sup>nd</sup> and 3<sup>rd</sup> defendants have not challenged the plaintiff's title on those grounds and I did not think that they can enforce a decree against a party who was not party in the proceedings they had filed.”

14. I need not elaborate on this issue. Olola J. settled it. Res judicata is inapplicable in this instance. The findings made by the esteemed judge are indeed relevant. Furthermore, the principles of adverse possession, as skilfully presented by the plaintiff's counsel, have been extensively clarified in prior court decisions by the Superior Courts. Any individual seeking to have the title transferred to them via adverse possession must present the official land records to establish the identity of the registered proprietor, along with the necessary evidence to meet the criteria for the issuance of an adverse possession order. This critical element was reinforced by Naikuni J. in the case of *Katana v Nova Holdings Limited* (Environment & Land Case 205 of 2021) [2024] KEELC 3261, in which the court articulated this position as follows:

“Because a claim based on adverse possession is anchored on the fact that the suit property belongs to a registered owner, that evidence, in the form of a copy of the document of title, must be exhibited. Failure to do this has been found in a long line of cases to be fatal because it is only through such exhibit that the existence and ownership of the suit property can be ascertained by the court.”

15. The 2<sup>nd</sup> and 3<sup>rd</sup> defendants presented their case to the court via the Originating Summons in ELC (OS) Case No. 132 of 2015 - *Fabia Campanella & Paola Campanella v Rocchi Pompeo, Angello Ricci, Land Registrar Mombasa & The Hon. Attorney General*. This Originating Summons was filed on August 3, 2015. Therefore, a rebuttable presumption is established that the individuals against whom adverse possession was claimed were, in fact, the registered owners of the disputed property.
16. The 2<sup>nd</sup> defendant, during cross-examination, was unable to present to the court any document that had been submitted before the trial court indicating that, as of August 3, 2015, Rocchi Pompeo or Angello Ricchi were the registered owners of the half share of the property in question, which is claimed under adverse possession, thereby establishing a cause of action for adverse possession against them.
17. Counsel for the plaintiff implored the court to review the records related to ELC Case No. 132 of 2015 (OS) for a thorough understanding of the proceedings. An examination of the affidavit backing the Originating Summons given by Fabia Campanella reveals that no documents—be they a Green Card, a Search, an Indenture of Conveyance, or any other title document—were presented to establish that Rocchi Pompeo or Angelo Ricchi were registered as owners of the half share in ELC Case No. 132 of 2015 (OS).
18. An examination of the court's judgment indicates that Mr. Rocchi Pompeo and Angelo Ricchi did not enter an appearance nor file a defense. They had no obligation to do so, as they had previously relinquished any interests they held in the land to the plaintiff.
19. The 2<sup>nd</sup> and 3<sup>rd</sup> defendants sought to deprive the plaintiff of their rights by misrepresenting facts to the court through deceptive drafting. Their pleadings contained a claim of prescriptive rights to adverse possession against Mr. Rocchi Pompeo, the former registered owner of a half-undivided share of the property in question. It would have been straightforward for the 2<sup>nd</sup> and 3<sup>rd</sup> defendants to



obtain the records of the suit parcel prior to petitioning the court for prescriptive rights. However, given the testimony indicating that the 2nd and 3rd defendants approached the plaintiffs with an offer to purchase their share, it is reasonable to conclude that they were fully aware of the actual ownership of the parcel. Their failure to conduct a search was, therefore, intentional and reckless, representing an attempt to deceive the court. It is not surprising that Olola J., in considering the preliminary objection raised and the application for injunction, concluded that the plaintiff was already registered as a co-owner of the suit land alongside the defendants; thus, the suit previously lodged for adverse possession by the defendants could only have been the result of gross negligence on their part and/or a significant attempt to mislead the court and abuse its process.

20. The subsequent issues to be addressed are: whether to declare the plaintiff as the registered proprietor of a half share in the property, entitled to court protection, and whether the acquisition of the plaintiff's half share title by the 2nd and 3rd defendants was appropriate. I will discuss these two issues simultaneously, as we are dealing with two competing titles, with each titleholder pointing fingers at the other, alleging fraudulent acquisition.
21. Section 26 (1) of the [Land Registration Act](#) articulates the principle of indefeasibility of title, asserting that once a proprietor's title is registered, it remains protected unless compelling evidence demonstrates that it was acquired through fraudulent, misrepresented, or corrupt practices involving the proprietor. This assertion is substantiated by a series of judicial precedents, as effectively cited by the counsel representing the parties, see for example - *Rutongot Farm Ltd v Kenya Forest Services & 3 Others* [2018] eKLR, *Thomas Mose Kenyenyua v Arvindhendra Himatlal Mehta & 2 others* [2022] eKLR, and *Republic v Land Registrar Taita Taveta District & another* [2015] eKLR.
22. In *Munyu Maina v Hiram Gathiha Maina* [2013] eKLR, the Appellate Court ruled that when a title document is challenged, the owner must prove its legality beyond just presenting the document:

“We have stated that when a registered proprietor root of title is challenged, it is not sufficient to dangle the instrument of title as proof of ownership. It is that instrument of title that is challenged and the registered proprietor must go beyond the instrument to prove the legality of how he acquired the title to show that the acquisition was legal, formal and free from any encumbrances including any and all interests which would not be noted in the register.”
23. The plaintiff explained how they obtained a half share of the suit property through a donation from the previous registered owner, Mr. Rocchi Pompeo. Mr. Rocchi's title has never been challenged, allowing him to transfer ownership to the plaintiff legally. After the successful registration of the Indenture of Conveyance on March 30, 2015, the plaintiff became the legal owner of a half share of the suit property. The Certificate of Postal Search further confirmed this ownership, dated May 7, 2015, identifying the plaintiff as the registered owner of that half share. According to the law, a title holder is considered the indefeasible owner of the land, excluding all others from that claim.
24. The 2nd and 3rd defendants, in contrast, submitted to the court the judgment in *Malindi ELC 132 of 2015* (extensively discussed above), seeking prescriptive rights of adverse possession against Mr. Rocchi Pompeo, the former owner of a half share of the contested property before he donated it to the plaintiff. Simultaneously, the 2nd and 3rd defendants presented postal searches dated September 17, 2009, and September 10, 2010. The witnesses asserted that, according to these searches, the 2nd and 3rd defendants were the registered owners of the entire contested property. Consequently, they maintained that, by virtue of the two searches, the 2nd and 3rd defendants held ownership of the whole parcel. However, they were unable to provide a candid explanation of how, in 2010, they acquired the entire contested property. They produced no documentation in the form of a sale agreement, a



transfer, or an Indenture of Conveyance to substantiate the acquisition of the other half share in the parcel in 2010.

25. The Chief Land Registrar, in correspondence dated April 14, 2015, addressed to the advocates of the 2nd and 3rd defendants, clarified the true status of ownership concerning the property in question. The Land Registrar explicitly stated that the 2nd and 3rd defendants exclusively acquired the half share that had previously been transmitted to their parents by Angelo Ricci. Furthermore, the Registrar noted that the documents earlier issued to the 2nd and 3rd defendants were disseminated inadvertently. During further cross-examination, the witness was also referred to a letter dated September 5, 2012, written by the firm of Murgor & Murgor, representing the 2nd and 3rd defendants. The letter was addressed to the firm of Waweru Gatonye & Co. advocates, in which the defendants' advocate expressed the willingness of the 2nd and 3rd defendants to purchase the plaintiff's interest in the suit property. This can be traced to the email correspondence between the defendants and their advocate, dated October 12, 2012, in which Philip Murgor, the advocate for the 2nd and 3rd defendants, wrote to the 2nd defendant. The email goes thus

“Dear Fabia

I refer to our telephone conversation, and your email dated 9<sup>th</sup> October, 2012.

As mentioned to you I wrote to Mr. Gatonye and he replied. I attached the letters. I have since explained to Mr. Gatonye that our interest is not to dispute their rights, but to purchase their share at a reasonable price. He has confirmed that he will advise his clients to visit the property, and then get back to us on our offer.”

Regards,

Phillip Murgor, Managing Partner-Murgor & Murgor Advocates.”

26. The 2nd and 3rd defendants asserted that, through the searches, they were the legitimate owners of the entire parcel and maintained this position, albeit without presenting evidence regarding the acquisition of the remaining half-share in 2010. A pivotal question arises: how does this court reconcile the testimony of the 2nd and 3rd defendants with their documentary evidence? At one point, their testimony describes them as the owners of the entire parcel, as indicated by the searches produced. Subsequently, however, the 2nd and 3rd defendants are presented as purchasers of the other half of the suit property, according to their offer to purchase from the plaintiff. The final stage in the evolution of the status of the 2nd and 3rd defendants casts them as adverse possessors. The inconsistency is palpable.
27. I concur with the submissions made by the plaintiff's counsel that the longstanding Torrens System, which is widely enshrined in our statutes and other laws, has weathered various challenges yet continues to serve as a guiding principle in land adjudication within our jurisdiction. The integrity of titles, land records, and the remedies available to individuals aggrieved by such records have previously been addressed by our courts. The Court of Appeal, in *Embakasi Properties Limited & another vs Commissioner of Lands & another* [2019] eKLR, cited with approval the three principles of the Torrens System as prescribed by the Canadian Court of Appeal in *Regal Constellation Hotel Ltd Re* 2004 Can LII 2006 Ontario C.A.) Page 13 para 42, with respect to the Torrens System:

“The philosophy of land titles system embodies three principles, namely, the mirror principle, where the register is a perfect mirror of the state of title; the curtain principle, which holds that a purchaser need not investigate the history of past dealings with the land, or search behind the title as depicted on the register; and the insurance principle, where the state



guarantees the accuracy of the register and compensates any person who suffers loss as the result of an inaccuracy.”

28. The official records should accurately reflect the condition of the title as articulated in the aforementioned dictum. By the time the 2nd and 3rd defendants sought orders for adverse possession, as evidenced in the Originating Summons dated 3rd August 2015, the official records in the registry indicated the plaintiff as the registered proprietor of the half undivided share of the suit property. The plaintiff’s Exhibits 5 and 6 corroborate this claim.
29. The defendants in this case possess no evidence to contradict the plaintiff’s acquisition of title. Since the defendants have presented no evidence to demonstrate any wrongdoing in the plaintiff’s title acquisition, they meet the legal requirements, indicating that the plaintiff has fulfilled the evidentiary burden in establishing legal ownership of the half share of the suit property—the court affirms this conclusion. The plaintiff’s witness articulated how the plaintiff acquired the title to the half share in the suit property. The plaintiff’s witness presented the Indenture of Conveyance, which transferred interest in the half share from Rocchi Pompeo to the plaintiff through a donation. I see no fault in the process leading to the transfer, as authorized by the special power of attorney. The alleged fraud by the 2nd and 3rd defendants in the acquisition was not proven.
30. Furthermore, as shown in this case, the title held by the 2nd and 3rd defendants to the half share that was irregularly acquired cannot receive the protection of indefeasibility under Section 26 of the [Land Registration Act](#). As stated elsewhere in this judgment, indefeasibility is not a remedy for regularizing titles that have been acquired irregularly.
31. Since the 2nd and 3rd defendants have not presented any evidence establishing the origin of the title they claim to assert regarding the half share belonging to the plaintiff, the deprivation of property without lawful justification is regarded as unlawful. The court should not tolerate it. The plaintiff’s title has not been questioned or effectively impeached by the 2nd and 3rd defendants. It is noteworthy that the transfer of the half share from Mr. Rocchi Pompeo to the plaintiff was executed through an Indenture of Conveyance dated March 16, 2015, and registered at the Coastal Land Registry on March 30, 2015. Effective from March 30, 2015, the plaintiff became the sole and absolute owner of the half undivided share in the suit property, thereby affording the plaintiff the immutable protection of the law pursuant to section 26 (1) of the [Land Registration Act](#).
32. Title over land acquired through unlawful and improper means cannot be sustained and benefit from the protection of the law. This court functions as both a court of law and a court of equity. The actions and title of the 2nd and 3rd defendants lack transparency, and the doctrine of equity cannot operate in their favor. Indeed, I align myself with the submissions by the plaintiff’s counsel that their actions are *ex turpi causa non oritur actio*, which violate the law and contradict public policy regarding the acquisition, registration, and protection of land in Kenya. This court cannot facilitate such illegality. The consequence that must befall the otherwise irregularly acquired title over the half share of the suit property by the 2nd and 3rd defendants is cancellation and subsequent rectification of the register to reflect the plaintiff as the legal proprietor of the half share of the suit property. The authority of this court to order the cancellation of the title and rectification of the register is indisputable. The [Land Registration Act](#) empowers this court to order the rectification of the register to address malfeasance in title acquisition. Thus, Section 80 of the [Land Registration Act](#) provides:
  - (1) Subject to subsection (2), the court may order the rectification of the register by directing that any registration be cancelled or amended if it is satisfied that any registration was obtained, made or omitted by fraud or mistake;



- (2) The register shall not be rectified to affect the title of a proprietor, unless the proprietor had knowledge of the omission, fraud or mistake in consequence of which the rectification is sought, or caused such omission, fraud or mistake or substantially contributed to it by any act, neglect or default.”
33. The authority for rectification of title was also addressed by this court (Gacheru J.) in the case of Ngugi v Kamau & another (Environment & Land Case 36 of 2020) [2022] KEELC 2261 (KLR), in which she stated the following:
- “Rectification by Court concerns one that goes to the cancellation or amendments of title, circumstances of which are provided above. This Court agrees with the sentiments of the Court in Kisumu Misc No. 80 of 2008, Republic v Kisumu District Lands Officer & another [2010] eKLR, where the Court held:
- “it is clear that it is only the Court that can cancel or amend if where the Court is of the view that registration has been obtained, made or omitted through fraud or mistake and only where it is not a first registration”.
34. The plaintiff has sufficiently established itself as the lawful owner of the half share in the disputed property. The court grants the requests made in the plaint dated November 26, 2019, along with costs awarded to the plaintiff as follows:
- a. A declaration is hereby issued confirming that the Plaintiff is the exclusive and legally registered owner of L.R. No. N1883 (Originally Number 424/31, representing a half (½) undivided share, which was registered on March 30, 2015;
  - b. A declaration is hereby issued stating that the suit property allegedly registered in the names of Fabia Campanella and Campanella Paola is null and void due to its irregular and fraudulent issuance, and an order is hereby issued directing that the 1st defendant cancel the entries;
  - c. The 1st defendant is hereby directed to rectify the records at the Lands Registry to reflect ownership of the suit property, L.R. No. N1883 (Original Number 424/31 (one half ½ undivided share) in the name of the Plaintiff;
  - d. A permanent injunction is hereby issued against the defendants, including their servants, assigns, successors, agents, and/or auctioneers, whether individually, jointly, or otherwise, from:
    - i. Entering into any sale agreement or selling, transferring, disposing of, pledging, leasing, charging, or in any other manner alienating or dealing with L.R. No. N1883 (Original Number 424/31 (one half ½ undivided share);
    - ii. Making any alterations in the state, condition, ownership, or occupation of the subdivided properties or any part thereof;
    - iii. Interfering in any manner with the deceased’s interest in the subdivided properties, including the beneficiaries’ right of occupation and enjoyment of the suit property.

**DATED, SIGNED, AND DELIVERED ELECTRONICALLY IN MALINDI ON THIS 12<sup>TH</sup> DAY OF JUNE, 2025.**

**E. K. MAKORI**

**JUDGE**



In the Presence of:

Mr. Muiruri for the Plaintiff

Ms. Ekiru for the 1<sup>st</sup> Defendant.

Mr. Kariuki for the 2<sup>nd</sup> and 3<sup>rd</sup> Defendants

Happy: Court Assistant

