



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mpungu & another v Kavuvu & another (Civil Case 1257 of 2020)  
[2025] KEMC 172 (KLR) (15 May 2025) (Judgment)**

Neutral citation: [2025] KEMC 172 (KLR)

**REPUBLIC OF KENYA  
IN THE MILIMANI COMMERCIAL CHIEF MAGISTRATE'S COURTS  
CIVIL CASE 1257 OF 2020  
P ACHIENG, CM  
MAY 15, 2025**

**BETWEEN**

**ANDREW MWITI MPUNGU ..... 1<sup>ST</sup> PLAINTIFF**

**ANASTASIA MUMBUA MPUNGU ..... 2<sup>ND</sup> PLAINTIFF**

**AND**

**BERNARD KAVUVU ..... 1<sup>ST</sup> DEFENDANT**

**LAWRENCE MWANGI ..... 2<sup>ND</sup> DEFENDANT**

**JUDGMENT**

1. The Plaintiffs brought the present suit against the defendants seeking the following reliefs;
  - a. A declaration that the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs are the rightful legal owners of land parcel Number LR. No. 209/12989 situated at Eastleigh in Nairobi County.
  - b. An injunction restraining the 1<sup>st</sup> and 2<sup>nd</sup> defendants, their servants, workmen and agents from entering on and/or from erecting or causing to be erected thereon any structures, or from in any way interfering with the Plaintiffs' use and enjoyment of the said suit parcel of land.
  - c. An order of eviction against the 1<sup>st</sup> and 2<sup>nd</sup> defendants and the rental building built therein, from the said suit parcel of land.
  - d. General damages
  - e. Interest thereon
  - f. Costs of this suit.
  - g. Any other relief that the Court deems fit to grant.



2. It is the Plaintiffs' claim that they are the joint and lawful registered owners of land parcel Number LR. No. 209/12989 situated as Eastleigh in Nairobi County. The Plaintiffs aver that the defendants have trespassed onto the said parcel of land and erected permanent structures, being a rental building from which they collect rent. The Plaintiffs therefore seek the prayers herein. The defendants did not enter appearance in the matter, which proceeded as undefended. The 1<sup>st</sup> Plaintiff was the sole witness.
3. I have considered the Plaintiff's claim and the evidence tendered in support of the same. The 1<sup>st</sup> Plaintiff relied on his witness statement dated 28<sup>th</sup> February 2022 as his evidence in the case. According to the said statement, he and the 2<sup>nd</sup> Plaintiff who is his wife purchased the suit property from one Jimmy Jeremiah Rana Onchiri. He states that they have been paying rates and rent as required by law since then. The Plaintiffs produced a sale agreement entered into on 23<sup>rd</sup> March 1999 between them and Jimmy Jeremiah Rana Onchiri, in which they purchased the suit property at a consideration of Ksh. 850,000/=. The Plaintiffs also produced an allotment letter issued to J.J.R. Onchiri dated 28<sup>th</sup> October 1994 as proof that he was the previous owner of the property. Consent to transfer the land was issued by the Commissioner of lands vide a letter dated 18<sup>th</sup> February 1999, and the land was transferred in the joint names of the Plaintiffs, as per the title document produced. The Plaintiffs also produced an official search certificate which indicates that they are the joint owners of the property. They further produced documents evidencing payment of dues to Nairobi City County.
4. There is correspondence from the Chief Maringo Location indicating that he attempted to resolve the dispute, but the defendants declined to obey his summons to appear, and the dispute was escalated to court.
5. In light of the uncontroverted evidence adduced by the Plaintiffs, there is no doubt that they are the rightful owners of land parcel number 209/12989. I find merit in the present claim and proceed to enter judgment for the Plaintiffs against the defendants as follows;
  - a. A declaration is hereby made that the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs are the rightful legal owners of land parcel Number LR. No. 209/12989 situated at Eastleigh in Nairobi County.
  - b. The 1<sup>st</sup> and 2<sup>nd</sup> defendants are hereby ordered to vacate land parcel Number LR. No. 209/12989 situated at Eastleigh in Nairobi County within 60 days from the date of Judgment failure to which the Plaintiffs shall be at liberty to apply for an eviction order to issue against them.
  - c. The defendants shall jointly and severally bear the Plaintiffs' costs of the suit.

**DATED DELIVERED AND SIGNED AT NAIROBI THIS 15<sup>TH</sup> DAY OF MAY 2025**

**HON. P. ACHIENG**

**CHIEF MAGISTRATE**

Plaintiffs – Mr. Oginga

Defendants – Absent

Court Assistant- Duncan

