



Anne v Ndeiya (Sued as the Administrator of the Estate of Ndeiya Ole Gacheni - Deceased) & 5 others (Environment and Land Case E009 of 2025) [2025] KEELC 5750 (KLR) (31 July 2025) (Ruling)

Neutral citation: [2025] KEELC 5750 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT AND LAND CASE E009 OF 2025**

**MD MWANGI, J
JULY 31, 2025**

BETWEEN

GOODWIN GEORGIA ANNE PLAINTIFF

AND

SIMON NDEIYA (SUED AS THE ADMINISTRATOR OF THE ESTATE OF NDEIYA OLE GACHENI - DECEASED) 1ST DEFENDANT
NTEEYIA EMMANUEL SANTAMO 2ND DEFENDANT
ILAN BARRITZ 3RD DEFENDANT
MISSIONARIES OF AFRICA REGISTERED TRUSTEES 4TH DEFENDANT
CHIEF LAND REGISTRAR, KAJIADO WEST – LAND REGISTRY 5TH DEFENDANT
DISTRICT SURVEYOR, KAJIADO 6TH DEFENDANT

RULING

(In respect of the notice of motion application dated 22nd April 2025 seeking *inter alia* extension of time to file an appeal)

Background

1. The Applicant/4th Defendant initiated the matter at hand by way of a notice of motion application dated 22nd April 2025. The Applicant seeks the following orders:
 - a. That pending the hearing and determination of this Application, this Honourable Court be pleased to grant an order for stay of proceedings in Kajiado Environment and Land Court Case



No. E009 of 2025, *Goodwin Georgina Anne v Simon Ndeiya (sued as the administrator of the estate of Ndeiya Ole Gacheni (Deceased)) & 5 others*.

- b. That pending the hearing and determination of the intended appeal, this Honourable Court be pleased to grant an order for stay of proceedings in Kajiado Environment and Land Court Case No. E009 of 2025, *Goodwin Georgina Anne v. Simon Ndeiya (sued as the administrator of the estate of Ndeiya Ole Gacheni (Deceased)) & 5 others*.
 - c. That this Honourable Court be pleased to extend time and grant leave to the 4th Defendant/Applicant to file its appeal against the 1st Respondent's Report out of time.
 - d. That upon extension of time and grant of leave as sought, the Memorandum of Appeal dated 22nd April 2025 and filed herewith be deemed as duly filed and properly on record.
 - e. That this Honourable Court be pleased to issue such other or further orders as it may deem just and expedient in the circumstances.
2. The Applicant contends that the 4th Defendant's report was biased, failed to notify it of its right to appeal, and contradicted the 6th Defendant/Respondent's recommendations. Relying on a second opinion from an independent surveyor revealing material inconsistencies in the reports, the Applicant now seeks, inter alia, an extension of time and leave to appeal out of time, and for its Memorandum of Appeal to be deemed duly filed.
 3. In response to the Applicant's Notice of Motion, the Plaintiff/Respondent, Goodwin Georgina Anne, averred that she is the lawful registered proprietor of land parcel Kajiado/Olchoro-Onyore/8024, having purchased it from the late Ndeiya Ole Gacheni in 2008. She stated that the property was lawfully transferred into her name after a formal subdivision of the original parcel Kajiado/Olchoro-Onyore/7594 into parcels 8023 and 8024. However, she later discovered that her land had been encroached upon and that several irregular subdivisions—culminating in titles held by the 4th Defendant—had been effected without her knowledge, consent, or involvement. She thereafter lodged a boundary complaint with the Land Registrar (5th Defendant), which led to the preparation of reports by the 5th and 6th Defendants confirming the irregularities and recommending rectification measures.
 4. The Plaintiff contends that the Applicant's current application for stay of proceedings and leave to appeal is merely a delay tactic aimed at derailing the hearing of the main suit, which raises substantive issues of trespass, title fraud, and unlawful displacement. She maintains that the impugned reports are not determinative of ownership but are open to judicial scrutiny during trial. Moreover, the Applicant failed to act within the 30-day statutory period provided under Regulation 40(6) of the Land Registration (General) Regulations, 2017, and has not demonstrated valid grounds for the delay. She asserts that staying the proceedings would prejudice her right to property under Article 40 of the *Constitution* and delay justice.

Directions

5. The court directed that the application be canvassed by way of written submissions. I have had the opportunity to read the submissions and consider them in writing this ruling.

Issues of Determination

6. By dint of the foregoing analysis, the court finds that the sole issue for determination is whether the orders sought by the applicant should be granted as prayed.



Analysis and Determination

7. Regulation 40(6) of the [Land Registration \(General\) Regulations, 2017](#), provides that:

"Any person who is aggrieved by the decision of the Registrar may appeal to the Court within thirty days of the date of the decision."
8. The contested decision was made on 5th November 2024. The present application was filed on 22nd April 2025—well over five months after the decision was made. The only explanation offered is that the Applicant was not made aware of the right to appeal or the relevant timeframe.
9. The legal framework governing the extension of time to appeal is well established. In [Paul Musili Wambua v Attorney General & 2 Others](#) [2015] eKLR, the Court of Appeal restated that the decision whether to extend time is an exercise of judicial discretion, which must be guided by sound principles and not exercised arbitrarily or capriciously. The court stated:

"It is now settled by a long line of authorities by this court that the decision of whether or not to extend the time for filing an appeal the Judge exercises unfettered discretion. However, in the exercise of such discretion, the court must act upon reason(s) not based on whim or caprice."
10. This position aligns with the authoritative decision of the Supreme Court in [Nicholas Kiptoo Arap Korir Salat v Independent Electoral and Boundaries Commission & 7 Others](#) [2014] eKLR, where the Court laid down the guiding principles applicable to such applications. The Court held, *inter alia*, that:

"Extension of time is not a right of a party. It is an equitable remedy that is only available to a deserving party at the discretion of the court."
11. Further, the Court emphasized that the burden rests on the applicant to lay a proper basis to the satisfaction of the court, and that the reason for the delay must be reasonable and sufficiently explained. The Applicant's explanation for the delay—lack of knowledge regarding the right and period to appeal—is, with respect, untenable. It is a cardinal principle of law that ignorance of the law is not a defence (*ignorantia juris non excusat*).
12. Regulation 40(6) is a public legal provision, accessible and binding upon all persons dealing with registered land. To excuse the Applicant on this ground would be to permit parties to avoid statutory timelines on the mere basis of unawareness, thereby undermining the certainty and rule of law. This principle finds support in the equitable maxim: "Equity aids the vigilant, not those who slumber on their rights."
13. The Applicant, by failing to act within the clearly stipulated 30-day window and offering no exceptional circumstance beyond a claim of ignorance, does not merit the equitable indulgence of this Court. Moreover, the delay is inordinate and unexplained in any satisfactory manner. There is no affidavit evidence demonstrating attempts to seek legal redress within the statutory period or any impediment that prevented timely action. The Respondent has rightly pointed out that this application appears to be a tactical maneuver aimed at stalling the progress of the main suit.
14. Having arrived at this conclusion, the other prayers in the application which were dependent on the success of this main prayer are rendered moot.
15. Accordingly, this application is dismissed with costs to be borne by the applicant.



DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 31ST DAY OF JULY 2025.

M.D. MWANGI

JUDGE

In the virtual presence of:

Ms. Opondo for the Plaintiff

Mr. Otieno for the 1st and 2nd Defendants

N/A by the 3rd -5th Defendants

Court Assistant: Edwin

M.D. MWANGI

JUDGE

