



**Ethics & Anti-Corruption Commission v Okumu & 3 others
(Civil Suit E023 of 2024) [2025] KEHC 16057 (KLR) (Anti-
Corruption and Economic Crimes) (7 November 2025) (Judgment)**

Neutral citation: [2025] KEHC 16057 (KLR)

**REPUBLIC OF KENYA
IN THE HIGH COURT AT NAIROBI (MILIMANI LAW COURTS)
ANTI-CORRUPTION AND ECONOMIC CRIMES
CIVIL SUIT E023 OF 2024
BM MUSYOKI, J
NOVEMBER 7, 2025**

BETWEEN

ETHICS & ANTI-CORRUPTION COMMISSION PLAINTIFF

AND

**LILIAN ACHIENG OKUMU 1ST DEFENDANT
JOSEPH OMONDI 2ND DEFENDANT
SOLOMON OCHOGO 3RD DEFENDANT
MAURICE WAMBO 4TH DEFENDANT**

JUDGMENT

1. The plaintiff, a body corporate established under Article 79 of *the Constitution* and provisions of the *Ethics and Anti-Corruption Commission Act* with mandate of among others identifying and recovering public funds has brought this suit in interest of the people of Homabay County for recovery of Kshs 679,727.00 from the defendants. The specific prayers in the plaint dated 25th June 2024 are as follows;
 1. An order for restitution of the sum of Kshs 679,727.00 to the Government of Kenya against the 1st defendant.
 2. In the alternative, an order for restitution for the sum of Kshs 679,727.00 against all the defendants jointly and severally.
 3. General damages.
 4. Costs of the suit.



5. Interest on (a) and (b) above at court rates from the date of accrual till payment in full.
6. Any other order or further relief that the court may deem fit to grant.
2. The background of the case is that the 1st defendant who is an employee of the County Government of Homabay (hereinafter referred to as ‘the government’) as a nurse since 1-10-2014 was allegedly paid the claimed sum over and above her legitimate salary in a scheme which was deliberately meant to illegally benefit her through two sets of payrolls. The other defendants are said to have enabled and facilitated the payments by processing, approving and giving instructions while they were aware that the 1st defendant was not entitled to the said payments. It is alleged that the 2nd defendant was at the time the payroll manager, the 3rd defendant acting payroll manager while the 4th defendant was a payroll officer.
3. The 1st and 2nd defendants did not enter appearance or file any defence and interlocutory judgment was entered against them on 14-11-2024. The 2nd defendant filed his defence dated 20th September 2024 while the 3rd defendant filed his dated 26th August 2024 denying liability and pleading that they were not privy to the irregular payments. The plaintiff called 4 witnesses while the 1st and 2nd defendants testified and did not call any other witnesses.

Plaintiff’s case

4. The first plaintiff’s witness was one Paul Collins Otieno who described himself as a public policy and human resources consultant. He told the court that he worked in the Homabay County Public Service Board from May 2014 to August 2022 and in September 2022 he moved to the Government as the Director Human Resource Management and Development which position, he held up to September 2024. He was then promoted to Chief Officer in ministry of Blue Economy and Fisheries where he worked until 20-01-2025. In his capacity as Director of Human Resource department, he had the responsibility of overseeing human resource functions which included payroll management, quality assurance and compliance, human resource development and capacity building, staff welfare, record management and any other duties assigned to him including disciplinary processes. He added that there was a payroll manager who reported to him whose work included onboarding of new staff, processing of payroll, requisition of payroll, file numbers and processing of statutory deductions among other roles.
5. He identified letters written to his predecessor which was calling for employment records of over fifty employees and inviting members of the staff for interviews for purposes of ongoing investigations. The government provided the requested information and records and for purposes of this case, they provided the 1st defendant’s letter of employment dated 1-10-2014 and her payslips for the months of January 2016 to January 2021. The witness produced letters dated 28-01-2021, 17-06-2021, 1-10-2014, 2-05-2024 and the 1st defendant’s said payslips as exhibits.
6. In cross-examination by the counsel for the defendants, the witness stated that he had no role to play in the letter dated 17-06-2021 which was inviting the 1st defendant for interview while he had an input in letter dated 3-05-2024. He added that he delegated the task of providing payslips to a payroll officer known as Mr. Jimmy Obel Usiku.
7. The witness stated further that, the government had two payroll systems; one was manual and the other was Integrated Payroll and Personal Data system (hereinafter referred to as ‘IPPD’). The IPPD payroll was managed by the national government while the manual one was managed locally. He explained that personnel were onboarded to the manual system first then to the IPPD one. He stated that he could not tell where the two salaries to the 1st defendant were coming from. He added that



he could only talk of the payment of salary from the county and not the other payments. He was not aware whether the 1st defendant had left the government but he was sure that she was still working with the government as at 30-05-2024 when he recorded his statement.

8. The witness stated that he did not come into contact with the 1st defendant's record when he was at the Public Service Board. He also said that before an employee was onboarded into the IPPD system, they continued receiving salaries through the manual payroll. He also confirmed that the manual payroll system was prone to manipulations and errors and the IPPD system was meant to deal with this challenge. He was not aware of how migration from the manual to the IPPD system worked as it was being done by the payroll manager and his team. He added that the preparation of payroll was on a monthly basis and was under supervision of the director of human resources who during the period in question was Charles Ouma Modi.
9. PW1 added that payments of salaries were authorized by the County Chief Finance Officer while an examiner from the treasury certified the payroll and at the time in question, the examiner was one Mr. Malinda. All these people would scrutinize the payroll before payment instructions went to the bank. He stated that during the period in question, the payroll managers were the 2nd and 3rd defendants. He added that salaries could not be paid without the signature and approval of the 2nd defendant. He added that he did not come across any incident where the 2nd defendant approved or signed the payroll. According to him, the person who bore the biggest responsibility was the payroll manager and not the Chief Officer, Finance.
10. In re-examination, he explained that it was possible to flag out double payments during the process of consolidating the manual and IPPD systems payrolls and that the Human Resource Manager and Payroll Manager had unlimited access rights to the systems. He added that cross checking of details of each employee ended at the payroll unit and Human Resource Manager was not able to go through each of the employees.
11. PW2 was Okumu Alfred Chuchu who was an employee of the government as a Senior Human Resource management officer in the department of Education, Human Capital Development and Vocational Training. He told the court that he was tasked by Charles Ouma Modi and the 3rd defendant to produce payslips of ninety employees the 1st defendant being one of them due to investigations which were being conducted by plaintiff. He produced an inventory of the documents they supplied to the plaintiff in which the name of the 1st defendant featured together with an electronic evidence certificate as exhibits 6 and 7. He stated that he did not have access rights to the IPPD system.
12. In cross-examination, the witness stated that he has never worked in the payroll section but he was tasked with the job of producing the payslips because he had special skills in information technology. He added that they only produced one payslip per month per an employee and confirmed that the basic salary was equal in all payslips and that he did not get evidence of another payslip in the course of their task. He added that he did not see any payslips from the manual payroll and that it was possible for one to be in both IPPD and manual payroll systems either through manipulation or by error.
13. PW2 added that the 3rd defendant became the payroll manager in December 2017. He also confirmed that the payments in issue arose before the 2nd defendant became the payroll manager and the said defendant took the initiative to remove the double payments. He added that the 4th defendant was in charge of the payroll up to 2017 when the 3rd defendant took over. He stated further that the person in charge of the manual payroll should be responsible for deleting the name of an employee once they are onboarded to IPPD system.



14. In re-examination, the witness clarified that, the payroll manager was the overall in charge of both manual and IPPD payrolls. He added that it would be difficulty to fail to notice persons in both systems as the figures would not tally.
15. The plaintiff's third witness was Dorothy Achieng Omollo the branch manager of Kenya Commercial Bank Homabay branch. She stated that she received an application in miscellaneous criminal application number 35 of 2021 dated 3-02-2021 and warrants in the same matter dated 4-02-2021 requesting for retrieval of copies of account opening documents and account statement for the 1st defendant's account number 115xxxxx34. She gave out the bank account statement and account opening documents as ordered which she produced as exhibits.
16. When cross-examined by counsel for the 2nd and 3rd defendants, the witness stated that the account was opened by the 1st defendant. She added that she did not come across suspicious transactions or report about the 1st defendant and that she was able to know the origin of the money by looking at the narrations in the account statement. As a bank, they do not analyze the deposits unless something suspicious came to their attention. She added that the narration of the credits comes from the person depositing. She added that she was not sure whether the 2nd defendant was a signatory to the account and that they do not interact with the paylips of the account holder.
17. She stated that the bank could not detect double payments as they were below the threshold and that the account was still being operated by the same person. She also stated that she wouldn't know the beneficiaries of the money once withdrawn.
18. In re-examination, she insisted that the bank had no powers to change instructions from the government and it would still credit even where there were multiple payments. They would only make any changes upon request by the customer.
19. PW4 was the plaintiff's investigation officer known as Augustine Mukwekwe. He told the court that, he was the team leader in respect of this matter. The team investigated allegations of fraud in the government where employees were being paid multiple salaries occasioning loss of Kshs 42,000,000.00. Their investigations established that, the payroll managers and payroll officers who had the responsibility of preparing manual and IPPD payrolls manipulated the payments schedules which were forwarded to the banks occasioning the loss. For the 1st defendant, the loss was Kshs 679,727.00.
20. He identified and produced letters dated 29-05-2015 appointing the 2nd defendant, 11-12-2017 granting leave to the 2nd defendant, 5-03-2018 sending the 2nd defendant on compulsory leave, 25-08-2017 promoting the 3rd defendant to the position of accountant and 4-03-2016 appointing the 4th defendant as a chief accountant. He claimed that these letters indicated that the defendants had the roles of extracting the details from IPPD system and submitting the data for final payment.
21. The witness added that the 2nd defendant was managing, coordinating the entire payroll function and producing and submitting the same to finance department for payment among other responsibilities. Upon their request, they obtained employment records from the government.
22. Upon receipt of the bank statements, they analyzed the same and established that between January 2016 and December 2017, the 1st defendant received multiple salaries in her bank account to the tune of Kshs 679,727.00. They picked the credits in the bank statement. The bank statement showed that every month, two payments were made to the 1st defendant and once the same was credited, it would be withdrawn through ATM and mobile phone.



23. The plaintiff invited the 1st defendant to its Kisii offices for explanation where she failed to provide an explanation why she was receiving double payments and requested to be given time to refund the money and wrote a letter to that effect dated 28-07-2021 which the witness produced as an exhibit. According to the witness, their investigations established that the 2nd, 3rd and 4th defendants manipulated the payroll and conferred benefits to the employees including the 1st defendant and recommended that the money be recovered from the 1st defendant. He produced letter dated 9-02-2023 inviting the government employees for interview and the 1st defendant's letter dated 28-07-2021 as exhibits.
24. In cross-examination, Mr. Mukwekwe stated that the payslips which are extracts from the payroll do not show any double payments. The evidence of double payments was gotten from the 1st defendant's bank account statement. He insisted that the 2nd defendant had control over the payments to the 1st defendant's account but admitted that he had not produced any documents for the payments. He also did not have documents to show that the 2nd defendant was involved in the payments.
25. He added that when the 2nd defendant was called for interview, he indicated that he was not aware of such payments. He alleged that manipulation of the payroll was done during consolidation of what he called the pavement schedule. He stated that they discovered the manipulation through schedule to the bank although the schedule was not part of what the plaintiff had produced in court. He added that the 2nd and 3rd defendants had rights of access to the IPPD system which had no issues. He added that he got the information of who was responsible for what when he interviewed the defendants and the director of the Human Resources, one Chares Ouma Modi. The said Charles was supposed to be a witness but he was not served. He was emphatic that the 1st defendant could not have had salaries arrears to justify the double payments.
26. He admitted that the period of interest was up to December 2017 and not after. He added that the 4th defendant who was in charge of the manual payroll was the one responsible for consolidation of the payrolls under supervision of the 2nd and 3rd defendants who were to review the payment schedule. He admitted that he did not have appointment letter for the 3rd defendant but he had his letter of promotion dated 25th August 2017 which was effective from 15-05-2017. He did not have a letter appointing the said defendant to the position of acting payroll manager.
27. The witness was re-examined and stated that they wrote a letter to the government asking for the payment schedule but they were not provided with one. He clarified that consolidated payroll was a product of combination of manual payroll and the IPPD one. He also stated that they did not receive employment record for the 3rd defendant. He further clarified that the 3rd defendant started acting as payroll manager in December 2017 and that he was a payroll officer between 2013 and 2017. The 2nd defendant served as payroll manager from June 2015 to December 2017 while the 4th defendant was payroll officer since 2013 to 2021.

2nd defendant's case

28. The 2nd defendant stated that he is still working for the government as a director administration in the department of Mining and Blue Economy having been absorbed from the defunct County Council of Homabay. He was deployed as a payroll manager from 1-07-2015 to November 2017 where his duties included producing payroll and submitting to finance department, providing personnel services for enrolment, budgeting for units and effecting adjustments in officers' salaries on annual increment when they became due. He added that he generated summary of payments from the IPPD system, pushed it to the audit for verification then to the finance for payment. According to him, the audit



department would detect any double payments. On his part, he was tasked to manage the IPPD payroll and he was not in charge of the manual payroll.

29. He was categorical that the IPPD system could not allow double payments and that the payslips were generated from Nairobi after they sent the data from Homabay. He added that as at the time he was employed, the 1st defendant was already enrolled into IPPD system. According to him, he came to know the 1st defendant when the issues herein came to court. He produced letters dated 29-05-2015, 19-07-2015, 4-12-2017, 11-12-2017, 5-03-2018, 21-09-2019 and 4-03-2024. He added that one of his letters elicited a training but the issues he raised were not taken care of and that he was immediately removed from that office and redeployed. He added that he was not privy to what was sent to the bank as his role ended with submission of the payroll to the audit office. He denied that he knowingly conferred benefits to the 1st defendant.
30. In cross-examination, the 2nd defendant admitted that the letter dated 29-05-2015 showed that he was coordinating and managing the payroll functions. This included verification of whether the payroll was in order. He also stated that the function of effecting changes in officers' remuneration involved changes which would come as increments, promotions, designations to higher job groups, bank loans or when one was interdicted. He denied that he had the role of deleting members from the payroll. He stated that the 4th defendant was in charge of the manual payroll working under the Human Resource department and clarified that the two payroll systems were done separately and denied that his role involved checking the correctness of the manual payroll. He also stated that the two were never consolidated at his stage and that he never gave any payment instructions to the bank.
31. On re-examination, the 2nd defendant clarified that instructions to the bank did not come from his office and that the weakness in the manual system was not something new. He added that he never saw any payslips generated from the manual payroll.

The 3rd defendant's case

32. The 3rd defendant told the court that he joined the government in 2014 with responsibilities of an accountant and was deployed to work in the payroll department as the payroll administrator with access rights to IPPD system. His work was to effect record changes in loans and statutory deductions and other roles allocated to him. He also stated that he was dealing with staff bio data as assigned by their supervisors like effecting promotions, re-designation of staff or change of job groups.
33. The 3rd defendant added that during the period in question, he was not in the position of payroll manager. His work ended at IPPD payroll and he could only process reports in IPPD system but he had no right to change the reports therein. He also stated that there was no possibility of double payments in IPPD system. He also denied that he worked under or with the manual payroll which was under the 4th defendant during the entire period he worked in the department. He stated further that he took over the responsibility of payroll manager on 15th December 2018 at which date the payroll for that month had not been prepared.
34. According to him, he was never substantively appointed to the role of the payroll manager and denied that he ever facilitated any irregular payments to the 1st defendant. He stated that he was the one who detected the double payments after taking over and stopped them and that the 1st defendant was never paid twice after December 2017.
35. In cross-examination, he stated that he detected the double payment after the two payrolls were combined when he had become the acting payroll manager. He instructed the 4th defendant to strike out the name of the 1st defendant from the manual payroll. He stated further that after the



payment schedule was uploaded, they would give approval and payments would then be done. The documents were then forwarded to the internal audit department. He confirmed that the payroll was not forwarded to Kenya Commercial Bank but there was a software they used to process salaries through the bank. This was done by himself as payroll manager, the examiner one Mr. Samuel Malinda and the Chief Officer Mr. Noah Otieno.

Analysis and determination.

36. At the close of the hearing, the parties filed their respective submissions. The plaintiff filed submissions dated 30th June 2025, the 2nd defendant filed his dated 21st July 2025 and the 3rd defendant's are dated 10th July 2025. I have carefully gone through the evidence and their submissions of the parties.

37. I have noted that interlocutory judgement was entered for the plaintiff against the 1st and the 4th defendants on 14-11-2024. This means that the pecuniary claim of Kshs 679,727.00 was to await the hearing of the other prayers especially the prayer for general damages. In *Josphat Muthuri Kinyua & 5 others v Fabiano Kamanga M'etirikia* (2021) KEHC 3531 (KLR), the Honourable Court held that;

‘The provisions of Order 10 Rule 6 providing for assessment of damages once interlocutory judgment has been entered indicates that this is the case when the only claim in the matter is for pecuniary damages. Where there is another claim in addition to that of pecuniary damages, the matter will have to be heard for a determination on that other claim as anticipated by Order 10 Rule 9.’

38. The matter was placed for formal proof, I believe because prayer (c) of the plaint had asked for general damages. Prayers (a) and (b) were for a liquidated amount and as such the plaintiff was not bound to prove its case against the said two defendants in respect of the two prayers. I however note that prayer (b) was in the alternative. Where a party places alternative prayers for court's determination, the court can only grant one and not both. In that regard, in order to settle the issues in this matter, although I am of the opinion that the drafting of the prayers was not inspiring, the court shall proceed to make determination on prayer (b).

39. I now turn to the cases against the 2nd and 3rd defendants (hereinafter collectively referred to as ‘the defendants’) in respect of all the prayers and against the 1st and 4th defendants in respect of prayers (c), (d), (e) and (f) of the plaint. I will start with the prayer for general damages.

40. The plaintiff is a constitutional and statutory body with specific mandate. Going by paragraph 1 of the plaint, the plaintiff instituted this suit pursuant to its mandate under Section 11(1)(j) of the [Ethics and Anti-Corruption Commission Act](#) which provides as follows;

In addition to the functions of the Commission under Article 252 and Chapter Six of [the Constitution](#), the Commission shall—

- (j) institute and conduct proceedings in court for purposes of the recovery or protection of public property, or for the freeze or confiscation of proceeds of corruption or related to corruption, or the payment of compensation, or other punitive and disciplinary measures including proceedings for the recovery of property or proceeds of corruption located outside Kenya.

41. In my view, where a statute gives a body specific mandate, the said body cannot operate outside the said mandate and should not be seen to pursue benefits, reliefs, remedies or orders which would be ultra vires the limits of parent statute. The plaintiff's mandate under the above stated Section is limited to recovery of specific loss to the public and has no room for general damages of whatever nature. More



so the plaintiff has not told the court what category of the general damages it is seeking and as such I agree with the submissions of the defendants that the remedy of general damages is not available to the plaintiff in this matter.

42. Having said the above, it is my considered opinion that I am left with only two issues for determination which are;
- a. Whether the 2nd and 3rd defendants were responsible for the multiple payment to the 1st defendant.
 - b. Whether the defendants are liable to reconstitute the government of the sum irregularly paid to the 1st defendant.
43. The plaintiff's claim against the 1st, 2nd and 4th defendants is based on the argument that the defendants were responsible for managing the payrolls which resulted to the multiple payments. Indeed, if it were proved that the defendants were responsible or facilitated the said payments, they would be responsible for restitution. This is because they being public officers, they are bound under Articles 232(1)(b) and 201(d) of *the Constitution* to ensure that public finances and resources are spent prudently and any negligence or reckless action or inaction on their part would render them liable for restitution of the loss arising therefrom. The question to answered here is whether the said defendants were responsible for the loss.
44. It is common ground that if there were losses through multiple payments, the same could only have resulted from the manual payroll as the IPPD systems was said to be tamperproof. The payslips were said to have been generated at national government offices and sent to the county. The plaintiff has produced only one payslip per month for the period of interest meaning that the other payments which were irregular were not through payslips and must have been paid outside the IPPD manual. The plaintiff has alleged that the irregular payments resulted from combination of the IPPD and manual payrolls which produced what the plaintiff called payments schedule.
45. There is dispute as to whether the 1st, 2nd and 3rd defendants played a role in the preparation of the schedule which is said to have been signed. I take position that the stated payments schedule was what enabled the irregular payments. The 2nd and 3rd defendants have denied having taken part in preparation of the schedule or dealing with the manual payroll.
46. The 4th defendant who has been accused of having overseen the manual payroll has not filed defence or denied the allegations and there is interlocutory judgment against him. I must therefore assume that what the plaintiff's witnesses and the 2nd and 3rd defendants have said about him managing the manual payroll is true. When a claim or allegations have been made against a party and that party chooses to go silent on the same, the court has no option but to go by what has been said. In *Samson S. Mutai & Another v African Safari Club Limited & Another* (2010) KEHC 595 (KLR), Honourable Justice M.J. Anyara Emukule held that;
- ‘In the absence of either an affidavit in opposition to the supporting affidavits of the plaintiffs, or a defence to the plaint to the plaintiffs’ claim, there are no issues of fact to be addressed by the court.’
47. The plaintiff could only prove who was responsible for the irregular payments by producing the payment schedule which was alleged to bear signatures of those who prepared and approved it. The plaintiff chose to keep the said payment schedules away from the court. The plaintiff did not show the efforts it made to procure the schedules neither did it give reason for failure to produce the same.



48. The only evidence of multiple payment was obtained from the bank statement and no one except the 1st defendant and those who gave instructions to the bank to pay the same can tell the basis on which the payments were made. The fact that the narrations in the bank statements indicated the payments as salaries does not make the 2nd and 3rd defendants liable for the narrations. There is nothing in the testimonies and evidence given by the plaintiff's witnesses that demonstrated that instructions to pay the salaries were given by the defendants in this matter.
49. The 2nd defendant was in charge of IPPD system and never interacted with the manual payroll while the 3rd defendant came in as the acting payroll manager after the payments in question had been made. There is no evidence to show that the 1st defendant received any multiple payments after the 3rd defendant became the acting payroll manager.
50. In view of the above discussion, this court is not convinced that the 2nd and 3rd defendants were liable for the multiple payments to the 1st defendant. Having found so, the second issue must be answered in the negative.
51. In conclusion, this court enters judgment as follows;
1. Kshs 679,727.00 against the 1st and 4th defendants jointly and severally.
 2. Interest on the above at court rates from the date of filing this suit until payment in full.
 3. The suit against the 2nd and 3rd defendant is dismissed with costs.
 4. The 1st and 4th defendants shall pay the costs of this suit.

DATED SIGNED AND DELIVERED AT NAIROBI THIS 7TH DAY OF NOVEMBER 2025.

B.M. MUSYOKI

JUDGE OF THE HIGH COURT.

Judgment delivered in presence of Miss Wairimu Kamau;

Mr. Achillah for the 2nd defendant; and

Mr. Kisilah for the 3rd defendant.

