



**Chairman Luanda Cotton Farmers Cooperative Limited & another v Small and Company Limited Samia Ginnery (Land Case (Originating Summons) E001 of 2024) [2025] KEELC 8043 (KLR) (20 November 2025) (Judgment)**

Neutral citation: [2025] KEELC 8043 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT BUSIA  
LAND CASE (ORIGINATING SUMMONS) E001 OF 2024  
BN OLAO, J  
NOVEMBER 20, 2025**

**BETWEEN**

**THE CHAIRMAN LUANDA COTTON FARMERS COOPERATIVE LIMITED ..... 1<sup>ST</sup> APPLICANT**

**THE SECRETARY LUANDA COTTON FARMERS COOPERATIVE LIMITED ..... 2<sup>ND</sup> APPLICANT**

**AND**

**SMALL AND COMPANY LIMITED SAMIA GINNERY ..... RESPONDENT**

**JUDGMENT**

1. The Plaintiffs filed the Originating Summons dated 28<sup>th</sup> December 2023 and amended on 3<sup>rd</sup> March 2025 seeking against the Defendant an order that it had acquired the land parcel No Samia/Luanda-Mudoma/1043 (the suit land) by way of adverse possession. The Plaintiffs sought a determination of the following issues:
  1. Whether the Plaintiffs be declared to be the absolute owners of the land parcel No Samia/Luanda-Mudoma/1043 having been in occupation thereof peacefully, continuously, notoriously and un-interrupted for 58 years since 1965.
  2. Whether the Defendant through it's Directors should be ordered to execute all documents of transfer in respect of the land parcel No Samia/Luanda-Mudoma/1043 in favour of the Plaintiff failure to which the Deputy Registrar of this Honourable Court be empowered to execute the same on behalf of the Defendant.
  3. Whether the Defendants, their agents, servants or any other persons claiming through them should be restrained permanently by an order of injunction from interfering with the Plaintiffs' entitlement on the land parcel No Samia/Luanda-Mudoma/1043.



4. Whether the County Land Registrar Busia should be empowered to transfer the land parcel No Samia/Luanda-Mudoma/1043 in favour of the Plaintiffs and particularly in the name of Luanda Farmers Cotton Co-operative Union LTD.
  5. Whether the Defendant shall be ordered to give vacant possession of any part of land they may be illegally putting to use or occupying.
  6. Whether this Honourable Court should grant such orders as it may deem fit and just to grant.
  7. Whether the costs of this Originating Summons should be awarded to the Plaintiffs.
2. The amended Originating Summons is supported by the affidavit of Vincent Egesa the Chairman Luanda Cotton Farmers Co-operative Union (the 1<sup>st</sup> Plaintiff herein). It is also sworn with the authority of the Secretary Luanda Cotton Farmers Co-operative Union (the 2<sup>nd</sup> Plaintiff). It is their case that since 1965, they have occupied the suit land operating a Cotton Ginnery thereon although the said land is registered in the name of the Defendant. That the Plaintiffs purchased the suit land from Small Company LTD in 1965 together with the machinery thereon. That the Plaintiffs have been in peaceful, quiet, notorious, continuous and un-interrupted occupation of the said land having put up structures used for the extraction of cotton wool for sale. The Defendant never made any claim over the suit land hence this suit.
  3. Annexed to the Originating Summons are the following documents:
    1. Copy of Green Card for the land parcel No Samia/Luanda-Mudoma/1043.
    2. Certificate of Registration for Luanda Cotton Farmers Co-operative Union LTD.
    3. History of Luanda Cotton Farmers Co-operative Union LTD.
    4. Minutes of Executive sub-committee meeting held on 19<sup>th</sup> June 1989.
    5. Minutes of Executive sub-committee meeting held on 27<sup>th</sup> July 1989.
    6. Minutes of Full Management Committee Meeting held on 15<sup>th</sup> June 1989.
    7. Minutes of Full Management Committee Meeting held on 2<sup>nd</sup> August 1989.
    8. Letter dated 6<sup>th</sup> October 1994 from the Ministry of Co-operative Development addressed to the Manager Co-operative Bank.
    9. Assorted photographs of buildings and Machinery.
    10. Kenya Revenue Authority PIN Certificate for Luanda Cotton Farmers Co-operative Union LTD
    11. Kenya Revenue Authority Receipt.
  4. Though served by way of advertisement in the Star Newspaper on 20<sup>th</sup> March 2025 following an order issued by this Court on 25<sup>th</sup> April 2024 after counsel had informed this Court that the Defendant had closed it's offices, no appearance was filed, no defence filed by the Defendant. The trial therefore proceeded ex-parte.
  5. The 1<sup>st</sup> Plaintiff's Chairman Vincent Egesa (PW1) was the only witness who testified on behalf of the Plaintiffs'. He adopted as his evidence the contents of his affidavit dated 6<sup>th</sup> March 2025. He also produced as part of the Plaintiffs' documentary evidence the documents listed above. At the close of the Plaintiffs' case, their counsel Mr Ashioya filed submissions.



6. I have considered the evidence on record, un-rebutted as it is, as well as the submissions by counsel.
7. It is not in dispute that the land parcel No Samia/Luanda-Mudoma/1043, which is the suit land has been registered in the name of the Defendant since 23<sup>rd</sup> May 1979. It is unlikely therefore that the Plaintiffs could have purchased it from the Defendant in 1965 as averred by Vincent Egesa. That notwithstanding, the Plaintiffs claim that they have utilized the suit land running a Cotton Ginnery without interruption is not disputed. However, for purposes of adverse possession, time could only run from 23<sup>rd</sup> May 1979 and not in 1965 because as at that time (1965) the suit land had not been registered in the name of the Defendant who were infact the first registered owners. Therefore, between 23<sup>rd</sup> May 1979 upto 28<sup>th</sup> December 2023 when this suit was originally filed before the Originating Summons was amended on 3<sup>rd</sup> March 2025, the period in which the Plaintiffs were in occupation of the suit land is 46 years (not 58 years as stated by the Plaintiff). Nonetheless, the Plaintiff's testimony about their occupation of the suit land openly, peacefully, continuously, notoriously and without interruption by the Defendant meets the threshold set out in Section 38(1) of the *Limitation of Actions Act* as well as relevant precedents including *Kasuve -v- Mwani Investment LTD & others* 2004 I KLR 184 and *Peter Mbiri Michuki -v- Samuel Mugo Michuki* 2014 eKLR among others. I am therefore satisfied that the Plaintiffs have proved their case against the Defendant to the required standard. I only need to add that the 1<sup>st</sup> and 2<sup>nd</sup> Plaintiffs are one and the same entity. There was therefore no need to approach this Court through the Chairman (1<sup>st</sup> Plaintiff) and the Secretary (2<sup>nd</sup> Plaintiff) in the same suit.
8. There shall be judgment for the 1<sup>st</sup> Plaintiff against the Defendant in the following terms:
  1. The 1<sup>st</sup> Plaintiff has acquired the land parcel No Samia/Luanda-Mudoma/1043 by way of adverse possession.
  2. The Defendant's right to the land parcel No Samia/Luanda-Mudoma/1043 has been extinguished by operation of the law.
  3. The Defendant shall within 30 days of this judgment surrender to the Land Registrar Busia the original title deed to the land parcel No Samia/Luanda-Mudoma/1043 for cancellation and for the registration of the same in the name of the 1<sup>st</sup> Plaintiff. Specifically, Luanda Cotton Farmers Co-operative Union.
  4. In default of (3) above, the Land Registrar shall proceed to cancel the title to the land parcel No Samia/Luanda-Mudoma/1043 and register the same in the name of the 1<sup>st</sup> Plaintiff. Specifically, Luanda Cotton Farmers Co-operative Union.
  5. The Deputy Registrar shall execute all the relevant documents to facilitate the registration of the land parcel No Samia/Luanda-Mudoma/1043 in the name of the 1<sup>st</sup> Plaintiff. Specifically, Luanda Cotton Farmers Co-operative Union.
  6. Thereafter, the Defendant, its agents, servants and all claiming under it shall be restrained by way of a permanent injunction from interfering with the Plaintiff's use, possession and occupation of the land parcel No Samia/Luanda-Mudoma/1043.
  7. No orders as to costs.

**BOAZ N. OLAO**

**JUDGE**

**20<sup>TH</sup> NOVEMBER 2025**



Judgment dated, signed and delivered by way of electronic mail and with notice to the Plaintiffs as the Defendant's address is unknown on this 20<sup>th</sup> day of November 2025.

Right of Appeal.

**BOAZ N. OLAO**

**JUDGE**

**20<sup>TH</sup> NOVEMBER 2025**

