

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAKURU
ELC CASE NO E031 OF 2021

KAGUMO MUNYAKA LIMITED.....PLAINTIFF

VERSUS

KAGUMO MUNYAKA COMPANY LIMITED.....1ST
DEFENDANT
FRANCIS NGARI MATHENGE.....2ND
DEFENDANT
JANESIUS MIANO KABURU.....3RD
DEFENDANT
FRANCIS H KUBUTHA KARANGI.....4TH DEFENDANT
LEONARD NGINYI KIRITU.....5TH DEFENDANT
MICHAEL MUREITHI NDEGWA.....6TH DEFENDANT
PETER MWAI NYAMU.....7TH
DEFENDANT
LUCY NYAKINYUA MAINA.....8TH DEFENDANT
JULIANA WAMUYU MUITA.....9TH
DEFENDANT
MARGARET WANJIRU NGINYI.....10TH DEFENDANT
LAND REGISTRAR, NAKURU.....11TH DEFENDANT

JUDGMENT

1. By a Complaint dated 30th March, 2021 which was subsequently amended on 16th February, 2022, the Plaintiff herein sued the defendants jointly and severally seeking the following orders:

a) General damages.

b) An order directing titles acquired by the Defendants Cancellation of the titles registered fraudulently and irregularly in respect of land L.R No's 6741, 6742, and 6743 be and are hereby cancelled by the 11th Defendant. (sic)

- c) A declaration that the Plaintiff is the rightful owner or proprietor of the original land L.R No's 6741, 6742 and 6743.*
- d) An Order directing the land L.R No's 6741, 6742 and 6743 be reverted to and all subsequent titles as a result of the subdivision be cancelled.*
- e) An Order directing that the Original titles and/or documents used in the Subdivision and Registration of the new titles by the Defendants, be returned to KagumoMunyaka Limited, the Plaintiff.*
- f) Costs of this suit plus interest thereon.*
- g) Any further relief as this Honourable Court deems fit to grant.*

PLAINTIFF'S CASE

2. PW1, Francis Mweita Muya, adopted his witness statement dated 1st November 2022 as part of his evidence in chief and testified that the Plaintiff company was founded on 30th October, 1967 and was registered in 1969. He stated that he knows the 2nd to 10th Defendants and that the mother of 2nd defendant was a member of the plaintiff, likewise to the father of the 3rd defendant. It was his evidence that he knows neither the 4th nor the 6th and 7th Defendants while the 5th Defendant is not a member.
3. PW1 testified that he is no longer a director as he ceased being one in 1983, and that the current Directors are Mr. Migwi, and Peter Gakara, Chairman and Secretary respectively. It was his testimony that Mr.

Migwi oversaw the subdivision of the land but they have not yet gotten titles, though they have their parcels. He also stated that Kagumo has 560 people who are all entitled to get titles but the land was given to only 436 people.

4. Upon cross-examination by Ms. Wangeci, PW1 stated that they have claimed fraud in this suit as he has the documents that were used to register the company in 1969, which bought and subdivided the land. He also testified that the 4th Defendant is not a member but the mothers of the 2nd and 3rd Defendants were members. PW1 stated that he does not know that a complaint was filed at EACC.
5. PW1 further stated that he never went to Ardhi House with others and he does not have evidence that there were 520 members, and that the National Land Commission was told that there were 436 plots. PW1 informed the court that they added new members from 196 and that the defendants' parents joined the company in 1967 to 1985. According to PW1, the company that acquired the land was formed from 1969 and not 2018.
6. Upon cross-examination by Ms. Wanjeri, PW1 stated that they sued the Land Registrar for issuing 436 parcels and yet the members were 560 in number. It was his evidence that the Secretary wrote the list and Mr. Migwi brought a Surveyor, hence the Land Registrar was not at fault if he merely acted on the given numbers of 436 people.

7. Upon re-examination by Ms. Ondande, PW1 testified that Jenesius Maino was not a member of the plaintiff and did not know that the company opened in 2018, and that the parents of some defendants joined the plaintiff in 1967. PW1 testified that 560 people are in possession of the subdivided land, whereby some have no titles, as 436 titles were issued instead of 560 titles.
8. PW2, Joseph Migwi Kabugi, told the court that he is the Chairman and a Director of Kagumo Munyaka Company Limited, which was registered in 1969 with initial membership of 436. PW2 testified that they bought parcels Nos. LR 6741, 6742 and 6743, from a white settler and that the three parcels were separate but neighboring one another. PW2 stated that in 1975 they had an Annual General Meeting, where the members agreed to increase the membership, and 124 people were recruited making a total of 560.
9. According to PW2, they did not subdivide the land then as in 1984, a dispute arose and during an AGM the old director was removed and replaced with John Gichohi, who wanted all the 124 people chased away from the company as they were not members although they were already in the register. It was his testimony that they sued the company in 1996, and in 1997, the court ordered the subdivision of the land among 560 not 436. Further that in 2001, three judges sat and ordered that the land should be subdivided among 560 persons in accordance with their shares.

10. PW2 further relied on the decree dated 10th September 2007, and testified that in 2012, the court reiterated the same order, and gave the company 45 days to share out the land, whereby they got a surveyor who subdivided the land among 560 persons. PW2 produced the list of documents dated 16th February, 2022, and supplementary list dated 16th January, 2023, as PExh.1– 25. Further that the members’ register made by their predecessors in 1984 has 560 members which he produced in court.
11. Additionally, PW2 told the court that they agreed that since people had settled, nobody’s house should be affected by the subdivision. Further that they pursued the titles at Ardhi House but did not succeed even after giving them the documents for the parcels of land as some people had hidden them. It was his evidence that they reported the matter to the Police and were issued with a police abstract (PExh.2). PW2 further testified that they returned to Ardhi House and informed them that the title was missing.
12. PW2 further testified that they were informed to advertise the loss of title in the Nation Newspaper (PExh.3), and in 2020, the other group got titles, of which they got a copy of one title from a member and used it to sue (PExh.24 – title for plot No. 371). PW2 testified that the directors were not involved in that subdivision, and that the 1st defendant slightly changed the name as they just added the name “company.”
13. According to PW2, the people who registered the new company in 2018, were the children of the original members but are not members, whom

he identified as Francis Kabutha Karangi (4th defendant) who was in court. Further that the company search indicates that it was registered on 26th October 2018. PW2 testified that they joined the company as 1st defendant for issuing titles to some members and leaving others out, and that they reported the issue to the Company Registrar who deregistered the company and a notice was placed in the Kenya Gazette vide Gazette Notice No. 10406 (PEXh.13). PW2 testified that his name is listed in the CR.12, among the directors.

14. PW2 was referred to PEXh.11, Gazette Notice No. 1835 of 20/6/1969, and stated that it indicates that the Plaintiff is a public company, and further the defendants went and paid the Survey fees and subdivided the land into portions of 1.2Ha. He therefore urged the court to cancel the titles issued and all members be given their titles as the Land Registrar issued titles without ascertaining the number of members. PW2 told the court that the Defendants fraudulently took people's money pretending to give them land.
15. It was PW2's evidence that Godfrey Murithi Daniel was the plaintiff in HCCC 675 of 1993 and that they took an order to the Commissioner of Lands who never took any action. Further, the members elected him in 2017. PW2 was shown a letter dated 16th April, 1996 and testified that they were not in office then and never appealed. Further, the buyer replaces those members who sell their shares in the company register.
16. According to PW2, they had a written agreement with the surveyor for demarcation of the land and they reported to the DO, DC's and OCPD's

offices, as he was mandated by the court order to commission a survey within 45 days but did not have the mutation form. PW2 stated that the titles issued at the defendants' behest were done secretly.

17. Upon cross-examination by Ms. Wanjeri, PW2 stated that the 124 people were added as the company needed to pay its debts, but did not produce the minutes. PW2 was shown the judgment on page 62 of plaintiffs' bundle in HCCC No. 561/1996 and stated that there was another Chairman in 2001, and that they called a surveyor within 45 days of the judgment but he was not in office then. PW2 confirmed that they do not have any complaint against the Land Registrar.
18. Upon re-examination by Ms. Ondande, PW2 testified that his brother had him registered and had produced a members' register. PW2 testified that he has never seen any area list since assuming office, and that there are 15,100 acres. Further that he has never seen any mutation but the list of members was there during Judge Rimita's judgment. PW2 testified that the Judge agreed that there were 560 members and does not know why the previous directors never implemented the order.

DEFENDANTS' CASE

19. DW1, Francis Ngari Mathenge adopted his witness statement dated 5th November 2021, and his evidence in chief, together with the list of documents dated 28th January, 2023, which he produced as DExh. No.1 to 29, and testified that he was member and Director of the Defendant company. DW1 testified that the company was incorporated in 1969 (C2469) as Kagumo Munyaka Company Ltd, and is not aware of the

plaintiff company Kagumo Munyaka Ltd. It was DW1, evidence that they bought 1500 acres from a white man known as Gordon and May and that they were 420 members and some are in court.

20. DW1 testified that they started the subdivision of the plots in 1996, 1997, and 1998 into 436 shares and balloted, of which they got 300 acres and left public utilities for schools, water dams and, planting trees. DW1 testified that they went to a Land Control Board and got a consent but there were people who got into their land and the court ruled that they be given the land. He further stated that they reported the matter to the Minister of Lands in Nairobi and the Anti-Corruption Commission. Further that they paid for the titles, which were issued, to them. It was his evidence that it is not true that they have colluded with the Land Registrar to give land to other people.
21. According to DW1, the titles that were issued by the Land Registrar have not been declared invalid, and urged the court to dismiss the Plaintiff's suit with costs as it is not a member of the original company registered in 1969.
22. Upon cross-examination by Ms. Ondande, DW1 stated that he has the authority to act for the 1st Defendant but his name is not in the Articles of Association and he has been a chairman since 2014. It was DW1's testimony that he does not have minutes showing that he was appointed chairman, and that there was a case ELC No. 217 of 2012 where the court told them to go and negotiate. He stated that he did not produce the certificate of incorporation, further that they subdivided 449 plots and he

is not aware of the 560 members. DW1 stated that they got on the land in 1972 and each member had 3 acres.

23. DW1 further stated that the other directors were Francis Karangi, Ignatius Miano, Lenard Nginyi, Margaret Wanjiru, Juliana Wamuyu, Michael Ndegua and Peter Nyamu, who are defendants in this case. It was his evidence that they had a title when they carried out the subdivision. He stated that he has been a member since 1968, but was made a director in 2009, when they signed the members register. DW1 stated that Francis Ngari is a member and does not know when he became a member. DW1 stated that each person was entitled to one share but some had two shares and that surveyors came to subdivide the land but the land had already been subdivided by the time the judgment was delivered.
24. Upon cross-examination by Ms. Wanjeri, DW1 stated that they surrendered the mother title to the lands office, the whole land was subdivided and 449 titles were issued. DW1 further stated that they finished issuing the titles and gave the Land Registrar a map and a members' register for purposes of issuance of titles which were as per the members' register.
25. Upon re-examination by Ms. Wangechi, DW1 testified that they got a letter from the Commissioner of Lands to the Land Registrar which was pursuant to an order of the court that the land be subdivided and the members given their titles. DW1 testified that there was no other order from the court to the Commissioner of Lands.

26. DW2, Jane Gitari, a Land Registrar Nakuru County, testified that she has been a land Registrar since 2015. It was her testimony that she has not been able to trace the cards and parcel file for Subukia/Wei Block 1 Kagumo Munyaka 1 to 49. DW2 testified that the title deeds were printed from the National titling center and signed there which means that they were given without having been opened at the Nakuru registry.
27. DW2 further testified that there is an area list, which is usually forwarded to the National titling center, and they can verify from the area list. DW2 testified that she did not have the information about the title, which she had just seen in court and she would have to check the area list.
28. Upon cross-examination by Ms. Wangechi, DW2 stated that she cannot explain why the parcel file and the green card have not been opened. DW2 further stated that politicians usually push for titles to be issued before the opening of the cards. DW2 stated that when titles are issued in a hurry that is what happens. DW2 stated that she would not know whether the titles 1 to 449 have been challenged.

PLAINTIFF'S SUBMISSIONS

29. Ms. Ondande, counsel for the Plaintiff filed submissions dated 6th August, 2025 and identified the following issues for determination:
 - a) *Whether the Plaintiff, Kagumo Muiyaka Limited (C.24/69 registered in 1969), is the lawful and original proprietor of land parcels L.R Nos 6741, 6742 and 6743?*

- b) Whether the High Court judgment in Nakuru HCCC No 560 of 1996 is valid, binding and enforceable against the Defendants?***
- c) Whether the Defendants by incorporating a similarly named company in 2018 and processing titles for only 420 members, acted in contravention of the judgment in Nakuru HCCC No 560 of 1996?***
- d) Whether the Defendants fraudulently or irregularly processed title deeds in respect of LR Nos 6741, 6742 and 6743 contrary to the Plaintiff's proprietary and administrative rights?***
- e) Whether the Plaintiff has made out a case for cancellation of the titles issued by the 11th Defendant and reversion of land parcels L.R Nos 6741, 6742 and 6743 to the Plaintiff?***
- f) Whether the Plaintiff is entitled to the injunctive orders sought to restrain further subdivision, demarcation, sale, transfer and issuance of title documents by the Defendants?***

30. Counsel relied on Section 26 (1) of the Land Registration Act and submitted that the Plaintiff is the registered proprietor of the suit parcels of land. Counsel further submitted that the 2nd Defendant (the Chairman of the 1st Defendant) was aware of the judgment in Nakuru HCCC No 560 of 1996 but chose to contravene the court's orders and went ahead and issued titles to 420 members instead of 560 members leaving 140 members without any documentation yet these people are settled and living in the suit parcels of land.

31. Counsel relied on Section 80 of the Land Registration Act and urged the court to order the 11th Defendant to cancel the subtitles fraudulently and illegally issued and that the land L.R No 6741-6743 be reverted to. Counsel also relied on the cases of Gichinga **Kibutha vs Caroline Nduku (2018) eKLR**, **Alberta Mae vs Attorney General (2006) eKLR** and **Esther Ndegi Njiru & another vs Leonard Gatei (2004) eKLR**.

1ST - 10TH DEFENDANTS' SUBMISSIONS

32. Ms. Wangechi, counsel for the 1st -10th Defendants filed submissions dated 22nd October, 2025, and submitted that the title deeds issued from the office of the Chief Land Registrar were collected from the County Land Registrar's office at Nakuru, and no complaints have been lodged against the validity of the said titles.
33. Counsel submitted that, noting that Kagumo Munyaka Company Limited has never been the registered proprietors of the suit land, the 436 specific registered proprietors of the resultant titles have not been sued and/or joined in this suit and cancellation of their titles without according them an opportunity to be heard will be contrary to the rules of natural justice. Counsel relied on Section 26 (1) of the Land Registration Act and asked the court to dismiss the Plaintiff's suit, as it has not proved its case on a balance of probabilities.

ANALYSIS AND DETERMINATION

34. This is a case where two companies are claiming to be the legitimate ones in respect of the suit parcels of land. The two companies claim to

have been land-buying companies incorporated to buy and subdivide land and distribute to their members. Surprisingly, the two companies were purportedly incorporated in different years namely 1969 and 2018, respectively with almost similar names.

35. The issues for determination are as follows:

- a) Whether the Plaintiff, Kagumo Muyaka Limited (C.24/69 registered in 1969), is the lawful and original proprietor of land parcels L.R Nos 6741, 6742 and 6743, who between the Plaintiff and the 1st Defendant is the genuine legitimate company in respect of the suit parcels of land.*
- b) Whether the Defendants by incorporating a similarly named company in 2018 and processing titles for only 420 members, acted in contravention of the judgment in Nakuru HCCC No 560 of 1996?*
- c) Whether the Defendants fraudulently or irregularly processed title deeds in respect of LR Nos 6741, 6742 and 6743 contrary to the Plaintiff's proprietary and administrative rights?*
- d) Whether the Plaintiff has made out a case for cancellation of the titles issued by the 11th Defendant and reversion of land parcels L.R Nos 6741, 6742 and 6743 to the Plaintiff?*

36. The Plaintiff comprehensively captured the issues for determination that arise from the evidence on record. It is on record that the Plaintiff Company was registered in 1969, as can be seen from the Articles of Association dated 2nd May 1969. It is further on record that the purpose of the registration of the company was to buy and sell land to the members, which they did by purchasing the suit land from a white settler.
37. The Plaintiff’s counsel wrote a letter dated 31st March 2021 to the Registrar of Companies titled **“Re: Fraudulent double registration of Company Kagumo Munyaka Company Limited Reg. No. PVT-JZU5A6K. Kagumo Munyaka Company Limited CR 12 C24/69”** complaining about the double registration of a company with a similar name.
38. The Registrar of Companies wrote a letter dated 28th June 2021, in response to the Plaintiff’s counsel’s concerns to the proprietors of Kagumo Munyaka Company Limited P.O. BOX 45 -20109 NAIROBI, **titled Change of Name: Kagumo Munyaka Company Limited (PVT-JZU5A6K) The letter read as follows:**
- “The above refers,**
- We have noted that this office registered a limited liability company bearing the name KAGUMO MUNYAKA CO. LIMITED (C 24/69) on May 21 1969 which was before you sought registration for your business Name on October 26 2018.**

The allocation of the name KAGUMO MUNYAKA COMPANY LIMITED (PVT- JZU5A6K) to you was therefore inadvertent and the same is no longer tenable within the meaning of Section 58 (1) of the Companies Act, 2015 of the Laws of Kenya. In this particular case, the Registrar hereby extends the time period within which this directive is issued pursuant to section 58(2) of the Act.

We therefore call upon you to change the name of your company within thirty (30) days from the date hereof, failure to which we shall invoke the provisions of Section 58(5) (6) and (7) pursuant to the Companies (Amendment) Act, No. 28 of 2017, and strike off the said registration in our register.

Yours Faithfully,

HIRAM GACHUGU

FOR REGISTRA OF COMPANIES

CC: The Directors

KAGUMO MUNYAKA CO, LIMITED (C. 24/69)

P.O BOX 18403

NAIROBI.

39. This registration of a similar name raised a red flag, why would a company register a similar name and purpose in respect of the same parcel of land in the same locality. This indicates that the people who registered this company wanted to confuse the public to disguise that they are the legitimate company that had the mandate to subdivide and issue titles to the members. The Registrar of Companies flagged the issue after the Plaintiff's counsel raised it.

40. The 1st Defendant did not act on the letter by the Registrar of Companies 28th June 2021, asking them to change their name within 30 days, failure to which the same would be struck out from the register.

41. Additionally, Wanjala Registrars wrote a letter to the Registrar of Companies dated 5th November 2020, complaining, that the 1st Defendant, KAGUMO MUNYAKA COMPANY LTD NO. PVT/JZU5ASK (private) used his name as their Company Secretary at the time of registration knowing that he was registered as the Company Secretary for the old KAGUMO MUNYAKA COMPANY LIMITED NO. 24/69. This also shows that the 1st Defendant was not acting in good faith in the registration of the duplicate company. What did they want to hide or why did they register a company with a similar name using Mr. Wanjala's name as their Company Secretary without his consent or knowledge? All these points, point to the fact that the Plaintiff having been registered in 1969 is the legitimate company. The 1st Defendant registered a phony company to deceive the public, hence any activity undertaken in their name was fraudulent.

42. Similarly, it should be noted that the Plaintiff company is a public company registered on 21st May 1969, (C. 24/69) and the 1st Defendant is a private Company registered on 26th October 2018, (PVT-JZU5A6K)

43. Having found that the Plaintiff was the legitimate registered Kagumo Munya Limited in 1969, the next issue for determination is whether the plaintiff is the lawful and original proprietor of land parcels L.R Nos. 6741, 6742 and 6743. It is not disputed that the Plaintiff purchased the suit parcels of land for distribution to its members. It is also not disputed that the members are already settled on their respective portions. What is in dispute is that, the 1st defendant issued titles to 436 members leaving out the additional 124 members who had been added pursuant to the 1975 resolution at the AGM of which the 1st Defendant had a dispute with the increased membership.
44. The issue of the additional membership was subject to a court case vide Nakuru HCCC No 561 of 1996 which declared that the company had 560 members and not 436 members who were to be allocated and settled on the suit parcels of land. The court rendered a judgment which declared that the membership of the Plaintiff was 560 members and that subdivision was to be done within 45 days. The 1st Defendant went ahead and subdivided the suit parcels and issued 420 titles in contravention of the court judgment that there were 560 members. This is the cause of the disagreement.
45. The Plaintiff stated that its officials proceeded with the survey but were unable to complete the processing of titles as the previous director lost the mother title. The Plaintiff blamed the 1st Defendant for fraudulently registering a similar company in 2018, to defraud members. It was the Plaintiff's case that some members were allocated 2 acres from the

parcels of land LR. Nos. 6741, 6742 and 6743 whereas the expected share was 1.2 acres per shareholder.

46. What was the 1st Defendant's intention in registering a similar company to the already existing one that was registered in 1969? Why did the 1st Defendant use the name Wanjala Registrars as their company secretary to register the company in 2018 without his knowledge of consent? These were in furtherance of fraudulent activities.
47. The plaintiff pleaded the particulars of fraud, which included registration of a similar name to fraudulently transfer and register the suit lands, procuring subdivision without authority.
48. **'Fraud'** has been defined in **Blacks Law Dictionary** as:

"Fraud consists of some deceitful practice or wilful device, resorted to with intent to deprive another of his right, or in some manner to cause him an injury."

49. Further, **Black's Law Dictionary Ninth Edition at Page 731** also defines **'fraud'** as:

"A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment."

50. Having found that the 1st Defendant registered the company in 2018, with a similar name to the Plaintiff's in furtherance of fraudulent activities of subdividing and issuing titles of the suit parcels of land without the knowledge or authority of the Plaintiff, it follows that the resultant subdivisions and titles procured were a nullity. The Plaintiff has proved that it is the lawful owner of the suit parcels of land which belong to 560 members who are entitled to titles.
51. Courts have held that allegations of fraud are serious allegations, which must be pleaded and proved. In the case of **Vijay Morjaria vs Nansign Madhisign Darbar & Another (2000) eKLR**, the court held that:
- “It is well established that fraud must be specifically pleaded and that particulars of the fraud alleged must be stated on the face of the pleading. The acts alleged to be fraudulent must, of course, be set out, and then it should be stated that these acts were done fraudulently. It is also settled law that fraudulent conduct must be distinctly alleged and distinctly proved, and it is not allowable to leave fraud to be inferred from facts.”*
52. Similarly, it is trite that the registration of a person and the certificate of title held by such a person as a proprietor of a property is conclusive proof that such person is the owner of the property. However, the holding of such title is not absolute as the same may be impeached under certain circumstances.

53. Section 26 (1) of the Land Registration Act, which provides:

“The certificate of title issued by the Registrar upon registration, or to a purchaser of land upon a transfer or transmission by the proprietor shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner, subject to the encumbrances, easements, restrictions and conditions contained or endorsed in the certificate, and the title of that proprietor shall not be subject to challenge, except—

(a) On the ground of fraud or misrepresentation to which the person is proved to be a party; or

(b) Where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.

54. The 1st - 10th Defendants denied any association with KAGUMO MUNYAKA COMPANY LIMITED registered on 26th October, 2018, and stated that their company membership (the 1st Defendant) has 420 members with some members having more than one share making a total of 436 shares. It is the 1st -10th Defendant’s case that the judgment relied on by the Plaintiff contradicts Nairobi Misc Civil Case No 615 of 1989 KAGUMO MUNYAKA COMPANY LIMITED, VS HON. AG & 2 OTHERS where the court held that the members be allocated their respective portions of land, the surveyor to conduct subdivision and the Land Registrar to issue Title Deeds. The 1st-10th Defendants further stated that the surveyor entered into the land between 1996 and 1998, and subdivided the land into appropriate portions.

55. The issue of the membership of the company was decided in Nakuru Civil Suit No 560 of 1996, where the court declared that the members were 560 and not 436 as the 1st Defendant would want the court to believe.
56. The Court further finds that the subdivision done and titles issued by the 1st Defendant fall under the category of titles that must be impeached. The infeasibility of title under Sections 24, 25, and 26 of the Land Registration Act, does not protect the Defendants as the court holds that there was fraud and misrepresentation of facts.
57. See the case of **Alice Chemutai Too V Nickson Kipkurui Korir & 2 Others [2015] eKLR**, where the Court held that:
- “It will be seen from the above that title is protected, but the protection is removed and title can be impeached, if it is procured through fraud or misrepresentation, to which the person is proved to be a party; or where it is procured illegally, unprocedurally, or through a corrupt scheme I do not see how a person with a perfectly good title should be deprived of his title by activities of fraudsters. It is in fact time to put down our feet and affirm that no fraudster, nor any beneficiary of fraudulent activities, stands to gain for his fraud, and no title holder will ever be deprived of his good title by the tricks of con artists.”*
58. The Court is empowered under Section 80 of the Land Registration Act to rectify or cancel titles. It provides as follows:

80. (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 who is in possession and had acquired the land, lease or charge for valuable consideration, 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.”

59. I have considered the pleadings, the evidence on record, the submissions by counsel and the relevant authorities and find that the Plaintiff has proved its case against the Defendants. The 1st Defendant together with its officials subdivided the suit parcels among 436 members as opposed to 560 members. It should be noted that the 560 members are in occupation of their parcels of land, which they should be issued with titles according to their shareholding. I find that the Plaintiff is entitled to the orders sought, and therefore issue the following specific orders:

a) An order is hereby issued directing the 11th Defendant to cancel the titles acquired by the Defendants irregularly in respect of land L.R Nos. 6741, 6742, and 6743.

b) An order is hereby issued directing that the Original titles and/or documents used in the Subdivision and Registration of the new titles by the Defendants in respect of land L.R Nos. 6741, 6742, and 6743 be returned to Kagumo Munyaka

Limited incorporated on 2nd May, 1969 for subdivision to the 560 members.

c) Costs of this suit plus interest thereon are awarded to the Plaintiff against the 1st-10th Defendants.

DATED, SIGNED AND DELIVERED AT NAKURU THIS 25TH DAY OF NOVEMBER 2025.

**M. A. ODENY
JUDGE**