



**Chebosi (Suing as administrator of the Estate of John Chebosi Kilwake) v Kilwake
(Sued as administrator of the Estate of Julius Kimingichi Kilwake) (Land Case
E004 of 2023) [2025] KEELC 18335 (KLR) (15 December 2025) (Ruling)**

Neutral citation: [2025] KEELC 18335 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT BUNGOMA
LAND CASE E004 OF 2023
EC CHERONO, J
DECEMBER 15, 2025**

BETWEEN

**PATRICK KIMINGICHI CHEBOSI (SUING AS ADMINISTRATOR OF THE
ESTATE OF JOHN CHEBOSI KILWAKE) PLAINTIFF**

AND

**MAURICE KIMINGICH KILWAKE (SUED AS ADMINISTRATOR OF THE
ESTATE OF JULIUS KIMINGICHI KILWAKE) DEFENDANT**

RULING

1. The Defendant, Maurice Kimingichi Kilwake who is also the Applicant in the current application dated 18th September 2025 is seeking the following orders;
 1. That the Plaintiff's Advocates, the Firm of M/S Risper Arunga & Advocates recuse themselves from this matter on account of interest
 2. That the cost of this application be provided for.
2. The application is based on grounds that the Firm of M/S Risper Arunga & Co. Advocates are conflicted as they acted for one Julius Kimingichi Kilwake (Deceased) whose estate the Defendant/Applicant is the administrator.
3. The Defendant/Applicant in his supporting affidavit deposed that the Firm of Risper Arunga & Co. Advocates previously acted for the said Julius Kimingichi Kilwake (deceased) in Kitale Civil Suit NO. 155 of 2007. He annexed copies of the Notice of Motion application, supporting affidavit and Notice of Change of Advocates as 'MKK-1, 2(a), (b), (c), (d) & (e) respectively.
4. In conclusion, the Defendant/Applicant stated that it would be in the interest of justice that the application be allowed as prayed.



5. Despite service of the said application and court documents as indicated in the affidavit of service on record, no replying affidavit or grounds of opposition was filed by the Respondent in opposition thereto. When this matter came up for hearing on 30/10/2025 and after confirming that Counsel for the Plaintiff/Respondent had been duly served, this Court directed that the application shall proceed ex-parte.
6. I have considered the application under review, the grounds on the face thereof, the supporting affidavit and annexures thereto. It is trite law that an advocate cannot act for and against a client in a suit or in subsequent suits where he could utilize the information that he acquired in the course of his work as an advocate to the detriment of that client. In *Uhuru Highway Development Limited-v-central Bank Of Kenya* (2002) 2 E.A at page 661, the Court of Appeal held that an advocate would not be allowed to act against a client where he could consciously or unconsciously or even inadvertently use the confidential information acquired when he acted for such a client to his detriment.
7. The court further stated that where it was established that such a client would suffer prejudice, then the court would have no alternative but to order that such an advocate ceases to act for the opposite party.
8. The Applicant in this case has stated on oath that the Firm of Risper Arunga & Co. Advocates previously acted for Julius Kimingich Kilwake (deceased) in Kitale Civil Case NO. 155 of 2007. Copies of Notice of change of Advocates, a Notice of Motion, supporting affidavit and annexures thereto were annexed to the supporting affidavit. Those averments given on oath have not been controverted.

Conclusion And Disposition.

9. The upshot of my finding is that the Notice of Motion application dated 18/09/2025 is merited and the same is hereby allowed as prayed. Consequently, the Firm of M/S Risper Arunga & Co. Advocates are hereby recused from acting for the Plaintiff Patrick Kimingichi Kilwake in respect of the suit property. The costs of the application shall be costs in the cause.
10. It is so ordered.

READ, DELIVERED AND SIGNED AT BUNGOMA THIS 15TH DAY OF DECEMBER, 2025

HON. E.C CHERONO

ELC JUDGE

In the presence of;

M/S Kulecho H/B for Mr. Nyamu for the Applicant.

Respondent/Advocate-absent.

Bett C/A.

