



REPUBLIC OF KENYA



**Ngigi v Njeri & 2 others (Environment and Land Case 206 of 2017)
[2025] KEELC 8580 (KLR) (8 December 2025) (Judgment)**

Neutral citation: [2025] KEELC 8580 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT ELDORET
ENVIRONMENT AND LAND CASE 206 OF 2017
EM WASHE, J
DECEMBER 8, 2025**

BETWEEN

EUNICE NGIGI PLAINTIFF

AND

DAMARIS NJERI 1ST DEFENDANT

COUNTY LAND REGISTRAR, UASIN GISHU 2ND DEFENDANT

THE ATTORNEY GENERAL 3RD DEFENDANT

JUDGMENT

1. The Plaintiff herein filed an Amended Plaintiff dated 29.11.2021 (hereinafter referred to as “the present suit”) seeking the following Orders against the 1st to 3rd Defendants; -
 - a. An Order compelling the 1st Defendant to surrender the head title or
 - b. In the alternative, an Order directing the Land Registrar to advertise the head title as lost.
 - c. An Order that the Land Registrar do excise of 3/8 of an Acre on LR.No. Pioneer/Langas Malel Farm Block4/137 and register it accordingly in the name of the Plaintiff.
 - d. In the alternative, an Order of declaration and vesting Order that the Plaintiff has henceforth acquired title by way of adverse possession to LR.No. Pioneer/Langas Malel Farm Block1/37 since 1998 and being in occupation for over a period of 12 years.
 - e. As Order of Specific performance by way of transfer by the 1st Defendant of 3/8 of an acre LR.No. Pioneer/Langas Malel Farm Block1/37.
 - f. An Order that the Land Registrar do issue the Plaintiff with a Certificate of Lease accordingly or in compliance with registration requirements at law.



- g. Costs of the suit.
 - h. Any other relief that the Honourable Court may deem fit to grant.
2. The facts in support of the prayers above can be summarised as follows; -
- i. The Plaintiff pleaded that she purchased a quarter of an acre on the property known as LR.No. Pioneer/Langas Malel Farm Block1/37 (hereinafter referred to as “the suit property”) from one Milka Wangare Kuria through an Agreement For Sale dated 24.04.1998.
 - ii. According to the Plaintiff, the Vendor Milka Wangare Kuria passed away and the entire property known as LR.No. Pioneer/Langas Malel Farm Block1/37 was transmitted to the 1st Defendant as the Administrator of the Estate.
 - iii. However, on the 06.10.2007, the Plaintiff did prepare and execute an Addendum to the Agreement For Sale dated 24.04.1998 with the 1st Defendant as the Administrator of the Estate of Milka Wangare Kuria thereby increasing the portion of land acquired to 3/8 of an Acre.
 - iv. Unfortunately, upon paying all the statutory charges to facilitate the preparation of the completion documents, the 1st Defendant has failed, refused and/or neglected to avail the mother title of LR.No. Pioneer/Langas Malel Farm Block1/37 to facilitate the sub-division of the same and the Plaintiff to get registered as the lawful owner of the 3/8 of an acre portion within the said mother property.
 - v. In the alternative, the Plaintiff sought for a declaration that she was entitled to a portion of 3/8 acres on the property known as LR.No. Pioneer/Langas Malel Farm Block1/37 based on adverse possession due to the period of over 12 years upon which she had been in occupation.
 - vi. The Plaintiff therefore sought this Court to grant the Orders to facilitate the completion of the transaction and issuance of the title of the suit property in the Plaintiff name.
3. The present suit was duly served on the 1st to 3rd Defendants herein who all did enter appearances.
4. The 1st Defendant did oppose the present suit by filing a Statement of Defence dated 19.07.2017.
5. The 1st Defendant did plead the following facts in opposition to the present suit; -
- i. The 1st Defendant began with denying the allegation that there was an Agreement For Sale between the late Milka Wangare Kuria and the Plaintiff over a portion measuring one Quarter of an Acre on the property known as LR.No. Pioneer/Langas Malel Farm Block1/37 and put the Plaintiff to strict proof thereof.
 - ii. The 1st Defendant further denied the allegation that the property known as LR.No. Pioneer/Langas Malel Farm Block1/37 was transmitted to be her name by way of succession.
 - iii. The 1st Defendant stated that Plaintiff herein was a complete stranger to her and that she did not enter into any Addendum dated 06.10.2007 that increased the portion of land from a Quarter of an Acre to 3/8 of an Acre as alleged.
 - iv. Consequently, the 1st Defendant denied the allegations that the Plaintiff was the one paying for the rates, rent and over statutory charges that relate to the property known as LR.No. Pioneer/Langas Malel Farm Block1/37.
 - v. In conclusion, the 1st Defendant sought this Court to dismiss the present suit with costs.



6. The 2nd and 3rd Defendant also filed their Statement of Defence dated 02.03.2022 in which they pleaded as follows;-
 - i. The 2nd and 3rd Defendants did deny the allegations contained in the present suit and put the Plaintiff to strict proof thereof.
 - ii. According to the 2nd and 3rd Defendants, the present suit was in fact fatally defective, incompetent and bad in law hence ought to be dismissed.
7. The Plaintiff herein did not file any Reply to either the 1st Defendant's Defence and/or the 2nd and 3rd Defendants Defence.

Plaintiff's Testimony & Documentary Evidence

8. The first witness was the Plaintiff who was marked as PW 1.
9. The Plaintiff did inform the Court that she is a resident of Kamukunji within Uasin Gishu County.
10. The Plaintiff sought to rely upon her witness statement dated 15.05.2017 of which she adopted as her evidence in chief.
11. In support of her evidence in chief, the Plaintiff produced the following documents; -
 - PW 1 EXHIBIT 1- A Copy of an Agreement For Sale dated 24.04.1998 between the Plaintiff and the 1st Defendant's brother known as Charles Karuga Kuria and Joel Werehia Kuria for a ¼ acre of Malel Farm (Plot . No..25) which was an Acre.
 - PW 1 EXHIBIT 2 A copy of an Acknowledgement dated 14.04.1998 by Charles Karuga Kuria and Joel Werehia Kuria for a sum of KShs.72,000/- from the Plaintiff.
 - PW 1 EXHIBIT 3 Agreement For Sale dated 06.10.2007 between 1st Plaintiff and the Plaintiff over a portion of 3/8 of an Acre on LR.No. Pioneer/Langas Malel Farm Block1/37.
 - PW 1 EXHIBIT 4- A Copy of the proceedings of a dispute between the Plaintiff and the 1st Defendant before the Chief Pioneer Location and the Resolution.
 - PW 1 EXHIBIT 5- A Copy of the demand letter dated 04.04.2017 from the Plaintiff's lawyer to the 1st Defendant.
 - PW 1 EXHIBIT 6- Copy of the 1st Defendant's title dated 21.06.2001.
 - PW 1 EXHIBIT 7- Copy of an Official Search to the suit property dated 04.10.2023.
12. Upon production of the documents hereinabove, the Plaintiff sought the Court to grant the prayers in the Plaintiff.
13. On cross-examination by the 2nd and 3rd Defendants, the Plaintiff stated that she had sued the 2nd Defendant because it was the office that had issued the title deed.
14. The Plaintiff did reiterate that the 1st Defendant was a successor in title from Milka Wangare Kuria.
15. The Plaintiff testified that in the original Agreement, she was purchasing a portion of land within the property known as Plot . No..25 Malel Farm.
16. The Plaintiff confirmed that no Consent to transfer was ever obtained for the portion of land she had bought.
17. The Plaintiff did inform the Court that the 1st Defendant was a sister to Joel Werehia Kuria.



18. The Plaintiff insisted that there was a second Agreement which was in the form of an Addendum that was done with the 1st Defendant after the title deed was issued.
19. On being referred to PW 1 EXHIBIT 3, the Plaintiff stated that the property known as Plot . No..25 Malel Farm was given LR.NO.Pioneer/Langas Block 1/37 after it was registered.
20. The Plaintiff indicated that the person known as Joel Werehia Kuria had since passed away.
21. The Plaintiff did testify that in the portion of land she had purchased, there was a rental house which was occupying 3/8 of an acre.
22. The Plaintiff stated that she had made numerous attempts to get the completion documents from the 1st Defendant but had not been successful.
23. On re-examination, the Plaintiff did reiterate that Plot . No..25 Malel Farm was what was registered as LR.No. Pioneer/Langas Malel Farm Block1/37.
24. The Plaintiff confirmed that when the Addendum was being executed, the title to the property known as LR.No. Pioneer/Langas Malel Farm Block1/37 had already been issued.
25. The Plaintiff insisted that she had been in occupation of the suit property since the year 1998 but it was the 1st Defendant that had declined to process the title.
26. On being referred to PW 1 EXHIBIT 5, the Plaintiff indicated that this was a letter to the 1st Defendant requesting to be given the completion documents but she did not comply.
27. At the end of this re-examination, the Plaintiff was discharged from the witness box and the Plaintiff's case was closed thereafter.

Defence Testimony & Documentary Evidence

28. The 1st Defendant despite being served with the hearing notice did not attend Court on the material date and no reason was offered for the absence.
29. Consequently, the 1st Defendant's case was closed thereafter.
30. The 2nd and 3rd Defendants on the other hand despite being present informed the Court that they did not intend to call any witness and therefore duly closed their cases.
31. The Court directed that parties do file and exchange their final submissions.
32. The Plaintiff in compliance to the above directions filed their submissions dated 08.07.2025.
33. The Court indeed has gone through the pleadings herein, the testimony of the witness and the submissions and identifies the issues for determination as follows; -
 - Issue No.1- Was There A Binding & Lawful Contract Between The Plaintiff And The Late Milka Wangare Kuria For A Quarter Of Acre Of Lr.no. Pioneer/langas Malel Farm Block1/37?
 - Issue No.2- Was There A Binding & Lawful Addendum And Or Agreement For Sale For A Portion Of 3/8 Of Acre Between The Plaintiff And The 1st Defendant?
 - Issue No.3- Is The Plaintiff Entitled To An Order Of Transfer Of The Portion Measuring 3/8 Acres Within The Property Known As Lr.no. Pioneer/langas Malel Farm Block1/37?
 - Issue No.4- Is The Plaintiff Entitled To A Claim Of Adverse Possession Against The 1st Defendant?
 - Issue No.5- Who Bears The Costs Of The Present Suit?



34. The Court having identified the above-mentioned issues for determination, the same will now be discussed below.

Issue No.1- Was There A Binding & Lawful Contract Between The Plaintiff And The Late Milka Wangare Kuria For A Quarter Of Acre Of Lr.no. Pioneer/langas Malel Farm Block1/37?

35. The first issue for determination is whether the Plaintiff herein has a binding Agreement For Sale of the portion measuring a Quarter of an Acre on the property known as LR.NO.Pioneer/Langas Block 1/37.

36. The Plaintiff in an effort to answer this question produced an Agreement For Sale dated 24.04.1998 between Charles Karuga Kuria and Joel Werehie Kuria on one hand and the Plaintiff on the over hand.

37. The property on sale was a Quarter of an Acre portion on land on Plot . No..25 measuring One Acre within the property known as Malel Farm.

38. According to the Plaintiff, the property known as Plot . No..25 within Malel Farm is now registered as LR.NO.Pioneer/Langas Block 1/37.

39. A perusal of the Agreement For Sale dated 24.04.1998 identifies the property known as Plot . No..25 within Malel Farm to be owned by Milka Wangare Kuria who had since rested.

40. The Agreement For Sale described the Vendors are “intended administrators” of the Estate of Milka Wangare Kuria.

41. In other words, the Vendors in the Agreement For Sale dated 24.04.1998 were not the administrators of the Estate of Milka Wangare Kuria.

42. The question then that arises is whether they had the powers, authority and/or mandate to alienate the any portion of the property known as Plot . No..25 within Malel Farm.

43. The answer to this question is to the negative.

44. As acknowledged in the Agreement For Sale dated 24.04.1998, the property known as Plot . No..25 within Malel Farm was the asset of the late Milka Wangare Kuria who had since died.

45. Consequently, any dealing with the said asset of the late Milka Wangare Kuria before the confirmation of the succession proceedings would require the consent of the Court.

46. From the face of the Agreement For Sale dated 24.04.1998, the Vendors were dealing with the Estate of the late Milka Wangare Kuria even before the Succession had been undertaken and the assets of the Estate confirmed thereof.

47. Based on this fact, this Court is of the considered view that the Vendors in the Agreement For Sale dated 24.04.1998 lacked capacity and/or legal rights within the property known as Plot . No..25 within Malel Farm to create any legal and binding Agreement with the Plaintiff over the said property or a portion of the same.

Issue No.2-was There A Binding & Lawful Addendum And Or Any Agreement For Sale For A Portion Of 3/8 Of Acre Between The Plaintiff And The 1st Defendant?

48. The second issue is whether there is a binding Agreement For Sale between the Plaintiff and the 1st Defendant.



49. The Plaintiff in answering the above issue produced an Agreement For Sale dated 06.10.2007 with the 1st Defendant.
50. The Agreement For Sale related to a portion of 3/8 Acres on the property known as LR.NO.Pioneer/Langas Block 1/37.
51. The 1st Defendant is alleged to have accepted to excise and transfer a portion of 3/8 acres within the property known as LR.NO.Pioneer/Langas Block 1/37 upon receipt of Kenya Shillings Nineteen Thousand Seven Hundred and Forty (KShs 19,740/-) which amount was acknowledged through execution of the said Agreement.
52. The Agreement dated 06.10.2007 stated that the 1st Defendant undertakes to execute all the forms and documents that would facilitate the transfer of the 3/8 of Acre portion of land to the Plaintiff.
53. The 1st Defendant in his Statement of Defence denied the existence of the Agreement dated 06.10.2007.
54. The 1st Defendant after filing the Defence did not put in any witness statement and/or attend Court to challenge the Agreement dated 06.10.2007.
55. To begin with, the property which was being transacted in the Agreement dated 06.10.2007 was LR.NO.Pioneer/Langas Block 1/37.
56. According to the Certificate of Lease, the property known as LR.NO.Pioneer/Langas Block 1/37 was registered in the name of the 1st Defendant on the 21.06.2001.
57. Consequently therefore, at the time the 1st Defendant was executing the Agreement dated 06.10.2007 with the Plaintiff, she was the lawful registered owner capable to enter into the said Agreement.
58. The Agreement for Sale dated 06.10.2007 has been executed by both the Plaintiff and the 1st Defendant and this Court has no basis to doubt that the same is legitimate.
59. As such, this Court hereby makes a finding that the Agreement dated 06.10.2007 between the Plaintiff and the 1st Defendant is binding and lawful.

Issue No.3- Is The Plaintiff Entitled To An Order Of Transfer Of The Portion Measuring 3/8 Acres Within The Property Known As Lr.no. Pioneer/langas Malel Farm Block1/37?

60. The third issue is whether or not the Plaintiff herein is entitled to an Order of transfer against the 1st Defendant.
61. According to the finding in Issue No. 2 hereinabove, it is clear that one of the terms in the Agreement dated 06.10.2007 is an undertaking to execute and provide all the relevant documents that would enable the Plaintiff transfer the portion measuring 3/8 of an Acre from the 1st Defendant.
62. The Agreement dated 06.10.2007 confirms that the consideration which the Plaintiff was to pay was duly received and acknowledged by the 1st Defendant.
63. The 1st Defendant having received the said consideration is now under a duty to ensure that all the completion documents that would facilitate the transfer of the portion purchased by the Plaintiff are available.
64. Unfortunately, this clearly did not happen and despite a number of efforts by the Plaintiff, the 1st Defendant is not co-operating to ensure the transaction is complete.



65. As such, this Court has no other option but to enforce the terms of the Agreement dated 06.10.2007.

Issue No.4-IsThe Plaintiff Entitled To A Claim Of Adverse Possession Against The 1st Defendant?

66. The fourth issue was whether the Plaintiff is entitled to a claim of adverse possession.

67. The Claim for adverse possession was in the alternative to the claim of outright purchase.

68. However, the Court is satisfied that the Plaintiff herein has a valid Agreement dated 06.10.2007 that is capable of being enforced.

69. It is therefore not necessary to delve into this alternative prayer as the main cause of action has been found to be merited.

Issue No.5- Who Bears The Costs Of The Present Suit?

70. The Plaintiff having been successfully in prosecuting the present suit, the 1st Defendant is condemned to pay costs.

Conclusion

71. In conclusion, this Court hereby makes the following Orders in determination of the present suit; -

- A. The Plaintiff Herein Is The Legitimate And Lawful Owner Of A Portion Of Land Measuring 3/8 Of An Acre On The Property Known As Lr.no.Pioneer/Langas Block 1/37 Registered In The Name Of The 1st Defendant.
- B. The 1st Defendant Be And Is Hereby Directed And/or Ordered To Undertake The Sub-division Of The 3/8 Of An Acre On The Property Known As Lr.no.Pioneer/Langas Block 1/37 And Register The Said Mutation Within A Period Of 60 Days From The Date Of This Judgement.
- C. Upon The Sub-division And Registration Of The Mutation Relating To The Property Known As Lr.no.Pioneer/Langas Block 1/37, The 1st Defendant Be And Is Hereby Directed To Prepare, Execute And Avail All The Transfer Documents Of The Portion Measuring 3/8 Of An Acre Created Thereof Within 60 Days Thereof.
- D. In The Event The 1st Defendant Shall Fail To Comply With Order No. B & C Hereinabove, The Plaintiff Shall Be At Liberty To Procure A Licensed Surveyor To Undertake The Sub-division Of The Property Known As Lr.no.Pioneer/Langas Block1/37 At Her Own Costs And The Deputy Registrar Of The Environment & Land Court Is Directed To Execute All The Relevant Documents To Faciliate The Sub-division And Transfer Of The Portion Measuring 3/8 Of Acre Within The Said Property To The Plaintiff Herein.
- E. The 1st Defendant Is Condemned To Pay The Costs Of This Suit.

DATED, SIGNED & DELIVERED VIRTUALLY AT ELDORET ELC THIS 8TH DAY OF DECEMBER 2025.

EMMANUEL.M. WASHE

JUDGE

In The Presence Of:

Court Assistant: Brian



Plaintiff Counsel: Ms. Otuma holding brief Mr. Angu

Defendant Counsel: Mr. Mutai for 2nd and 3rd Defendants

N/A For 1st Defendant

