



he was introduced by a land Agent known as Mwangi to Charles Chebii who wanted to sell his land at Naka and later went to the Council to ascertain the ownership.

3. PW1 further testified that while at the council, he established that the land belonged to Charles Chebii, but he was told that there was a directive that any Naka land matters could only be dealt with later. He also stated that they went to the Land Registrar with Charles Chebii and the Chairman Mr. Chelaite, and two other members of the Nakuru Housing Development Co. Ltd, where Mr. Chebii was asked to produce the land documents, namely, a ballot paper labelled No. 30, a letter without a heading, a letter of allocation dated 18<sup>th</sup> March 1989, a certificate of ordinary shares serial number 215 from Nakuru Housing Development Co. Ltd with one (1) share equivalent to Kshs. 6,500/=, a lease dated 27<sup>th</sup> February, for Nakuru/Municipality Block 23/304, and a title.
4. PW1 testified that he surrendered the title to the Land Office when he went to get the title and that his ID Card No. was 0340059, bearing a serial No. 204839675, and PIN No. A0033697105Z. He also stated that he conducted a search which revealed that the land belonged to Chebii, but he does not have a current search of the suit land.
5. According to PW1, he went to Simiyu Advocate's office together with Mr. Mwangi (the agent) and Chebii, and entered into a sale agreement dated 3<sup>rd</sup> January 2010, for the suit land at a consideration of Kshs. 800,000/=. He further stated that they agreed to reserve Kshs. 200,000/= for payment of land rates and other outgoings of which he paid Kshs. 149,911/= to clear the land rates, Kshs. 3000/ for rates clearance fees and Kshs. 7,000/= for transfer fees.

6. PW1 told the court that after clearing the full consideration, Mr. Chebii signed the transfer of lease form in his favour, together with his photograph before his Advocate. Further, that Mr. Chebii wrote a letter dated 1<sup>st</sup> March 2011 seeking consent to transfer which property was eventually transferred to him. PW1 stated that he has a copy of the title deed but he misplaced the original which fact he discovered in 2016.
  
7. PW1 produced a bundle of documents as follows: Certificate of lease Charles Changwony Chebii, copy of identity card of Charles Chebii, copy of PIN KRA of Charles Chebii, Rates clearance certificate dated 28<sup>th</sup> February, 2011, Clearance certificate request dated 28<sup>th</sup> February, 2011, Transfer of lease, Bundle of receipts, Plot transfer 7000/=, Rates for 149,911/=, Clearance certificate 3000/= , Application for consent dated 1<sup>st</sup> March, 2011, Letter of allotment, Lease certificate, copy of share certificate, and Ballot paper as Plaintiff's exhibits Nos. 1 to 12. He also produced the sale agreement, an acknowledgement dated 1<sup>st</sup> October 2010 and the receipt issued by Aggrey J. Simiyu Advocate for Kshs. 200,000/=, an acknowledgment dated 3<sup>rd</sup> November, 2010 and one dated 26<sup>th</sup> November, 2010 as PExh. Nos. 13 to 16 respectively.
  
8. It was PW1's evidence that he lost the title deed to the suit land and reported the same at Nakuru Police Station vide OB number 44/7/2/2017, and got an affidavit to confirm the loss on 24<sup>th</sup> February, 2017. He also stated that he advertised the loss vide Nation Media daily newspaper dated 20<sup>th</sup> February, 2017 but was never issued with another title even after advertisement through the Ministry of Lands.

9. PW1 testified that when he conducted a search, it indicated that the land belongs to Martha Kabon Chebii on 17<sup>th</sup> March, 2017, which prompted him to come to court as he was not aware that the land had been registered in her name. PW1 further testified by 9<sup>th</sup> February, 2013, the purported date when she got her certificate of lease, he had already obtained his title which was issued on 27<sup>th</sup> December, 2012, which he produced a copy of the certificate of lease as PExh.17. He further produced a Police abstract form and receipt as PExh.17(a) (b), Affidavit of 24<sup>th</sup> February, 2017 as PExh.18, Newspaper advert PExh.19 and a search dated 15<sup>th</sup> March, 2017 as – PExh.20.
10. PW1 testified that after registration as owner, he continued paying the rates up to 2016, when the court ordered that the status quo be maintained. He produced a bundle of rate payment receipts as PExh.21 (a), (b), (c) and (d). PW1 further testified that he was summoned by DCIO Nakuru, in 2013 who informed him that someone had made a complaint that he was constructing on his land. He later found out that it was a son of the owner, who was a DCIO at Dagoretti by then. He further stated that he told his wife to conduct a search on 10<sup>th</sup> September, 2013, which showed that the plot was still his, which he produced as PExh.22 (a) and (b).
11. It was his evidence that he went to the DCIO with Charles Chebii and produced the documents in respect of the suit land, but the complainant only produced a script from the Registrar of Persons. PW1 stated that he was allowed to proceed with the construction of a perimeter wall of which he had obtained approval from the County Council vide a letter dated 7<sup>th</sup> March, 2011, and produced as PExh.23, Plan as PExh.24, Inspection fee receipt as PExh.25(a) and Verification fee receipt PExh.25(b).

12. PW1 finally stated that the 1<sup>st</sup> defendant acquired his title fraudulently as the land was earlier registered in his name and that he was not aware of the alleged Succession Cause and urged the court to nullify the illegal title deed and issue him with a title plus costs of the suit.
13. Upon cross-examination by Mr. Komett, PW1 stated that he conducted a search before he purchased the land, but did not produce the same. It was his evidence that they went with Mr. Chebii together with Mwangi the Land Agent but he has not seen him for many years. It was his evidence that the purchase price was Kshs. 800,000/= of which he paid Kshs. 650,000/= cash and the rest was deducted to pay the outgoings.
14. According to PW1, the matter is still pending before the DCI and that he was never approached by Chebii's son and by 2013, Martha Kabon had not obtained the title. Further that the measurement is 0.1257Ha and that the sizes in the two searches are different and does not know the reason why. It was his evidence that he had the original documents of Charles Chebii, which belong to him. Further that by 2013, the green card was reading his name so he never sued.
15. Upon re-examination by Mr. Mwangi, PW1 testified that he produced a search dated 10<sup>th</sup> September, 2013 confirming that he is the owner of the suit land. Further that he paid Kshs. 430,000/= because the broker was to be paid Kshs. 20,000/= and had paid Kshs. 650,000/= in cash. He also stated that the two acknowledgments confirm the payments and that he paid cash at the County Council in respect of rates on behalf of Chebii which receipts he produced in court.

## **1<sup>ST</sup> DEFENDANT'S CASE**

16. DW1, Henry Chebii, a retired DCI Officer from Baringo County, adopted his witness statement dated 24<sup>th</sup> January, 2018, as part of his evidence in chief and produced a list of documents dated 23<sup>rd</sup> January, 2019, as Dexh No. 1 to 9 and another list of documents dated 19<sup>th</sup> October, 2021 as Dexh No. 10 to 13.
  
17. DW1 testified that the late Martha Kabon Chebii, was his mother who passed away on 5<sup>th</sup> September, 2022, and that Charles Changwony Chebii, is his late father who died on 16<sup>th</sup> July, 2008. DW1 further testified that he is aware of the suit plot, which belonged to his father since 1994, and the current owner is his late mother Martha Kabon Chebii. It was his evidence that they filed a Succession Cause No. 473 of 2008, in respect of his late father's estate and were issued with a confirmed grant on 12<sup>th</sup> October, 2009. Further, that the suit property was transmitted to Martha Kabon Chebii and that was issued with a title deed on 26<sup>th</sup> February, 2013.
  
18. It was DW1's testimony that his mother has the original certificate of lease and that his late father never sold the land to the Plaintiff who claims to have bought the suit land. DW1 testified that his father had passed on by the time the Plaintiff claims to have bought the suit land.
  
19. DW1 further testified that neither the purported Identity Card (ID) No. 6340059 in the agreement nor the signature belongs to his father, as his father's ID card No. was 0340059, as per the identification report from the National Registration Bureau. Further, that the purported acknowledgments dated 26<sup>th</sup> November, 2010, and 3<sup>rd</sup> November, 2010, were after the demise of his father and that his father's P.O Box number was 236 Eldama Ravine and not 36 as indicated. DW1 also indicated that the photograph in the transfer

form does not belong to his father and that the form was neither dated, registered nor stamped.

20. DW1 further referred the court to PExhb No. 8 which is a consent application dated 1<sup>st</sup> March, 2011, and testified that Charles Chebii, had passed on and the property had been transmitted to Martha Kabon Chebii. DW1 referred the court to PExhb No. 17(a), which is a certificate of lease dated 27<sup>th</sup> December, 2012, issued to Jamlick Muiruri Ngaare of P.O Box 1107 Embu – Nakuru Municipality Block 23/304 with an acreage 0.0817 Hectares, but the actual acreage of the property is 0.1257 hectares hence does not correspond to the suit property.
21. It was DW1's evidence that there is a discrepancy in the opening of the register on 16<sup>th</sup> July, 1997, and that in the green card, the register was opened on 9<sup>th</sup> February, 1994, and that the particulars of the green card do not match. Further that the Plaintiff indicated that the certificate of lease was issued on 27<sup>th</sup> December, 2012, but there is no entry of the plaintiff's name in the green card. DW1 referred the court to Dex No. 9, a green card and testified that entry No. 4 and 5 – dated 13<sup>th</sup> February, 2013, is restriction entry No. 3 above removed vide succession cause No. 493 of 2008, entry No. 5 dated 13<sup>th</sup> February, 2013 is in respect of Martha Kabon Chebii (ID 137088 and Henry Kibet Chebii (ID 0603294) in Succession Cause No. 473 of 2008 R.L 19. Further that there is no evidence that this property was ever registered in the name of Jamlick Muriuki Ngaare.
22. On the issue of his father's date of birth, DW1 stated that his father was born in 1933 and not 1950 as indicated, and that he was born in 1960 therefore it is

not possible for his father to have been born in 1950. The other discrepancy is that the ID with the 1950 as the date of birth indicated that his father was born in Kericho, while the correct one of 1933, indicates that he was born in Baringo.

23. Upon cross-examination by Mr. Mwangi, DW1 stated that the property is in the Naka area Nakuru, and he is not aware that Nakuru Housing Development Co. Ltd. owned them. DW1 stated that he is aware that it allocated the plots to shareholders and his father's identity card number is 0340059, which is different from ID No. 00340059 in the identification report. DW1 stated that he has neither his father's share certificate, ballot paper nor a certificate of lease. DW1 was shown PExhb No. 9 which is an allocation letter dated 18<sup>th</sup> March, 1989 issued to Charles Changwony Chebii Identity Card No. 0340059 and stated that the identity card is different but confirmed that the allocation is in respect of plot No. LR. No. 304/2 at Section 58.
  
24. DW1 was referred to PExhb No. 11, a Certificate of ordinary shares issued to Charles Changwony Chebii, for one share from Nakuru Housing and Development Company Ltd signed and sealed, but stated that he does not have such a document. Further, counsel referred DW1 to PExhb No. 12 a ballot paper bearing No. 30 with a stamp, PExhb. No.1 a certificate of lease in the name of Charles Changwony Chebii – Identity card No. 0340059, PExhb. No. 2, the ID Card No. 0340059 and PExhb No. 6 - transfers – with ID No. 0340059 and the PIN No. 6 A00336971052, transfer attested by Aggrey Simiyu Advocate and the photograph of the purchaser. He confirmed that the search certificate shows that the land belongs to Jamlick Muriuki Ngaare. He further stated that a certificate was issued in 2013, to Martha Kabon Chebii's, but he has never paid rates. He was referred to rate payment receipts paid by Jamlick Muriuki Ngaare, to Pex No. 4 – rates clearance certificate from

Charles Changwony Chebii to Jamlick Muriuki Ngaare, Pex. No. 23, an approval of the erection of a boundary wall by Jamlick Muriuki Ngaare, payment done by the plaintiff plus an attached approved plan and that he has never taken possession of the suit property

25. Upon re-examination by Mr. Maina, DW1 testified that by the time of the demise of Charles Changwony Chebii, the land had already been registered in his name. He testified that the identity card report was in respect of a replacement of the ID on 28<sup>th</sup> January, 2002 and cannot explain the extra 0 in the report. DW1 testified that the advocate who attested to the transfer was not called as a witness in this matter.
26. DW2, Paul Agutu, a Deputy Director Registration Services at the National Registration Bureau, testified that he has worked at the Registration Bureau for thirty-four years as a Registration Officer, and he is familiar with registration and issuance of identity cards.
27. DW2 testified that from the documents supplied to him, he did a search in their database with a view to ascertaining the genuine identity card and stated that the search for the Identity card number 00340059 produced records of one Charles Changwony Chebii, whose date of birth is 1933, and particulars are Home District – Baringo Central, Division – Kabarnet, Constituency – Baringo Central, Location – Talai, Sub-location – Sogon, Parents: Father – Chebii Cherogony and Mother – Tarkok Chebii.
28. DW2 further testified that he also did a search for the Identity card number. 0340059 and established that the identity card belongs to the same Charles Changwony Chebii with all the details as listed above. DW2 testified that the

details that are contained in the photocopy of the identity card being serial No. 204839675 and the identity card number. 0340059 did not contain the same details as shown in the photocopy. DW2 testified that from that, he was able to establish that the correct identity card number is the one he stated that belonged to Charles Changwony Chebii, who was born in 1933. DW2 went on to testify that the serial No. 204839675 has a different name and it belongs to one Deborah Amuguni with a different identity number 11447838 hence from the records the identity card with serial No. 204839675 is not genuine. DW2 testified that the details that appear in the identification report belong to Charles Changwony Chebii.

29. Upon cross-examination by Mr. Mwangi, DW2 stated that Willy Maina & Co. Advocates requested the identification report and that the identification report is dated 15<sup>th</sup> October, 2020. He confirmed that an Officer did the search from their department and that the report has an official stamp but there is no signature. DW2 stated that the card number is 205784003, the application No. is 2057846034 and the type of application is type two replacement, which means the individual has acquired a second-generation identity card after the old generation identity card. DW2 stated that they had the identity card that was handwritten, laminated and when there was a change over, people were issued with the smaller identity cards that they currently hold and the changeover was known as replacement.
30. DW2 stated that the loss of an identity card is not a circumstance under which an Identity card can be replaced and that he does not have any evidence in court that Charles Chebii applied for a new generation identity card. Further that the previous card number 0340059 before replacement and is not different as there are only two additional zeros. He also stated that the previous identity

card numbers had a different set of serial numbers, which were not captured during the rollover to the second-generation Identity card numbers.

31. DW2 further stated that he does not keep photocopies of identity cards and the name in the identity card is Charles Changwony Chebii issued on 4<sup>th</sup> June, 2008, the date of birth is indicated as 1950, district – Kericho, Division – Buret, location – Echoket, sub-location – Yaganet, ID No.0340059 and serial No. 204839675. DW2 stated that he does not have the report for the serial number.
32. Upon re-examination by Mr. Maina, DW2 testified that the explanation for the difference in the two zeros is that when the system was automated, it was configured to issue eight digits for the identity card numbers. He testified that for individuals whose identity card numbers were not eight digits, they added zeros before their numbers. It was DW2's testimony that they checked on their system even though he did not print it, he ascertained that the serial number does not belong to Charles Chebii's identity card and that the particulars in the report have not changed to date.

### **PLAINTIFF'S SUBMISSIONS**

33. Counsel for the Plaintiff filed submissions dated 30<sup>th</sup> October, 2025, and identified the following issues for determination:
  - a) Whether the plaintiff lawfully acquired the parcel of land known as Nakuru/Municipality Block 23/304?*
  - b) Whether the plaintiff is entitled to the relief sought?*
  - c) Whether the 1<sup>st</sup> defendant has proved that the identification card number 0340059 of serial number 204839675 of*

*Charles Changwonyi Chebii relied on by the plaintiff is false?*

*d) Whether the registration of the 1<sup>st</sup> Defendant as proprietor was fraudulent and unlawful?*

34. On the first issue, counsel submitted that the Plaintiff has demonstrated through credible documentary evidence that he lawfully acquired the property known as Nakuru/ Municipality Block 23/304 from Charles Changwony Chebii who was lawfully allotted the property by Nakuru Housing Development Company Limited and relied on the case of **Munyu Maina vs Hiram Gathiha Maina [2013] eKLR**.
35. On the second issue, counsel submitted that the Plaintiff has proved his case on a balance of probabilities, hence, is entitled to the prayers sought. On the third issue, counsel submitted that the alleged identification reports for identity card number 0340059 and serial number 204839675, were never produced before the court and that the 1<sup>st</sup> Defendant failed to discharge the burden of proof to demonstrate that the identification card number 0340059, serial number 204839675 relied upon by the Plaintiff is false.
36. On the fourth issue, counsel submitted that the registration of the late Martha Kabon Chebii as the proprietor of Nakuru/Municipality Block 23/304 remains unproven rendering the said registration irregular and unlawful and urged the court to grant the prayers sought in the amended plaint dated 6<sup>th</sup> August, 2024 together with costs and interest.

### **1<sup>ST</sup> DEFENDANT'S SUBMISSIONS**

37. Counsel for the 1<sup>st</sup> Defendant filed submissions dated 11<sup>th</sup> November, 2025, and identified the issue for determination as whether the Plaintiff is the rightful owner of the suit property. It was counsel's submission that the purported certificate of lease held by the Plaintiff is fraudulent, as the evidence tendered has been vitiated by the defendant's evidence. Counsel reiterated DW1 & 2's evidence, which he submitted that the same proved that the Plaintiff's claim could not succeed as the process of acquisition of the title was, flawed which goes to the root of the title.
38. Counsel submitted that the Plaintiff's title should be revoked in favor of the Defendant and the dependents of the estate of the Late Martha Kabon and relied on Section 107 of the Evidence Act, Section 26 of the Land Registration Act and the cases of **Palace Investments Ltd vs Geoffrey Kariuki Mwenda and Another NRB CA Civil Appeal No 127 of 2007 [2007] eKLR**, **Nemesions Ngechu Mwai vs Julius Njaramba Igungu [2010] KEHC 1977 (KLR)**, **Joseph Arap Ng'ok vs Justice Moiwo Ole Keiwua [1997] eKLR**, **Republic vs City Council of Nairobi & 3 others (2014) eKLR**, **Alice Chemutai Too vs Nickson Kipkurui Korir & 2 others [2015] eKLR**, **Joseph Oduor Anode vs Kenya Red Cross Society [2012] eKLR**, and urged the court to dismiss the Plaintiff's suit with costs.

### **ANALYSIS AND DETERMINATION**

39. The issues for determination are:
- a) Whether the plaintiff lawfully acquired the parcel of land known as Nakuru/Municipality Block 23/304?*
  - b) Whether the plaintiff is entitled to the reliefs sought?*

40. The Plaintiff and the Defendant's cases together with the evidence and documents produced have been elaborately stated above and the court will not reproduce the same save for the salient issues that will determine whether the plaintiff lawfully/legally acquired the parcel of land known as Nakuru/Municipality Block 23/304.

41. It was the Plaintiff's case that he entered into a sale agreement in 2010, and was subsequently issued with the Certificate of Lease in December 2012. The Plaintiff contends that he lost the said title and when he went to apply for another one, he conducted an official search, and discovered that the same had been registered in the 1<sup>st</sup> Defendant's name and a title was subsequently issued. The Plaintiff alleged that the Defendants had fraudulently caused the title to be issued in their names and listed the particulars of fraud on the part of the 1<sup>st</sup> Defendant as follows:

- a) Causing the Land Registrar to issue a title deed in respect of the land parcel Nakuru Municipality Block 23/304 while knowing very well that the same belonged to someone else.*
- b) Purporting to be the owner of the property whereas the same had been registered to the plaintiff herein.*
- c) Illegally taking a title deed from the Land Registrar with the full knowledge that the Land parcel was not his.*

42. The Plaintiff further listed the particulars of fraud on the part of 2<sup>nd</sup> Defendant as follows:

- a) Accepting misrepresentations and issuing a title document in respect of Land which has already been registered in the names of the plaintiff.*
- b) Fraudulent and illegally issuing a title document without any justifiable cause.*

*c) Failing to undertake due diligence in work which is ever required in such office.*

*d) Issuing two title deeds for the same parcel of land.*

43. The Plaintiff told the court that he was looking for land to purchase in 2010, and was later introduced by a Land Agent called Mwangi to Charles Chebii Changwony who was selling land at Naka with whom they later entered into an agreement which was attested to by Simiyu Advocate. The 1<sup>st</sup> Defendant gave evidence that his father Charles Chebii Changwony passed away in 2008, therefore could not have entered into a sale agreement with the Plaintiff.
44. This case has many red flags and discrepancies, which the court must highlight to enable it, decide whether the Plaintiff acquired the suit land lawfully and procedurally. The first issue is that the deceased Charles Chebii Changwony died on 16<sup>th</sup> July 2008, as exhibited by the death certificate, the letters of Administration and the Certificate of Confirmation of Grant. The Plaintiff did not controvert this information to show that he entered into an agreement for sale of land with the real Charles Chebii Changwony or an imposter. We should also note that the Plaintiff was introduced by a land Agent called Mwangi to the said Charles Chebii Changwony. Was he introduced to a person who impersonated the real Charles Chebii Changwony?
45. The second red flag is the date of birth of the purported Charles Chebii Changwony, the Identity Card which the Plaintiff used for the transaction indicated that he was born in 1950, in Kericho, while the genuine ID together with DW1's testimony confirmed that he was born in 1933, in Baringo District. DW1 stated that he was born in 1960; therefore, his father could not have been born in 1950. No evidence was brought forth to dispute this fact.

DW2 also clarified that the genuine ID for Charles Chebii Changwony as per their records in their database is ID No 00340059 whose date of birth is 1933, whose particulars are as follows: Home District: Baringo Central, Division: Kabarnet, Constituency: Baringo Central, Location: Talai, Sub-location: Sogon, Father: Chebii Cherogony, Mother: Tarkok Chebii.

46. DW2 also stated that the details that are contained in the photocopy of ID No 0340059 bearing serial No. 204839675 did not contain the same details as per the photocopy which belongs to Deborah Amuguni with a different ID No.11447838, hence, the ID with serial No. 204839675 is not genuine.
47. The other issue of concern with discrepancies is the size and acreage of the suit property. A single property cannot have different sizes without explanation whether the same has undergone subdivisions or was unsurveyed and subsequently surveyed with supporting documentation like mutations. The Certificate of Lease issued to Charles Chebii Changwony on 17<sup>th</sup> February 1994 indicates that the size as 0.1257 Hectares, the sale agreement also shows the same, the Search Certificate dated 15<sup>th</sup> March 2017, shows the acreage as 0.1257 hectares in the name of Martha Kabon, however the Certificate of Lease issued to the Plaintiff on 27<sup>th</sup> December 2012 indicates the acreage as 0.0817 Hectares, and the search certificate dated 10<sup>th</sup> September 2013, indicates the acreage as 0.0911 Hectares in the name of Jamleck Muriuki Ngare which differs from what is in the Certificate of Lease. The title has been reported lost and vide a Gazette Notice No. 16331, the Land Registrar advertised the loss and the acreage was 0.1257 Hectares. There has been no explanation for the discrepancy in acreage, which should have been done to clear the air on the same.

48. The other issue is that there is no entry in the green card indicating that the Plaintiff was registered as an owner and if there is such an entry it was done irregularly as Charles Chebii Changwony died in 2008, and the register was opened on 9<sup>th</sup> February 1994, certificate of Lease issued on 17<sup>th</sup> February 1994, entries Nos. 1 & 2, entry No. 3 was the notification that the owner was deceased, death Certificate No. 140837 of 4<sup>th</sup> August 2008, entry No. 4 restriction on death removed vide Succession Cause No 473 of 2008, entry No. 5 transmission to the Administrators of the estate of the Deceased and entry No. 6 & 7 registration and certificate of lease issued to Martha Kabon in 2013.
49. The other issues were the photographs used in the transaction, which purportedly belonged to Charles Chebii, the signature, and the address were not authenticated. The 1<sup>st</sup> Defendant told the court that the photo, signature and the address did not belong to his father. The Plaintiff also did not call the Advocate who drew the agreement and attested to the transfer form to give evidence to confirm that he met the parties during the sale.
50. In the case of **Bandi –Vs- Dzomo & 76 others (Civil Appeal 16 of 2020) (2022) KECA 584 KLR (24<sup>th</sup> June, 2022) (Judgment)** the Court of Appeal cited the case of **Munyu Maina –vs- Hiram Gathia Maina (2013) EKLR** where it was stated as follows:

*“..... when a registered proprietor’s root of title is under challenge, it is not sufficient to dangle the instrument of title as proof of ownership. It is this instrument of title that is in challenge and the registered proprietor must go beyond the instrument and prove the legality of how he acquired the title and show that the acquisition was, legal formal and free from any encumbrances including any and all interests which would not be noted in the register.”*

51. In the case of **Alice Chemutai Too v Nickson Kipkurui Korir & 2 others [2015] eKLR**, the court while considering the provisions of Section 26(1) of the Land Registration Act held as follows:

*“13. 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...*

*18. 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.”*

52. Having enumerated the discrepancies above in respect of the Plaintiff’s claim to the suit land and documents produced, it follows that the root of the title is tainted and cannot be sanitized by this court. The Plaintiff has failed to prove his case on a balance of probabilities and the suit is hereby dismissed with costs to the 1<sup>st</sup> Defendant.

**DATED, SIGNED AND DELIVERED AT NAKURU THIS 5<sup>TH</sup> DAY OF JANUARY 2026.**

**M. A. ODENY**

**JUDGE**