



REPUBLIC OF KENYA



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**Muranga v Rimisitu Investment Company Limited & 2 others (Environment and Land Case 4 of 2021) [2026] KEELC 430 (KLR) (29 January 2026) (Judgment)**

Neutral citation: [2026] KEELC 430 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO  
ENVIRONMENT AND LAND CASE 4 OF 2021**

**MD MWANGI, J  
JANUARY 29, 2026**

**BETWEEN**

**CHARLES KAMAU MURANGA ..... PLAINTIFF**

**AND**

**RIMISITU INVESTMENT COMPANY LIMITED ..... 1<sup>ST</sup> DEFENDANT**

**ISAAC TUMPES NTAYIA ..... 2<sup>ND</sup> DEFENDANT**

**LAND REGISTRAR KAJIADO ..... 3<sup>RD</sup> DEFENDANT**

**JUDGMENT**

**Introduction**

1. By a Plaint dated 21st January 2021, the Plaintiff, Charles Kamau Muranga, instituted this suit against the Defendants seeking orders for the cancellation of certain land titles and the reinstatement of original records regarding a parcel of land in Kitengela.
2. The Plaintiff's cause of action is rooted in an alleged breach of contract and fraudulent transfer of land. The Plaintiff avers that on or about 3rd March 1985, he entered into a sale agreement with the 1st Defendant to purchase 30 acres of land excised from L.R. No. Kajido/Kitengela/Ololokitosh/2015. The total purchase price was agreed, and a formal written agreement was executed before an advocate on 25th February 1988.
3. A dispute arose when the 1st Defendant refused to transfer the full 30 acres due to land value appreciation. Following intervention by the Land Registrar in October 1990, a compromise was reached. The Plaintiff compromised and agreed to accept 15 acres instead of the 30 acres to settle the dispute. The original title (2015) was subdivided giving rise to L.R. No. Kajiado/Kitengela/2491, which was further subdivided into five portions. One of these resulting portions, specifically L.R.



- No. Kajiado/Kitengela/4427 (measuring 15 acres), was transferred to the Plaintiff and he fenced and occupied in 1993.
4. The Plaintiff's complaint arises from events discovered in April 2019. The Plaintiff claims that the 1st Defendant fraudulently caused the original title (L.R. No. Kajiado/Kitengela/2491) to be gazetted as lost via a notice dated 25th March 2013, despite the land having been subdivided and sold decades prior to that date.
  5. The 1st Defendant used this "lost title" status to generate a new title. A new survey was then conducted using the provisional title issue to replace the allegedly lost title, producing new title numbers 91789, 91790, 91791, 91792, 91793, and 91794 via a mutation dated 23rd August 2016. The new title No. 91794 overlaps entirely with the Plaintiff's existing title L.R. No. Kajiado/Kitengela/4427.
  6. Consequently, the Plaintiff prays for judgment against the Defendants jointly and severally for:
    - a. Cancellation of the Gazette Notice dated 25th March 2013 regarding title no. L.R. No. Kajiado/Kitengela/2491 and an order re-instating all records at both the survey office and land registry as they were before the notice.
    - b. An order cancelling title no. 91794, which overlaps with the Plaintiff's L.R. No. Kajiado/Kitengela/4427.
    - c. Cancellation of subsequent title numbers (91789, 91790, 91791, 91792, 91793, and 91794) derived from the alleged fraudulent process.
    - d. Costs of the suit.
  7. The matter proceeded to hearing as an undefended suit as against the 1<sup>st</sup> and 3<sup>rd</sup> Defendants, the Plaintiff having withdrawn the claim against the 2nd Defendant.

## **Analysis of Evidence**

### **Plaintiff's Evidence**

8. At the hearing of the suit, the Plaintiff, Charles Kamau Muranga, testified as PW1. He relied on his Plaint dated 20th January 2021 and adopted his witness statement—filed on 21st January 2021 (and appearing at page 5 of the trial bundle)—as his evidence-in-chief.
9. In support of his claim, PW1 produced a bundle of documents listed in the Plaintiff's List of Documents filed alongside the Plaint. The Court admitted the documents, marking them as Exhibits PE 1 - PE 23 respectively.
10. The Plaintiff reaffirmed his ownership of the suit property. He produced the original title deed for L.R. No. Kajiado/Kitengela/4427 to demonstrate his proprietary interest.
11. The crux of his testimony was that Title No. 91794, purportedly held by the 1st Defendant, unlawfully overlaps with his rightful parcel, L.R. No. Kajiado/Kitengela/4427. He testified that the subsequent title was procured unlawfully and prayed for the orders sought in the Plaint, specifically the cancellation of the overlapping title and the rectification of the register.
12. There being no appearance by the Defendants to cross-examine the witness, the Plaintiff closed his case.



## Analysis of Submissions

13. The Plaintiff filed written submissions drawn by the firm of S. Ogeto Ongori & Co. Advocates. The submissions reiterate the Plaintiff's claim for the cancellation/nullification of the Gazette Notice dated 25th March 2013 and the resultant Title No. Kajiado/Kitengela/91794 (referred to as 91784 in the submissions' header) on the grounds of fraud.
14. Counsel for the Plaintiff submitted that the Plaintiff is the registered absolute owner of L.R. No. Kajiado/Kitengela/4427, comprising 15 acres, having acquired it from the 1st Defendant following a subdivision of the mother title L.R. No. Kajiado/Kitengela/2491.
15. Counsel submitted that the 1st Defendant's actions amounted to a "fraudulent scheme". Specifically, it was submitted that the mother title (Title No. 2491) had ceased to exist upon its original subdivision into titles 4426, 4427, 4428, 4429, and 4474. Therefore, the 1st Defendant's act of gazetting Title No. 2491 as "lost" via the Gazette Notice dated 25th March 2013 was a material misrepresentation to the Land Registrar. Relying on the fraudulent Gazette Notice, the 1st Defendant caused Title No. 2491 to be "re-issued" and subsequently subdivided it again in August 2016 to create six new titles: Nos. 91789 to 91794. Counsel submitted that the new Title No. 91794 physically overlaps with the Plaintiff's existing Title No. 4427, rendering the former a nullity.
16. On the law, Counsel relied on Section 26 of the *Land Registration Act*, arguing that while a certificate of title is prima facie evidence of ownership, it is subject to challenge where fraud or a corrupt scheme is proved. To buttress this argument, Counsel cited the decision in *Alice Chemutai Too vs. Nickson Kipkurui Korir & 2 Others* [2015] eKLR (ELC No. 51 of 2014). In that case, the Court held that a title procured by fraud (where the vendor was deceased and no succession had occurred) was a nullity and could not enjoy the protection of the law, notwithstanding the interests of a charger (bank). Counsel urged this Court to apply the same principle, noting that the 1st Defendant's title was acquired through an "illegal process" of reviving a defunct title.
17. Finally, Counsel submitted that since the Defendants were served and entered appearance but failed to file a defence, the Plaintiff's evidence remains uncontroverted, and the Court was urged to grant the orders sought in the Plaintiff to rectify the register.

## Issues for Determination

18. Having carefully analyzed the pleadings and the submissions on record, I find that the following issues arise for determination.
  - I. Whether the Plaintiff is the lawful and absolute proprietor of the land parcel known as L.R. No. Kajiado/Kitengela/4427.
  - II. Whether the 1st Defendant procured Title No. Kajiado/Kitengela/91794 and the subsequent subdivisions (Nos. 91789 – 91793) through fraud, misrepresentation, or an illegal process.
  - III. Whether the Plaintiff is entitled to the orders as sought in the plaint.

## Analysis and Determination

19. I have carefully considered the Plaintiff, the oral testimony of the Plaintiff (PW1), the documentary exhibits on record (PE 1 – PE 23), and the written submissions filed by Counsel for the Plaintiff.
20. The suit proceeded undefended as the Defendants, despite entering appearance, failed to file a defence or participate in the hearing. Consequently, the Plaintiff's evidence stands uncontroverted. As held in



Shaneebal Limited vs County Government of Machakos (2018) eKLR, where a matter is undefended, the Court is still under a duty to interrogate the evidence tendered to ensure the standard of proof is met.

21. I will now proceed to determine the four issues as framed.

**A. Whether the Plaintiff is the lawful and absolute proprietor of the land parcel known as L.R. No. Kajiado/Kitengela/4427.**

22. The Plaintiff's claim is founded on a sale agreement dated 3rd March 1985 and a subsequent transfer of land. In his testimony, the Plaintiff produced the original Title Deed for L.R. No. Kajiado/Kitengela/4427 (Exhibit PE-22) issued to him on 23rd November 1998.

23. Section 26 (1) of the *Land Registration Act*, 2012 provides that:

“The certificate of title issued by the Registrar upon registration... 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...”

24. The Plaintiff demonstrated the root of his title, explaining that the mother title, L.R. No. Kajiado/Kitengela/2491, was subdivided to create his parcel of land L.R. No. Kajiado/Kitengela/4427. There is no evidence on record to suggest that the Plaintiff's title was acquired unprocedurally.

25. Accordingly, I find that the Plaintiff is the lawful and absolute proprietor of L.R. No. Kajiado/Kitengela/4427.

**B. Whether the 1st Defendant procured Title No. Kajiado/Kitengela/91794 and the subsequent subdivisions through fraud, misrepresentation, or an illegal process.**

26. The Plaintiff alleges that the 1st Defendant, Isaac Tumpes Ntaya, fraudulently caused the former mother title (Title No. 2491) to be gazetted as lost to generate new titles.

27. From the evidence, Title No. 2491 had already been subdivided and closed as far back as the 1990s to create various parcels, including the Plaintiff's parcel No. 4427. A title that has been closed upon subdivision ceases to exist.

28. However, the 1st Defendant procured a Gazette Notice No. 3438 dated 25th March 2013 (Exhibit PE-19), purporting that the Title Deed for L.R. No. Kajiado/Kitengela/2491 was lost. This was a material misrepresentation of facts. The title was not lost; it had ceased to exist after the land had been subdivided and transferred. The notice premised on misrepresentation was a nullity and of no consequence. Any action founded on the said notice is null and void.

29. As tacitly put by Lord Denning in the case of *Denning in Macfoy v. United Africa Co. Ltd* [1961] 3 All E.R. 1169:

“If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set it aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse.”

30. By purporting to resurrect a "dead" title file to generate a provisional title and subsequently subdividing it to create L.R. No. Kajiado/Kitengela/91789 to 91794, the 1st Defendant engaged in a fraudulent



scheme. The act itself of issuing a fake notice of lost title, subsequently generating a provisional title and purporting to create other titles out of the provisional title was null and void and all subsequent actions must meet the same fate. Every proceeding which is founded on it is also bad and incurably bad.

31. Section 26(1)(b) of the [Land Registration Act](#) allows a title to be challenged where it is proved that it was obtained by fraud or misrepresentation or through a corrupt scheme.
32. I find and hold that the process leading to the creation of Title No. 91794 beginning with the issuance of the notice regarding the purported loss of Title No. L.R. No. Kajiado/Kitengela/2491 and the subsequent creation of its sister titles was tainted with fraud and illegality. It is a nullity ab initio.

### **C. Whether the Plaintiff is entitled to the orders as sought in the Plaintiff.**

33. The Plaintiff testified that upon conducting a search and verification, he discovered that the new title created by the 1st Defendant, specifically L.R. No. Kajiado/Kitengela/91794, sits on the exact geographical location as his parcel, L.R. No. Kajiado/Kitengela/4427.
  34. Since the mother title (2491) was the parent to the Plaintiff's title (4427), any attempt to revive the parent title and subdivide it again without reference to the existing subdivisions inevitably results in a double allocation or overlap.
  35. As the Plaintiff's title was issued in 1998, prior to the 1st Defendant's new titles issued around 2016, the Plaintiff's title enjoys priority in time and law.
  36. Having established that the Plaintiff is the rightful owner of the suit land and that the 1st Defendant's title was procured through fraud and misrepresentation or through a corrupt scheme, it follows that the impeached titles cannot stand.
  37. Equity and the law demand that the register be rectified to reflect the true position on the ground. The Plaintiff has successfully proved his case on a balance of probabilities.
  38. Accordingly, the Plaintiff is entitled to the prayers sought, including the cancellation of the fraudulent Gazette Notice and the resultant titles.
  39. In the end, I find and hold that the Plaintiff has proved his case on a balance of probabilities. Consequently, Judgment is hereby entered for the Plaintiff against the 1st and 3rd Defendants jointly and severally in the following terms:
    - a. A Declaration be and is hereby issued that the Plaintiff, Charles Kamau Muranga, is the lawful and absolute proprietor of all that land parcel known as L.R. No. Kajiado/Kitengela/4427.
    - b. An Order be and is hereby issued declaring that the issuance of the Gazette Notice No. 3438 dated 25th March 2013 regarding the purported loss of Title No. L.R. No. Kajiado/Kitengela/2491 was fraudulent, null and void and the 3rd Defendant (Land Registrar, Kajiado) is directed to revoke the Gazette Notice No. 3438 dated 25th March 2013 regarding the purported loss of Title No. L.R. No. Kajiado/Kitengela/2491.
    - c. An Order be and is hereby issued cancelling Title No. Kajiado/Kitengela/91794 and all its derivative subdivisions (including but not limited to Title Nos. 91789, 91790, 91791, 91792, and 91793) which unlawfully overlap with the Plaintiff's parcel L.R. No. Kajiado/Kitengela/4427, and the Land Register be rectified accordingly.
    - d. The Plaintiff is awarded the costs of this suit, to be borne by the 1st Defendant.
- It is so ordered.



**DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 29<sup>TH</sup> DAY OF JANUARY 2026.**

**M.D. MWANGI**

**JUDGE**

In the virtual presence of:

Mr. Ogeto for the Plaintiff

N/A by the Defendants

Court Assistant: Mpoye

