



REPUBLIC OF KENYA



**KENYA LAW**  
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**Wambui v Kahawa Sukari Residents & Plot Owners' Welfare Association & 6 others (Environment and Planning Appeal E002 of 2023) [2026] KEELC 336 (KLR) (28 January 2026) (Judgment)**

Neutral citation: [2026] KEELC 336 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT THIKA  
ENVIRONMENT AND PLANNING APPEAL E002 OF 2023**

**JM ONYANGO, J  
JANUARY 28, 2026**

**BETWEEN**

**MILKAH WAMBUI ..... APPELLANT**

**AND**

**KAHAWA SUKARI RESIDENTS & PLOT OWNERS' WELFARE  
ASSOCIATION ..... 1<sup>ST</sup> RESPONDENT**

**SAMUEL MWANIKI WAITHAKA ..... 2<sup>ND</sup> RESPONDENT**

**EDWARD KIGANJO ..... 3<sup>RD</sup> RESPONDENT**

**COUNTY PHYSICAL AND LAND USE PLANNING LIAISON COMMITTEE,  
KIAMBU COUNTY ..... 4<sup>TH</sup> RESPONDENT**

**DIRECTOR PHYSICAL PLANNING & URBAN DEVELOPMENT, KIAMBU  
COUNTY GOVERNMENT ..... 5<sup>TH</sup> RESPONDENT**

**KAHAWA SUKARI LTD ..... 6<sup>TH</sup> RESPONDENT**

**COUNTY GOVERNMENT OF KIAMBU ..... 7<sup>TH</sup> RESPONDENT**

*(Being an appeal from the decision of County Physical and Land Use Planning  
Liaison Committee given on 30/6/2023 in Complaint No. CGK/KCK/016 OF 2023)*

**JUDGMENT**

1. This appeal stems from the determination of the Kiambu County Physical and Land Use Planning Liaison Committee delivered on 30<sup>th</sup> June 2023. In the said determination the Committee held that the Appellant be compelled to restore the ground over the property known as Kahawa Sukari Limited Plot No. 1659 where the new maisonette has been erected to its original state within ninety (90) days from the date hereof in accordance with Enforcement Notice Number 005200 dated 10<sup>th</sup> June 2021



failing which the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Interested parties would be compelled to enforce the Enforcement Notice dated 10th June 2021.

2. A brief background of the case is necessary in order to put the appeal into perspective. Having established that the Appellant was undertaking some construction on the suit property without development permission, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Interested Parties served the Appellant with Enforcement Notice Number 005200 dated 10<sup>th</sup> June 2021 pursuant to Section 72(1) of the [Physical and Land Use Planning Act](#), directing her to stop further construction immediately and seek development permission, failure to which she would be required to restore the ground to its original state.
3. Following the issuance of the said Enforcement Notice, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents filed a complaint with the Kiambu County Physical and Land Use Planning Liaison Committee vide Complaint No. CGK/KCK/016 of 2023.
4. After hearing the parties and conducting a site visit on the suit property the Committee rendered its determination which is the subject of this appeal.
5. Being aggrieved with the determination of the Committee, the Appellant filed this appeal citing the following grounds:
  1. That the Liaison Committee erred in law and fact in dismissing the Appellant's response to the complaint without giving her a chance to give her evidence before the Committee.
  2. That the County Government of Kiambu under the Chairperson, County Physical and Land Use Planning Liaison Committee erred in law and in fact and was biased when they made a finding compelling the Appellant to restore the ground of the suit property Plot No. 1659 Kahawa Sukari where a new maisonette has been allegedly erected to its original state within 90 days in accordance with the Enforcement Notice Number 005200 dated 10<sup>th</sup> June 2021 and failed totally to note that the Respondent had duly approved the building plans for the structures on 27<sup>th</sup> November 1992.
  3. That the Liaison Committee erred in law and in fact in failing to consider the submissions and the annexures to the said response.
  4. That the County Government of Kiambu under the Chairperson, were biased and evidently wrong and acted in violation of section 61(1) (a), (b) (c) (d) and (e) of the [Physical and Land Use Planning Act](#) as the Appellant had duly complied with the conditions for issuing of a development permit.
  5. That the Liaison Committee erred in law and in fact by failing to appreciate that the Appellant applied for approval but the County Government failed to approve the Appellant's plan and no reasons were given.
  6. That the County Government of Kiambu under the Chairperson, County Physical and Land Use Planning Liaison Committee erred in law and in fact and proceed to unilaterally impose conditions under Enforcement Notice Number 005200 dated 10<sup>th</sup> June 2021, noting that under Article 40 of [the Constitution](#) of Kenya, 2010, the Appellant has the right to acquire land and own property.
  7. That the Liaison Committee erred in law and in fact by failing to consider the evidence that the two respondents always discriminate against female owners of the land and are corrupt officials.



8. That the County Government of Kiambu under the Chairperson, County Physical and Land Use Planning Liaison Committee erred in law and in fact and the Appellant was duly condemned unheard, unfairly on false allegations;
  - i. That there were two independent structures i.e an old bungalow and a new maisonette contrary to the submissions by the Respondent (sic) that she was repairing, renovating and extending her bungalow to accommodate all her family members.
  - ii. That the construction of a multi-dwelling structure by the Appellant is being undertaken without development approval from the 4<sup>th</sup> to 7<sup>th</sup> Respondents contrary to section 57(1) of the *Physical and Land Use Planning Act*.
  - iii. That the new two storey structure has two entrances on the ground floor and two on the first floor, an indication that there are four independent units in the subject buildings.
  - iv. That the Appellant has refused to comply with the conditions of Enforcement Notice Number 005200 dated 10<sup>th</sup> June 2021 contrary to section 72(5) of the *Physical and Land Use Planning Act* No. 13 of 2019.
9. That the Liaison Committee erred in law and in fact by failing to appreciate that the Appellant's family had expanded and that led the Appellant to expand her house to accommodate her children's family.
6. The Appellant prayed that the decision of the Liaison Committee be set aside and that the Committee be restrained from encroaching, demolishing, sub-dividing, selling, charging or dealing in any manner whatsoever with land title no. 1659 Kahawa Sukari.
7. The appeal was canvassed through written submissions and the Appellants, 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents filed their submissions.

### **Appellant's Submissions**

8. In his submissions dated 21<sup>st</sup> July 2025 learned counsel for the Appellant identified 3 issues for determination:
  - a. Whether the Appellant was condemned unheard contrary to Article 47 and the principles of fair administrative action
  - b. Whether the conditions under the Enforcement Notice were met and whether the structure erected on the land was approved.
  - c. Who should pay the costs of the Appeal.
9. Counsel submitted that the Appellant was condemned unheard as her explanation that she was renovating her bungalow to accommodate her family was disregarded. He submitted that this was in contravention of Article 47 of *the Constitution* of Kenya and section 4(3) of the Fair Administrative Actions Act.
10. He relied on the case of Attorney General v Ryan (1980) 2 All ER 608 for the proposition that a decision affecting the legal rights of an individual must conform to the principles of natural justice. He also relied on the case of Onyango V Attorney General for the proposition that denial of the right to be heard renders any decision null and void ab initio.



11. On whether the conditions under the Enforcement Notice were met, counsel submitted that after inspection of the suit premises by the County Government, the Appellant was advised to apply for development permission which she did on 20<sup>th</sup> July 2021, made payment on 22<sup>nd</sup> July 2021 and she was subsequently issued with a clearance certificate. Counsel submitted that the Appellant's bungalow had been approved in 1992 and she obtained permission to construct a single dwelling house on 22<sup>nd</sup> July 2021, therefore she had complied with the Enforcement Notice dated 10<sup>th</sup> June 2021.
12. Regarding costs, counsel submitted that in line with section 27 of the *Civil Procedure Act*, costs ordinarily follow the event although the court has the discretion to determine who should pay the costs.

### **Respondents' Submissions**

13. Learned counsel for the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Respondents sought leave to produce the minutes of the Liaison Committee proceedings, (Min 27/CLC/June /2023) dated 14<sup>th</sup> June 2023 and the minutes of the site visit which had been deliberately left out of the Record of Appeal conducted on 21<sup>st</sup> June 2023 (Min29/CLC/June/2023. He submitted that the minutes indicated that the Appellant took part in the proceedings and she was given a fair hearing in accordance with Article 47 of *the Constitution* and the Fair Administrative Actions Act.
14. It was further submitted that the Appellant had given inconsistent statements regarding the developments that were being undertaken and she had undertaken multi-dwelling developments without the approval of the relevant authorities. That she had failed to comply with the Enforcement Notice Number 52000 dated 10<sup>th</sup> June 2021 contrary to the provisions of section 72(5) of the *Physical and Land Use planning Act* No. 13 of the 2019.
15. Counsel took issue with the fact that the Appellant had not confined her appeal to matters of law contrary to section 72(4) of the *Physical and Land Use Planning Act*. He therefore urged the court to dismiss the appeal.

### **Analysis And Determination**

16. Pursuant to the provisions of section 72(4) of the *Physical and Land Use Planning Act*, an appeal to this court is a second appeal and it should therefore be restricted to points of law.
17. Section 72(4) of the Act provides as follows:

“ Any party aggrieved with the determination of the County Physical and Land Use Planning Liaison Committee may appeal to the court only on a matter of law and the court shall hear and determine the appeal within 30 days.”
18. In her Memorandum of Appeal, the appellant has raised both issues of fact and law touching on fair hearing, bias and the conditions in the Enforcement Notice. Her submissions equally dwelt on whether or not she had been accorded a fair hearing and the Committee's finding that she had not met the conditions in the Enforcement Notice dated 10<sup>th</sup> June 2021.
19. It is therefore clear that the appeal is not confined to matters of law only and to that extent it is incompetent.
24. I will nonetheless determine whether the Liaison Committee failed to give the Appellant a fair hearing contrary to the provisions of Article 47 of *the Constitution* and the Fair Administrative Actions Act.



25. Article 47 of *the Constitution* provides as follows:

“47(1) Every person has the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.”

26. The Liaison Committee’s minutes of 14<sup>th</sup> June 2023 show that the Appellant sent her son Edwin Muchemi to represent her. He informed the Committee that there was no new development being undertaken on the suit property besides their mother’s original house which was being renovated and expanded to accommodate the entire family. The Committee then decided to conduct a site visit on 21<sup>st</sup> June 2023.

27. During the site visit it was established that there were two structures on the suit property being the main house and a new maisonette whose front side had four entrances. The Committee explained to the Appellant what her son had told them and they asked her if she had approvals but she did not have any. They then asked if they could inspect the premises but she declined. This is what led to the Committee’s determination that the Appellant be compelled to restore the ground over the property known as Kahawa Sukari Limited Plot No. 1659 where the new maisonette has been erected to its original state within ninety (90) days.

28. From the sequence of events detailed in the minutes, I am satisfied that the Appellant was given a fair hearing. Her presence when the committee visited the suit property and response to the inquiries relating to development approvals is sufficient proof that she was heard. Following her failure to obtain approval in accordance with the Enforcement Notice, the Committee had no choice but to order that a portion of the suit property be restored to its original state.

29. From the above analysis, the appeal is based on an inaccurate account of the proceedings at the Liaison committee’s hearing and it is no wonder the Appellant failed to include a copy of the minutes of the Committee in her Record of Appeal.

30. Consequently, the appeal lacks merit and it is hereby dismissed with costs to the Respondents.

**DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 28TH DAY OF JANUARY, 2026.**

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**J. M ONYANGO**

**JUDGE**

In the presence of:

Ms Masheti for Mr Wageni for the Appellant

Ms Mwangi for Ms Wangui Kuria for the Respondent

Court Assistant: Hinga

