



**Kiburi v Lowi (Environmental and Land Originating Summons
E003 of 2025) [2026] KEELC 1361 (KLR) (4 March 2026) (Judgment)**

Neutral citation: [2026] KEELC 1361 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAHURURU
ENVIROMENTAL AND LAND ORIGINATING SUMMONS E003 OF 2025**

LN MBUGUA, J

MARCH 4, 2026

BETWEEN

JOYCE KARIMA KIBURI PLAINTIFF

AND

LENA LOWI DEFENDANT

JUDGMENT

1. This suit was filed by way of an Originating Summons dated 7.3.2025 where the plaintiff seeks the determination of the following issues;
 - “a. Whether the plaintiff has been in continuous, open and uninterrupted possession of I.R 8012/1 and as such, should be and is hereby entered as the registered sole proprietor of the suit property in place of the defendant through adverse possession of the same.
 - b. Whether an order and declaration ought to issue that the defendant’s right to the portion of the suit land described as I.R 8012/1 be deemed to have extinguished through adverse possession by the plaintiff and consequently the plaintiff has become entitled to the same.
 - c. Whether the defendant by herself or her servants or agents should be restrained from alienating, selling, disposing of, utilizing, developing, transferring, evicting or in any way or manner using the suit land described as I.R 8012/1 pending the hearing and determination of the suit.
 - d. Whether a title to the suit land described as I.R 8012/1 should be issued in the name of the plaintiff.



- e. Whether the defendant should meet the costs of this suit”.
2. Service of the suit documents were effected by way of substituted service through advertisement in the Newspaper, but the defendant did not enter appearance, hence the matter proceeded as a formal proof.
 3. The plaintiff was the sole witness to her case. She adopted her supporting affidavit to the OS as her evidence. She contends that her parents used to work for Walter and Lena Lowi, the owners of the suit land. That Walter and Lena vacated the land in year 1992. That the plaintiff proceeded to develop the land, adding that her children were born on that land. She avers that her occupation of the said land has remained uninterrupted to date.
 4. In support of her case, the plaintiff has produced as exhibits, the documents attached to her supporting affidavit including the title of the suit land.
 5. In her submissions, the plaintiff has reiterated that she has met the criteria of an adverse possessor, having been born on the suit land.
 6. On the face of the case, it may appear that indeed the plaintiff has met the threshold in an adverse possession claim. The court has however found a missing link as between the plaintiff and the defendant. The plaintiff has sued Lena Lowi as the defendant. The title to the suit land indicates that Walter Lowi and Lena Lowi were registered as the owners of the suit land I.R NO 8012 (Land Reference No 7647) on 1.2.1948. Entry no 4 of the title captures the death of Walter Lowi on 23.11.1990.
 7. Then at entry no. 6, an area covering 2.292 ha. being LR. NO. 7647 was transferred to Daniel Waithaka Mwangi and Keziah Wanjiru Waithaka as joint tenants on 22.6.1998. In essence, the Land in question is no longer registered in favour of the defendant.
 8. In the case of Titus Kigoro Munyi v Peter Mburu Kimani [2015] eKLR, the Court of Appeal stated that;

“We are of the considered view that in a claim for adverse possession, actual or constructive knowledge of adverse possession by a third party on the part of the registered proprietor must be proved”.
 9. In the case at hand, there is no evidence to indicate that the real registered owners of the suit land are aware of this claim. In the circumstances, I find that this suit is not merited, the same is hereby dismissed with no orders as to costs.

DATED, SIGNED AND DELIVERED AT NYAHURURU THIS 4TH DAY OF MARCH 2026 THROUGH MICROSOFT TEAMS.

LUCY N. MBUGUA

JUDGE

In the presence of:

Vanessa C/Assistant

M/s Mwema holding brief for Mutungi for Plaintiff

