



**Kariuki v Kiplagat; Mweu & 2 others (Interested Parties) (Environmental and Land Originating Summons 50 of 2019) [2026] KEELC 799 (KLR) (29 January 2026) (Ruling)**

Neutral citation: [2026] KEELC 799 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT MALINDI  
ENVIROMENTAL AND LAND ORIGINATING SUMMONS 50 OF 2019**

**EK MAKORI, J**

**JANUARY 29, 2026**

**IN THE MATTER OF: THE ENVIRONMENT AND LAND  
COURT 2011 (NO. 19 OF 2011) AND THE REGISTERED  
LAND ACT, CAP 300 LAWS OF KENYA**

**AND**

**IN THE MATTER OF: REGISTRATION OF TITLES ACT CAP.  
281 OF LAWS OF KENYA (NOW REPEALED)**

**AND**

**INTEREST IN LAND ON PLOT NO. SUB-DIVISION  
2271/MN/III-CR. 24365**

**BETWEEN**

**MARGARET WAMBO KARIUKI ..... APPLICANT**

**AND**

**JOSEPH KIPROTICH KIPLAGAT ..... RESPONDENT**

**AND**

**PHILEMON NGEWA MWEU ..... INTERESTED PARTY**

**LERINA ENTERPRISES LIMITED ..... INTERESTED PARTY**

**REGISTRAR OF TITLES, MOMBASA ..... INTERESTED PARTY**



## RULING

1. The application, dated 21 October 2025, seeks, among other reliefs, an inhibition and/or a caveat to issue against any entry or registration over Plot 2271/III/MN - CR. 24365. The applicant is joined as an interested party or as 2nd respondent in the suit, which commenced by way of originating summons. That the Registrar of Titles, Mombasa, be joined as a 3rd respondent. Judgment delivered on 16th July 2021, and consequent orders be set aside. The provisional title issued arising from the said judgment be revoked, and the register be rectified to remove the name of the 2nd intended interested party and replace it with that of the 1st interested party. The title of the 1st intended interested party is declared the genuine title. A restriction has been placed on the register pending rectification. Costs be provided.
2. The issues I frame for the determination of this court are whether the application should be allowed as prayed and who should bear the costs of the application.
3. The intended 1st interested party, who is the applicant, asserts that he has demonstrated that, by the time the suit was heard, he was the legally registered owner of the subject matter. He has shown that he had a title deed, issued to him by the Registrar of Titles, Mombasa, on 23rd May, 2011, and that it has not been surrendered. By the time the suit was filed, he was the legal owner, and Joseph Kiprotich Kiplagat was no longer the owner of the subject matter, having legally transferred it to him seven (7) years earlier.
4. The respondent/applicant misrepresented facts and misled the court when she sued the previous owner, knowing that he had no proprietary interests. She lied to the court by producing a rate clearance certificate from Kilifi County and failed to produce a search from the Registrar of Titles in Mombasa, because she knew the court could have discerned the mischief.
5. He asserts that as a result of that mischief, the applicant herein has suffered great prejudice because the purported sale by the imposter to a third party has hampered his possession and development of the subject matter.
6. He submits that the Supreme Court of Kenya has pronounced on the sanctity of title, stating that it is not absolute and that it can be challenged if it was acquired fraudulently, illegally, or with procedural irregularities. A purchaser must investigate the title and, henceforth, cannot rely solely on the indefeasibility of title if they are a party to or have knowledge of the allegations in the acquisition process. See *Galaxy Realtors Limited v Kenya Forest Service (Civil Appeal 41 of 2020) [2024] KECA 1304 (KLR)*. In paragraph 25 of the said appeal, the court dismissed the appeal because the appellant's title was illegally acquired and failed to comply with the law. The court echoed the landmark judgment delivered on 21st April, 2023 by the Supreme Court in *Dina Management Ltd v County Government of Mombasa & 5 others (Petition 8 (E010) of 2021) [2023] eKLR*, in which the Apex Court held that the often-quoted "bonafide purchaser for value without notice" whether the title was obtained illegally or regularly does not apply.
7. The title obtained and transferred to a third party was both illegally and irregularly obtained because, at the time the proceedings were taking place, the subject matter had changed hands. The court lacked jurisdiction over the subject matter because the owner was not a party. The court lacked information regarding its status because the respondent/applicant concealed it; therefore, the applicant in this application is entitled to the prayers sought.
8. There was no response to the application.



9. The applicant has shown a stake in the suit property, making joinder appropriate at this stage, but this court cannot issue the expansive orders sought because the orders will be final in nature. It will be germane that, after joinder, the interested party can then bring the necessary application for either review or the setting aside of the orders in place.
10. Consequently, the notice of motion dated 21 October 2025 is allowed to the extent that the interested parties be joined to these proceedings, with no orders as to costs.

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

**E. K. MAKORI**

**JUDGE**

In the Presence of:

Mr. Birir for the Applicant

Kendi: Court Assistant

