



REPUBLIC OF KENYA



KENYA LAW
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Maranga & another (Suing as the administrators of the Estate of Peter Maranga Nyang'au) v Nyamira County Land Registrar & 10 others (Land Case E032 of 2025) [2026] KEELC 1556 (KLR) (18 March 2026) (Ruling)

Neutral citation: [2026] KEELC 1556 (KLR)

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYAMIRA
LAND CASE E032 OF 2025
DO OHUNGO, J
MARCH 18, 2026

BETWEEN

PRISKA KWAMBOKA MARANGA 1ST PLAINTIFF
PIUS MARANGA NYAKUNDI 2ND PLAINTIFF
SUING AS THE ADMINISTRATORS OF THE ESTATE OF PETER MARANGA NYANG'AU

AND

NYAMIRA COUNTY LAND REGISTRAR 1ST DEFENDANT
JOSEPHINE MORAA ORUCHO 2ND DEFENDANT
JASON OGECHA ONCHARI 3RD DEFENDANT
ONCHIRI SAMUEL MAYANI 4TH DEFENDANT
THOMAS ONSONGO APIRI 5TH DEFENDANT
KEVIN OMOGE MOGIRE 6TH DEFENDANT
SAMWEL ONSONGO 7TH DEFENDANT
DINAH NYAKANGO 8TH DEFENDANT
JANES ONSONGO 9TH DEFENDANT
JARED ORUCHO 10TH DEFENDANT
JOSEPHINE MIKURO 11TH DEFENDANT



RULING

1. The Plaintiffs moved the Court through Plaint dated 28th November 2025 in which they averred that they were administrators of the estate of Peter Maranga Nyang'au (deceased) who was the registered proprietor of the parcel of land known as Gesima Settlement Scheme/137 (suit property). That prior to confirmation of the grant, some beneficiaries of the estate intermeddled with the estate by purporting to sell portions of the suit property to the Second to Eleventh Defendants.
2. The Plaintiffs further averred that pursuant to the said transactions, the Second to Eleventh Defendants took possession of various portions of the suit property, erected structures, commenced cultivation, and continued to occupy the suit property illegally and without any lawful claim despite eviction notices being issued to them. That despite the High Court issuing a permanent injunction against the said Defendants, they continued to unlawfully occupy, derive benefit from the suit property and trespass upon it.
3. The Plaintiffs therefore sought judgment against the Defendants jointly and severally for the following orders:
 - a. A declaration that the suit property, being Land Reference Number Gesima Settlement Scheme/137 should be subdivided in accordance with the Further ReRectified Certificate of Confirmation of Grant dated 27th August 2021.
 - b. A declaration that the 2nd to 11th Defendants have been in wrongful possession of land Parcel GESIMA SETTLEMENT SCHEME/137, and have unlawfully cultivated, farmed, and derived economic benefits therefrom to the exclusion of the beneficiaries of the estate of the late Peter Maranga Nyang'au.
 - c. An Eviction Order against 2nd to 11th Defendants, their agents, servants, and/ all those claiming under them from the suit property, being Land Reference Number Gesima Settlement Scheme/137 measuring 5.8 hectares.
 - d. A Permanent Injunction restraining the 1st Defendant, whether by himself, his agent, employees, servants, or any other persons acting on his instructions, from registering any transfer lodged by the 2nd to 11th Defendants with reference to land known as Land Reference Number Gesima Settlement Scheme/ 137.
 - e. A Permanent Injunction restraining the 2nd to 11th Defendants, whether by themselves, their agents, employees, servant, or any other persons acting on their instructions, from erecting beacons, constructing or continuing with construction of any structure, selling, offering/or sale, alienating, disposing off, transferring, leasing, charging, subdividing, further destroying the Petitioners'/ Applicants' land known as Land Reference Number Gesima Settlement Scheme/ 137.
 - f. An Order that the 2nd to 11th Defendants do pay to the Estate of the Deceased through the Plaintiffs herein Mesne Profits assessed at Kenya Shillings Three Hundred and Sixty Three Thousand and Six Hundred (Kshs.363,600/-) per annum from 2018 until vacant possession is delivered.
 - g. In In the alternative. judgment be entered against the 2nd to 11th Defendants jointly and severally for the sum of Kenya Shillings Four Million (Kshs.4,000,000.00) being accrued Mesne



Profits as at the date of filing suit, together with continuing Mesne Profits until delivery of vacant possession.

- h. Interests on the Mesne Profits at court rates from the date of filing suit until payment in full.
 - i. Any other or further order that this Honourable Court may deem fit in the circumstances.
 - j. Costs of the suit.
4. Contemporaneously with the Planit, the Plaintiffs filed Notice of Motion dated 28th November 2025, which is the subject of this ruling. The application is brought under Order 40 Rule 2 and Order 51 Rule 1 of the Civil Procedure Rules and Section 3A of the [Civil Procedure Act](#).
5. The following orders are sought in the application:
1. [Spent]
 2. [Spent]
 3. That pending the determination of this suit:
 - i. A temporary injunction be issued restraining the 1st Defendant/Respondent, whether by himself, his agent, employees, servants, or any other persons acting on his instructions, from registering any transfer lodged by the 2nd to 11th Defendants/ Respondents with reference to land known as Land Reference Number Gesima Settlement Scheme/137.
 - ii. A temporary injunction be issued restraining the 2nd to 11th Defendants/Respondents, whether by themselves, their agents, employees, servant, or any other persons acting on their instructions, from erecting beacons, constructing or continuing with construction of any structure, selling, offering for sale, alienating, disposing off, transferring, leasing, charging, subdividing, further destroying the Plaintiffs/ Applicants' land known as Land Reference Number Gesima Settlement Scheme/137.
 4. That the Honourable Court be pleased to grant any other relief it deems fit and just in the circumstances.
 5. That costs of this application be provided for.
6. The application is based on the grounds listed on its face and is supported by an affidavit sworn by the Second Plaintiff. She deposed that the Plaintiffs were administrators of the estate of Peter Maranga Nyang'au (deceased) her father who died intestate on 12th December 2013. That grant of letters of administration intestate was issued to them on 8th July 2020 and that the suit property formed part of the deceased's estate. issued to them. She added that they applied for confirmation of grant and that a further re-rectified certificate of confirmation of grant was issued on 27th August 2021 after all beneficiaries had consented to the distribution.
7. She also deposed that prior to the confirmation of the grant, Samwel Onsare Maranga, Grace Nyabonyi and Japheth Yoge Maranga, who were beneficiaries of the estate, intermeddled with the estate by purporting to sell portions of the suit property to the Second to Eleventh Defendants unlawfully before grant of representation was issued. That pursuant to the said transactions, the Second to Eleventh Defendants took possession of the various portions of the suit property, erected structures, commenced cultivation, and continued to occupy them unlawfully despite eviction notices dated 7th October 2019 being issued to them.



8. The Second Plaintiff further deposed that actions of the Second to Eleventh Defendants led to litigation in Nyamira Succession Cause No. 155 of 2019 which culminated in an appeal being Nyamira HCFA No. E006/2023 Priska Kwamboka Maranga & Another -Versus- Samwel Onsare Maranga & Others. That on 5th November 2025, the High Court allowed the appeal and issued a permanent injunction restraining the sale or transfer of the suit property to any person including the Second to Eleventh Defendants and directed that the suit property forms part of the deceased's estate to be distributed in accordance with the confirmed grant.
9. She added that the High Court noted that it could not grant orders of eviction as a Succession Court since matters of eviction fell within the jurisdiction of the Environment and Land Court. She concluded by urging this Court to issue the orders sought to enable the Plaintiffs to discharge their duties as administrators in accordance with the Further Re-Rectified Certificate of Confirmation of Grant.
10. The First Defendant did not respond to the application.
11. The Second to Eleventh Defendants opposed the application through a replying affidavit sworn on 20th February 2026 by Kevin Omoga Mogire, the Sixth Defendant. He deposed that they lawfully entered into valid sale agreements for the purchase of defined portions of the suit property for valuable consideration, which consideration was duly paid in full to the vendors who were beneficiaries of the deceased's estate. He added that they had constructed houses, planted trees and were farming on part of the suit property from the date of the agreements to that of the affidavit.
12. The Sixth Defendant further deposed that at the time of entering into the said transactions, they were not aware and had no reason to believe that the succession process relating to the deceased's estate was incomplete or was disputed. He added that they were innocent purchasers for value without notice and that the Plaintiffs had failed to plead with specificity or to strictly prove any fraud, misrepresentation, collusion or illegality on their part.
13. He also deposed that should this Court find that the transactions cannot be perfected solely due to succession related technicalities beyond their control, then equity and justice demanded that they be fully refunded the purchase price paid, together with costs and interest, so as to prevent unjust enrichment. He also stated that the Tenth Defendant was not a purchaser but merely a son of the Second Defendant, and that his joinder in the proceedings was misconceived, malicious and an abuse of the Court process. He concluded by urging the Court to dismiss the application with costs to them.
14. Directions were given that the application be canvassed through written submissions. Specific and strict timelines for filing the submissions were also given. The Plaintiffs/Applicants did not file any submissions within the given timelines.
15. The Second to Eleventh Defendants/Respondents filed submissions dated 20th February 2026.
16. It was submitted on behalf of the Second to Eleventh Defendants that the Plaintiff's did not establish a prima facie case to warrant grant of an interlocutory injunction as envisaged in the cases of *Giella v Cassman Brown & Co. Ltd* [1973] EA 358, *Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR and *Mrao Ltd v First American Bank of Kenya Ltd & 2 Others* [2003] eKLR. They contended that the Plaintiffs' claim was rooted in succession disputes among family members, which disputes could not, in law or equity, be transferred to innocent third party purchasers.
17. It was further submitted that the decision of the High Court in Nyamira HCFA No. E006/2023 Priska Kwamboka Maranga & Another -Versus- Samwel Onsare Maranga & Others was rendered within a succession cause whose primary concern was distribution of the estate among beneficiaries as opposed



- to determination of third party proprietary rights. They added that innocent purchasers were protected even where succession irregularities are encountered. They relied on *Katende v Haridar & Company Limited* [2008] 2 EA 173.
18. It was also submitted that that the Defendants purchased only portions equivalent to the sellers' beneficial shares and that the Plaintiffs could not approbate and reprobate by benefiting from family allocations on one hand while disowning transactions made by the same family members on the other. Relying on the case of *Willy Kimutai Kitili v Michael Kibet* [2018] eKLR, they submitted that equity frowns upon such conduct.
 19. They further contended that any loss by the Plaintiffs was quantifiable and compensable as opposed to a situation of restraining then Defendants who paid consideration and acquired interests. They relied on *Mbuthia v Jimba Credit Finance Corporation & Another* [1988] eKLR and urged the Court to dismiss the application with costs to the Defendants.
 20. I have carefully considered the application, the affidavits and the submissions. The sole issue for determination is whether the reliefs sought should issue.
 21. The Plaintiffs seek interlocutory injunctions against the Defendants. The principles applicable while considering such an application are that the applicants must establish a prima facie case with a probability of success. Even if they succeed on that first limb, an injunction will not issue if damages can be an adequate compensation. Finally, if the court is in doubt as to whether damages will be an adequate compensation then the court will determine the matter on a balance of convenience.
 22. All the foregoing conditions and stages are to be applied as separate, distinct, and logical hurdles which the applicants are expected to surmount sequentially. If prima facie case is not established, then irreparable injury and balance of convenience need no consideration. See *Giella –vs- Cassman Brown & Co Ltd* [1973] EA 358 and *Nguruman Limited v Jan Bonde Nielsen & 2 Others* [2014] eKLR.
 23. There is no dispute that the Plaintiffs are administrators of the deceased's estate and that the deceased remains the registered proprietor of the suit property. It is also not contested that the Second to Eleventh Defendants purchased portions of the suit property from some beneficiaries of the estate, took possession, erected structures, commenced cultivation, and remain in occupation even now. This suit was filed inter alia to question validity of the transactions, their occupation and to obtain their eviction.
 24. I am persuaded that the Plaintiffs have established a prima facie case with a probability of success. Considering that the dispute is over land, damages will not be an adequate remedy.
 25. Having said the foregoing, I am not persuaded that it is appropriate to restrain the First Defendant in the blanket manner as sought at prayer 3 (i) of the application. Such an order would unnecessarily bar the First Defendant from discharging his statutory mandate. An order of inhibition should suffice.
 26. Regarding prayer 3 (ii) of the application, I am persuaded that the Defendant's occupation should not be interfered with at this interlocutory stage. All that is needed is to preserve the suit property but without interfering with possession and non-wasteful use at this point.
 27. In the end, I make the following orders:
 - a. An order of inhibition is hereby issued inhibiting the registration of any dealing with the parcel of land known as Gesima Settlement Scheme/137.
 - b. Pending hearing and determination of this suit, an injunction is hereby granted restraining the restraining the 2nd to 11th Defendants, whether by themselves, their agents, servants,



or any other persons acting on their instructions, from erecting beacons, constructing or continuing with construction of any structure, selling, offering for sale, alienating, disposing off, transferring, leasing, charging, subdividing or destroying the parcel of land known as Gesima Settlement Scheme/137.

- c. In line with Order 40 rule 6 of the Civil Procedure Rules, the inhibition and injunction shall, unless extended by the Court, remain in force for a period of only twelve months from the date of this ruling or until the case is determined, whichever occurs first. Consequently, parties are reminded to expeditiously prosecute the suit.
- d. The Plaintiffs shall have costs of the application. The costs shall be borne by the Second to Eleventh Defendants.

DATED, SIGNED, AND DELIVERED AT NYAMIRA, THIS 18TH DAY OF MARCH 2026.

D. O. OHUNGO

JUDGE

Delivered in the presence of:

Mr Otwal for the Plaintiffs

Mr Ndiritu for the 1st Defendant

Mr Ogari holding brief for Mr Omwoyo for the 2nd to 11th Defendants

Court Assistant: B Kerubo

