



REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT
AT MILIMANI LAW COURTS, NAIROBI
ELC CASE NO E213 OF 2025

FRANCIS MARIGA MWANGI..... 1ST

PLAINTIFF

GEORGE MORARA OGETII..... 2ND

PLAINTIFF

-VERSUS-

DR LUCIA WANJIKU KAMAU T/A

NYANDUMA HORTICULTURE IMPEX ENTERPRISES.....

DEFENDANT

JUDGEMENT

Background

1. This matter is in relation to Plot no 16, 17 and 66 all part of a larger parcel known as LR 6845/151 herein referred to as the suit properties.
2. The plaintiff avers that the defendant subdivided the suit properties into smaller parcels and sold the suit properties herein to willing third parties whom they bought the land parcels from.
3. That the said properties at the time of purchase were still registered in the defendant's name and that the defendant has failed to transfer the completion documents to the plaintiffs to effect transfer
4. The plaintiffs further indicate the defendant has been sued in ELC 571 of 2015 James Wachira & 68 others all who had purchased the

units that formed part of the larger parcel LR 6845/151 where judgement was delivered in favour of the plaintiffs in that matter, where the plaintiffs herein also participated as parties.

5. That despite the judgement directing the defendant to initiate the process of transfer to the plaintiff the same has not been implemented necessitating the filing of this suit via the plaint dated 24th April 2025 where they sought for the following orders.

- a. An Order that the Defendant transfers to the 1st Plaintiff Plots No. 16 and 17 of LR No. 6845/151 and Plot66 of LR No. 6845/151 to the 2nd Plaintiff in accordance with the Survey Map.
- b. An alternative order that the Defendant gives to the plaintiffs all the completion documents including original title number 6845/151, signed transfers in triplicate in favour of the plaintiffs, deed plans, land rent and Rates clearance certificates, PIN and photos and any other documents necessary to effect the transfers.
- c. An order that if the Defendant fails to execute transfers and any other documents for effecting transfer in favour of the plaintiffs, the Court Registrar of this honourable court signs the same
- d. An order that transfers be effected without the original title held by the defendant.

- e. An order that the transfer be effected with a copy of the survey map.
 - f. Costs of the suit
6. The defendants were duly served with summons to enter appearance but failed to enter appearance or participate in the hearing despite service of the hearing notice evidenced by the filing of affidavit of service of one Stephen Nd'ungo Njonjo.
7. The Matter proceeded for formal proof hearing on 21st January 2026. Francis Mariga Mwangi (PW1) adopted his witness statement dated 24th April 2025 as his evidence in chief. He also indicated that he had the authority to testify on behalf of the other plaintiff. He reiterated the fact that they had purchased plot no 16 , 17 and 66 part of LR 6845/151 that had been subdivided into several plots from 3rd parties who had purchased the property from the defendant via sale agreements dated 24th September 2024. That they paid the full purchase price and were both issued with share certificates No 75/2025 for plot 16 , 76/2025 for plot 17 and 77/2025 for plot 66 and took possession. That the defendant had then failed to process the title documents and issue them with completion documents to effect transfer.

Plaintiff 'submissions

The only issue raised in the submissions was whether the plaintiffs were entitled to the reliefs sought.

The plaintiff submitted that as in their plaint and witness statement that they had established that they had purchased the suit

properties having met all the conditions. The plaintiffs further submitted that they paid transfer fees to the defendant for the processing of the titles to their respective names, and that being in occupation and possession of their respective portions, title deeds remain the only outstanding issue. That once a purchaser pays the full purchase price and meets all the conditions, they are entitled to the transfer of ownership and therefore were entitled to have the properties transferred in their names and hence defendant had no lawful reason to withhold the completion documents and relied on the decision as in the mentioned case above **James Wachira & 68 Others v Lucia Wanjiku Kamau t/a Nyanduma Horticulture Impex Enterprises [2017] KEHC 2515 (KLR) and Dorcas Mwende Mumo & 3 others v Dr Lucia Wanjiku t/a Nyanduma Horticulture Impex Enterprises [2025]**.

Analysis and Determination

8. Having looked at the filed pleadings filed by the Plaintiffs herein, the written submissions, the authorities cited, the only issue for determination is whether the plaintiffs are entitled to the orders sought
9. Upon consideration of the uncontroverted evidence adduced in court by PW1, the documents produce indicate that the defendant is the registered owner of land known as LR. No. 6845. As it was contended by the plaintiffs that they paid the full purchase price and the transfer fees, it was only prudent for the defendant to complete the transaction by processing the title deeds as opposed to issuing

share certificate as proof for an indefinite period of time. I hold the view that the plaintiffs have proved their case on a balance of probabilities, the plaintiffs are entitled to issuance of their title deeds, and I see no reason whatsoever why the court should not grant them the prayers they seek.

Final disposition

For the foregoing reasons, the plaint dated 24th April 2025 is allowed on the following terms

- i. The defendant is hereby ordered to transfer, and issue the plaintiffs with their respective title deed within 30 days from the date hereof in accordance with the survey map as follows;
 - a) Francis Mariga Mwangi Plot No. 16 and 17 of LR. No 6845/151
 - b) Pascalia Mwende Nzivo Plot No.66 of LR No 6845/151
- ii. In the alternative an order that the Defendant gives to the plaintiffs all the completion documents including original title number 6845/151, signed transfers in triplicate in favour of the plaintiffs, deed plans, land rent and Rates clearance certificates, PIN and photos and any other documents necessary to effect the transfers within 30 days
- iii. An order that if the defendant fails to comply with orders i and ii as above within 30 days, the Deputy Registrar of this court to execute the transfer document and/or all the other necessary and/ or relevant documents in respect of the suit properties in favour of the plaintiffs

iv. The plaintiffs are entitled the costs of this suit.

It is so ordered.

DATED, SIGNED and DELIVERED virtually at **NAIROBI** on this **23rd** day
of

March, 2026.

MOHAMMED N. KULLOW
JUDGE

Judgment delivered in the presence of: -

Miss. Musa..... for the Plaintiff

N/A..... for the Defendant

Philomena W..... Court Assistant