

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ELC NO. E030 OF 2023

**MARKO
KIYAY-----
PLAINTIFF**

VERSUS

**LOKALI LOMUKE-----
1ST DEFENDANT**

**PAUL APUTOLE-----
2ND DEFENDANT**

**SAMUEL ARIACHIRO-----3RD
DEFENDANT**

**LONGOLE DOMOYONYANG-----4TH
DEFENDANT**

**AMOSEYARAN-----
5TH DEFENDANT**

**TEPALUK MOSES PLIMO-----6TH
DEFENDANT**

**REGAN TINAPA-----
7TH DEFENDANT**

**CHEPKOPEGH GROUP RANCH-----8TH
DEFENDANT**

**THE COUNTY SURVEYOR,
WEST POKOT COUNTY-----9TH
DEFENDANT**

**THE COUNTY LAND ADJUDICATION &
SETTLEMENT OFFICER-----
10TH DEFENDANT**

**THE ATTORNEY GENERAL-----11TH
DEFENDANT**

JUDGMENT

1. The plaintiff approached the court through a plaint dated **22/6/2023**. He seeks:
 - (a) **Declaration that he is legally entitled to 23 acres as a tenant in common in respect of land comprised of Chepkopegh Group Ranch No. 0096, hereinafter the suit property.**
 - (b) **Permanent injunction restraining the defendants from subdividing, transferring, evicting, registering a title, issuing title documents, or in any way interfering with or claiming ownership of the plaintiff's shares measuring 23 acres of thereabouts.**
 - (c) **Mesne profits for the loss, suffering for the said period.**
2. The plaintiff's complaint is that pursuant to a sale agreement dated **12/8/2012**, he purchased **23 acres** comprised of the Group Ranch land from the 6th defendant who is a former committee member of the 8th defendant, which agreement was witnessed and approved before the area chief and a representative of the group ranch, and later on **27/2/2012**, the transaction and membership was official approved by the 8th defendant's committee, area elders and neighbours and the map drawn and boundaries duly marked.

- 3.** The plaintiff avers that he thereafter took possession of the suit land, fenced it off, erected a structure, and brought his cattle for grazing and has since been utilising the land uninterrupted. The plaintiff avers that in **April 2022**, the 7th defendant purported to enter the suit land and attempted to fence it off, leading to a report with the police, whereof he was apprehended and locked up in Cheparerai Police Station, but eventually was released after amicably settling the matter after he paid reparation for the damage caused.
- 4.** The plaintiff avers that on **26/5/2022**, the 7th defendant in company of the farm committee, the County Surveyor and the County Land Adjudication & Settlement Officer, and the National police service officers, without any notice went to the suit property and cause a subdivision of the same, hived off **9 acres** of her land in favour of the 7th defendant, leaving him only with **14 acres**.
- 5.** The plaintiff avers that in furtherance of the said illegal and unlawful action, the defendants are processing a title deed in favour of the 7th defendant out of land **No. 0096**. The plaintiff terms the acts of subdividing his land as illegal, null, and void.

6. The 1st, 2nd, 3rd, 4th, 5th, 7th, and 8th defendants opposed the suit through a statement of defence and counterclaim dated **2/2/2024**. They denied the contents of the plaint. In the counterclaim, the 7th defendant sought:
- (a) **Declaration that the land sale agreement dated 12/8/2012 between the plaintiff and Moses Tepaluk Plimo was null and void.**
 - (b) **Permanent injunction restraining the plaintiff from occupying 23 acres of land belonging to the late Losute Doiywan, member No. 475, within the group ranch.**
7. The 9th, 10th, and 11th defendants opposed the suit through a statement of defence dated **29/9/2023**. They declined knowledge of the contents of paragraphs **13, 14, 15, 16, 17, 18, 19, 20, 23, and 24** of the plaint. The 9th, 10th, and 11th defendant denied that the plaintiff and the 7th defendant were neither member of the group ranch nor were they allocated the parcel number in question, which remains in the name of a deceased person Losute Doiywan whose estate was yet to be represented by a legal representative, to pave way for any transaction in respect of the suit parcel of land.
8. The 9th, 10th, and 11th defendants aver that after a dispute about ownership of the above parcel arose

involving the family of Losute Doiywan and Tukei Adodonyang, it was heard and determined by the group ranch committee on **26/2/2023**, the outcome being that the parcel measures about **20** acres and was to be subdivided, with Tukei Adodonyang receiving **10 acres**, while one Solomon Rotino Kedono is to hold **9.43 acres** in trust for the estate of Losute Doiywan.

- 9.** The 9th, 10th, and 11th defendants aver that the decision was implemented by the 9th and 10th defendants and all the interested parties were notified of the same, and any party with an objection was invited to lodge the same, but none were ever received. The 9th, 10th, and 11th defendants averred that the reliefs sought by the plaintiff are unmerited, especially when the suit is defective, incompetent, and bad in law.
- 10.** By a reply to the defence and defence to the counterclaim, dated **4/7/2024**, the plaintiff denied the contents of the defence generally and, in particular, that the suit land belongs to a deceased brother of the 7th defendant, otherwise he had rightfully and legally purchased the same through a valid sale agreement. The plaintiff avers that the 7th

defendant is entitled to the reliefs sought in the counterclaim.

- 11.** At the hearing, **Marka Kiyay** testified as **PW1**. He relied on a written statement dated **22/6/2023** as his evidence in chief. PW1 told the court that he purchased **23 acres** of land from Moses Tepaluk Plimo for **Kshs.460,000/=** for Group Ranch **No. 0096** on **12/8/2012**, took possession, fenced off the land, built a house, and has since been grazing thereon. PW1 said that later on, one Rongeen Tinapa came to the land and started claiming ownership.
- 12.** PW1 said that both the claimant, the committee, and he went to the lands office, and the claimant alleged that he had only bought **10** acres of land. PW1 said that eventually the land officer, land surveyor, and the group ranch committee visited the disputed land, without notice whereof, after deliberating, they gave the former owner **9** acres of his land after subdividing the land on **26/5/2023**, and have since denied him entry into the land to graze his cows.
- 13.** PW1 produced an agreement date **12/8/2012**, group ranch certificate, chief's letter dated **3/6/2023**, and a demand letter dated **4/6/2023** as **P. Exhibits No. (1) - (4)**. PW1 told the court that the land is owned

by the 7th defendant, to which he is a bona fide member by virtue of purchasing the land through a recognised member of the group ranch, though his name does not appear in the register of members.

- 14.** PW1 said that he bought the land from Moses Plimo after verifying his credentials from the area chief. **P. Exhibit No. (2).** According to PW1 had no details of the membership number, nor did it indicate if the seller had **23 acres** of land for sale. PW1 said that the exhibit was duly signed by the group ranch committee member. PW12 said that when he bought the land in **2012**, his sale agreement was not executed or witnessed by any group ranch official.
- 15.** Further, PW1 stated that on **12/8/2012**, he did not involve any group ranch officials to verify if the seller was a group ranch member or owned the land he was selling to him. PW1 said that a dispute arose when the 7th defendant came back to the land. PW1 said that he was not present when the group ranch committee resolved to hive off nine acres of his land to give to the 7th defendant.
- 16.** PW1 said that the late Moses Plimo had bought the land he was selling to him from a bona fide group ranch member, as per a sale agreement he showed

him. PW1 said that he sued the 7th defendant for trespassing on his land, which had been sold to him by Moses Plimo and taken possession of since **2012**. PW1 said that he bought the land without involving either a land surveyor or the group ranch official.

17. PW1 blamed the land survey and the land registrar for visiting and subdividing his land on **26/5/2023** without notification. PW1 said that he was on the land for **10** years before the 7th defendant claimed to stake a claim. PW1 insisted that the late Moses Plimo had bought **15 acres** of the land apart from another portion he had bought from Tukei Lodonyang, going by a sale agreement in the defendant's list of documents. PW1 said that before Moses Plimo passed on in **2024**, he had been sued. PW1 said that he was issued an allotment letter produced as **P. Exhibit No. (1)**, after he bought the land.

18. Selina Chelatanat Riwo testified as **PW2**. She relied on a witness statement dated **22/6/2023** as her evidence in chief. PW2 confirmed that she was a witness to the sale agreement produced as **P. Exhibit No. (1)**, in which his husband, the PW1, acquired the land on **12/8/2012**. PW2 said that she is the one who paid **Kshs.460,000/=** to the seller in

front of the area chief. PW2 said that after the 7th defendant trespassed onto the land, he agreed to pay damages of **Kshs.34,000/=**, so that he could secure his freedom at the police station.

- 19.** PW2 said that the land adjudication officers who came to subdivide their land on **26/5/2023** did not seek their consent. PW2 said that before the sale, they had verified with the group ranch executive officials whether the seller had any bona fide interest in the land.
- 20.** PW2 said that during the purchase of the land, it was not disclosed to them of any pending ownership dispute over the suit land. PW2 said that she was not aware that the late Losute Doiywan was the recorded owner of the suit land as member **No. 475** according to the group ranch register. PW2 said that since **2012**, they lived on the land uninterruptedly until **4/3/2022** when the land officials came to the land.
- 21. James Lotuw Kishaumoi** testified as **PW3**. He relied on a witness statement dated **22/6/2023** as his evidence-in-chief. He confirmed that he was a witness in the sale agreement produced as **P. Exhibit No. (2)**. PW3 said that he was also present

when the suit land was demarcated by the Group Ranch Officials on **27/2/2013**.

22. Solomon Rotina Kedimuk, also known as **Regan Tinapa**, testified as **DW1**. He relied on a witness statement dated **16/5/2024** as his evidence-in-chief. He told the court that the disputed land belonged to his late father, Tinapa Katanga, who, after his death, had the land registered in the name of their elder brother, the late Losute Doiywan Tinapa, who passed on, on **10/2/2014** as member **No. 475**.

23. DW1 said that the disputed land was shared among the two wives, among them his mother, Cheporenger Tinapa. DW1 said that out of his mother's land, he was given **20** acres, but to date, he has already disposed of **10** acres to John Tukei Atudonyang. DW1 said that the agreement which he had with John Tukei Atudonyang was not honoured, for he had not cleared the balance of five cows, after which he lodged a claim with the village elders.

24. DW1 said that after discovering that John Tukei Atodonyang had disposed of his entire inheritance of **20** acres, leaving him with no land. DW1 said that he also lodged a complaint with the Group Ranch officials and the Land Adjudication Committee, whose

decision was that he be given **10 acres**. DW1 said that the committee's decision was later implemented, and surveyed **9.43 acres** of the land.

- 25.** On the part of the plaintiff, DW1 said that he was advised by the Group Ranch Committee to lay his claim against Moses Tepaluk Plimo. DW1 said that after being surveyed **9.43 acres**, he took possession of the land and fenced it, only for the plaintiff to cause him to be arrested and detained by the police.
- 26.** DW1 insisted that the land belongs to his family, which it has never sold to the plaintiff. DW1 said that his family had also not sold any land to Moses Tepaluk Plimo, making the sale agreement dated **12/8/2012** null and void.
- 27.** DW1 relied on a copy of the register for the Group Ranch, limited grant ad litem dated **31/10/2023**, ruling and proceedings of the Group Ranch dated **26/2/2022**, death certificate dated **24/10/2013**, an allotment letter dated **18/7/2013**, letter from the Land Adjudication Office dated **3/2/2023**, and letters dated **4/4/2023** and **18/5/2023**, certificate of incorporation of the Group ranch dated **3/7/2002**, letter from the Land Adjudication Officer dated **4/8/2023**, as **D. Exhibit No. (1) - (10)** respectively.

- 28.** DW1 asked the court to allow his counterclaim by invalidating the plaintiff's sale agreement regarding his land. DW1 admitted that he had relocated to Ngunda, where he has another family, only to come back and find the plaintiff on his land. DW1 admitted that the group ranch register has some omissions. DW1 admitted that his late brother, whom he alleges to have been registered on behalf of his late father, had not taken out letters of administration in respect of their late father's estate. DW1 said that his mother was issued with **D. Exhibit No. (5)**, long after the plaintiff had also obtained a certificate for the same land.
- 29. Lokoli Lomuke** testified as **DW2**. He relied on a witness statement dated **16/5/2024** as his evidence-in-chief. DW2 told the court that he has been the chairman of Chepkopegh Group Ranch since **2008**, which has **582** members, some of whom have died, and their parcel of land has been taken up by the surviving children after ascertaining their details.
- 30.** DW2 told the court that according to the group register, Member No. **475**, who owns the suit land as the late Losute Doiywan. DW1 told the court that part of his mandate is to handle disputes among group

ranch members. In this case, DW2 told the court that sometimes in **2022**, the 7th defendant lodged a complaint with the office against John Tukei Atodonyang over a parcel of land he had sold to him, but had declined to pay the entire consideration.

- 31.** After listening to the complaint, DW2 said that the executive committee of the group ranch resolved that John Tukei Atodonyang be given 10 acres while the remaining **9.43 acres** be released to the 7th defendant, which decision was later implemented by the Land Adjudication Officer. DW2 said that the plaintiff was never a member of the group ranch to be entitled to an allotment letter as he claims. DW2 said that the plaintiff has no right to claim any land in the group ranch which belongs to the estate of the late Losute Doiywan.
- 32.** DW2 said that the custody of the group ranch records was the 2nd defendant. He could not tell when the demarcation or subdivision of the group ranch took place. DW2 said that some areas of the group ranch were yet to receive title deeds. DW2 said that during the meeting, resolving the dispute, they did not involve either the Land Adjudication Officer, the Land Registrar, or the Land Surveyor.

- 33.** DW2 told the court that they were legally elected as group ranch officials as per **D. Exhibit No. (9)**. DW2 said that **D. Exhibit No. (5)** is duly signed by some of his officials, including the secretary, who is the 2nd defendant, on **8/7/2013**. DW2 said that he was present when the suit land was demarcated in the name of Mrs. Tinapa Cheporenger. DW2 said that he was not privy to **D. Exhibit No. (2)**, dated **27/2/2012** and **P. Exhibit No. (2)**.
- 34.** DW2 confirmed that the author of **P. Exhibit No. (3)** was the then area chief. He could not tell why **D. Exhibit No. (1)** would show a different name. DW2 could not tell if the land register was prepared by the group ranch or the Land Adjudication Officer. DW2 could not tell why **D. Exhibit No. (1)** had no signature of his executive committee members, including himself, if at all it was authentic.
- 35.** DW2 confirmed that John Tukei Atudonyang, who was the complainant in **D. Exhibit No. (3)** was a son in law of the 7th defendant. DW2 admitted that his signature was missing in the verdict, giving the 7th defendant 10 acres of land out of the plaintiff's suit, nor was it signed by a bona fide official of the group ranch. DW2 said that when the Land Adjudication

Officer came to implement the verdict, they had checked the particulars in **D. Exhibit No. (1)**.

36. DW2 said that the Land Adjudication Officer was given the information by the 2nd defendant as per **D. Exhibit No. (10)**.

37. DW2 said that the land belongs to Cheporenger Tinapa, who later subdivided it among her sons. DW2 denied tampering with the area register and the membership of the group ranch. DW2 said that group ranch officials needed to be present when any part of the group ranch land was being alienated, to ascertain its availability and ownership status.

38. Tulia Pkiror Chumaa testified as **DW3**. He relied on a witness statement dated **16/5/2023** as evidence-in-chief. He told the court that the 7th defendant is his neighbour, who occupies land belonging to the family of Tinapa Kitanga, initially held in the name of its elder brother, the late Losute Doiywan, member **No. 475**, and which was shared among the two wives, namely, Cheporenger and Chepokondoro Tinapa, in equal shares.

39. DW3 told the court that Cheporenger subdivided her land among her sons, among them the 7th defendant, who later sold the land to one John Tukei

Atudonyang, where he was a witness. DW3 said that after the 7th defendant relocated to Uganda for greener pastures, he came back, took possession of his land, only for the plaintiff to stop him and make a report to the police.

- 40.** DW3 said that eventually DW1 lodged a complaint with the officials of the 8th defendant, whose verdict was that he be given **9.43 acres** of his land by John Tukei Atudonyang as per **D. Exhibit No. (3)** DW3 said that he could doubt the signature and the letter of the area chief who witnessed the plaintiff's sale agreement.
- 41.** Following the non-appearance of the 9th, 10th and 11th defence witnesses, it was marked closed.
- 42.** The plaintiff relies on written submissions dated **19/12/2025**, isolating three issues for the court's determination. On a *bona fide* purchaser, the plaintiff submits that his sale agreement complies with the Law of Contract Act. Reliance is placed on **Samuel Kamere -vs- Land Registrar Kajiado [2015] eKLR.**
- 43.** On whether the group ranch committee sanctioned the purchase, the plaintiff submits that his sale agreement was lawfully signed and executed by both

the executive committee of the group ranch and the area chief.

44. On whether the counterclaim has been proved, the plaintiff submits that for his sale agreement to be nullified, the 7th defendant must prove lack of consent, fraud, misrepresentation, illegality, lack of capacity, breach of contract, or lack of compliance with the proper formalities of a contract.
45. The plaintiff submits that the evidence of the 7th defendant was contradictory in the sense that on one hand he alleged the suit land was owned by his deceased brother, while at the same time some of the other defendants produced a share certificate in the name of his mother, Cheporenger Tinapa. The plaintiff submits that where two equities are equal, the first in time prevails, and that he who is earlier in time is stronger in right.
46. On the legality of the alleged subdivision of his land by the group ranch officials, the plaintiff submits that land in a group ranch is owned in tenancy in common with no one co-owner capable of saying that he owns a certain part of the whole, as laid out in *Megarry & Wade, the Law of Real Property, 6th Edition, pages 477 and 480*. Reliance is placed on **John Mbogua Getao**

**-vs- Simon Parkoyiet Mokare & Others Petition
No. 9 of 2022.**

- 47.** The plaintiff submits that the suit land falls under the repealed Land (Group Representatives) Act (repealed), and now succeeded by **Article 63** of the Constitution as read together with the Community Land Act and the Community Land Regulation **2017**. The plaintiff submits that **Part V111** of the then Land (Group Representatives) Act (repealed) set out the procedures of dissolution, and the manner of subdividing and allocating individual parcels of land to group ranch members.
- 48.** In this case, the plaintiff submits that the group ranch official did not follow the law in purporting to subdivide his land in favour of the 7th defendant. The plaintiff submits that the register of members in a group ranch is governed by **Section 3** of the Land (Group Representatives) (Prescribed Information) Regulations, **1970**. The plaintiff submits that what the defendant relied upon did not comply with the law, their exhibits are inadmissible in law, and could not be used as a basis to interfere with his right of ownership of the suit property. Reliance is placed on **Motonga suing on behalf of the estate of Shori**

Motonga & Others -vs- Lempaka & Others [2024] KEELC 13498 [KLR], Peter Tomito & Others -vs- Korinko N.Nkoliai & Others [2018] eKLR, and Koikai -vs- Koikai & Others [2024] KEELC 13628 [KLR].

- 49.** The plaintiff submits that the defendants have been unable to prove that his sale agreement is void or a nullity. The plaintiff urges the court to find that the group ranch acted contrary to Cap **287**, and even failed to transition after the Act was repealed, taking into account the grace period of **3 years**, hence acting in breach of trust bestowed upon it by the original and subsequent members of the 8th defendant.
- 50.** The 1st, 2nd, 3rd, 4th, 5th, 7th and 8th defendants rely on written submissions dated **5/12/2025**, isolating six issues for the court's determination. It is submitted that the plaintiff has been unable to produce any membership number to confirm that he owned the disputed suit land; he produced no letters of administration for the estate of Losute Doiywan, and that any sale of land without letters of administration amounts to intermeddling with the deceased's estate, rendering the sale agreement dated

12/8/2012 null and void. Further, it was submitted that the plaintiff dwelt with someone who had only bought **15 acres** and who was incapable of transferring him **23 acres** of land.

- 51.** On whether the 7th defendant was entitled to land at the group ranch, it was submitted that Cap **287** was repealed by the Community Land Act **2016** as read together with **Article 63** of the Constitution. It is submitted that after the death of Losute Doiywan, the plot **No. 0096** was held by the 7th defendant's family in line with **Section 12(a) and (b)** of the Community Land Act. In this case, the plaintiff knowingly purchased land meant for the 7th defendant's family from the previous seller, illegally, and should therefore not benefit from his illegalities.
- 52.** Regarding permanent injunction, the defendants submit that in view of the committee's decision, which was implemented by the Land Adjudication Officer, the plaintiff has no right to continue claiming the entire **23 acres**, which he unlawfully purchased from non-owners.
- 53.** On mesne profits, the defendants submit that the same are defined by **Section 2** of the Civil Procedure Act. In this case, it is submitted that the plaintiff has

failed to demonstrate that the 7th defendant is a trespasser on his land. Unfortunately, it is submitted that the plaintiff bought the land belonging to a deceased person, contrary to the Law of Succession Act, and also for purchasing more land than was owned by the seller.

54. Regarding the proceedings and the ruling of **26/2/2022** by the group ranch officials, the defendants submit that under the 3rd Schedule of the Land (Group Representatives Act), the committee has the mandate to hear, determine, and make a decision about the right of the members of the group ranch, as confirmed by DW3. It is submitted that the mandate was duly dismissed by the 8th defendant, by summoning both the plaintiff and the 7th defendant, but the former declined to attend. The defendants submit that the minutes produced as **D. Exhibit No. (3)** confirms that the dispute was heard, determined, and implemented. The defendants urge the court to find the plaintiff has failed to prove his case, which should be dismissed with costs.

55. The court has carefully gone through the pleadings, evidence tendered, written submissions, and the law. The issues calling for my determination are:

- (1) If the plaintiff is entitled to a declaration that he is entitled to 23 acres as a tenant in common, in respect of land comprised in Chepkopegh Group Ranch No. 0096.**
- (2) If the plaintiff's rights or interests to the aforesaid land were breached by the defendants in subdividing, transferring, evicting, purporting to register a title, issuing any such title deed, or any manner interfering with his ownership of shares measuring 23 acres or thereabouts.**
- (3) If the plaintiff is entitled to mesne profits.**
- (4) If the 7th defendant has proved ownership of the suit property to be entitled to cancellation of the sale agreement dated 12/8/2012 and a permanent injunction.**

56. Land comprised in a group ranch was, before **2010**, governed by the Land (Group Representatives) Act, Cap **287** Laws of Kenya. In **Kanyarkwat Group Ranch & Others -vs- Joseph & Others ELC No. 38 (E034) of 2021 No.30 of 2017 (consolidated) [2025] KEELC 129 [KLR] (11th February 2025) (Judgment)**, the court said that the repealed Land (Group Representatives) Act, **1968** Cap **287** allowed for land to be legally issued to groups, each with a freehold title deed, held and managed on behalf of the entire group ownership for their collective benefit, where under **Section 8(1)** of the Act, power

was conferred upon the group representatives to sue or to be sued in the corporate name upon issuance of the certificate of incorporation of Group Representatives.

- 57.** The court cited *James Mbugua Getao -vs- Simon Pariyet Mokare Petition No. 9 of 2020*, that a title to land under a group ranch is issued and held by elected representatives on behalf of the group, in equal, but indivisible shares, until such time that each shares, and that before then the ranch is held as a common ownership, where each member has an undivided share, that is to say tenancy in common as opposed to joint tenancy, until there is subdivision.
- 58.** The court held that no one co-owner has a better right to the property than another, and as long as the tenancy in common lasts, no one can say which of them owns any particular parcel of land. In this suit, none of the parties, including the 8th defendant, has pleaded or tendered the nature, acreage, locality, and registration status of the mother title of the group ranch land to which the suit land forms part.
- 59.** There is no evidence that the suit land formed part of any registered land as of the effective date namely **27/8/2010** which had by virtue of **Section 8** of the

Land (Group Representatives) Act, vested in the group ranch representatives now sued and former and current officials of the 8th defendant to hold and to executive such powers on behalf of and for the collective benefit of the group members among them the plaintiff and the 7th defendant.

- 60.** The mandate to control, supervise, and oversee the activities of the group ranch under the Land (Group Representatives) Act was vested with a Registrar of Group Ranches, to ensure the registration, elections, keeping of the group ranch membership register, and assets. A group ranch under the Act referred to a demarcated area of range land to which a group of pastoralists who graze their individually owned herd of cattle had official land rights. **Section 28** of the Act relates to the question of who is a group ranch member. It could only be settled through a certificate signed by the majority of group representatives.
- 61.** Dissolution of a group ranch could only arise with the consent of both the Registrar of group ranches and the Director of the Land Adjudication and Settlement, writing to the chairman of the group, confirming that the group ranch will be dissolved after signing all the necessary documents transferring the created

subdivided parcels of land to the individual members of the group. The letter would indicate that the chairman must obtain a Land Control Board Consent for the subdivision.

- 62.** The chairman had to record the proposed criteria of subdivision by the committee with a land surveyor having prepared a scheme plan as per **Section 58** of the Physical Land Use and Planning Act (PLUPA), to ensure that all members of the group ranch will get their equal shares while looking into consideration the previous settlement, to avoid a member being moved away from their place due to bias or favour.
- 63.** It was the Group Registrar under **Sections 9** and **17** of the **Act**, who had the mandate to call for an election in his administrative and supervisory capacity and to issue a certificate of incorporation to the duly elected officials of the 8th defendant. A group ranch was mandated to maintain a membership register. Any amendment to the group register of members under **Section 13** of the Act had to be in writing and duly signed by the majority of the group representatives, accompanied by a copy of the minutes of the meeting in which the resolution to

amend was passed. Group ranch members have customary rights over the land in question.

- 64.** In this suit, the plaintiff is questioning the manner, capacity, processes, legality, and the propriety of the defendants as former and present officials of the 8th defendant subdivided, transferred, and implemented a portion of his land in favour of the 7th defendant.
- 65.** As a starting point, the question is whether the 8th defendant has a duly and legally constituted and elected group of representatives under **Section 5** of the Act holding a certificate of incorporation issued under **Section 8** of the Act, conferring on them the power and mandate to deal with the suit property.
- 66.** Group ranches are run through statutory procedures and documentations set out under **Sections 7, 8, 9,** and **10** of the Act. An Adjudication Register under the Act is defined as an adjudication register prepared under the Land Adjudication Act, Cap **284**. Group Representative means representatives incorporated under **Section 7** of the Act. A register of members means one under the custody of the Registrar of Group Ranches under **Section 4** of the **Act**.
- 67.** Meetings to adopt a group constitution and to elect group representatives had to be convened by the

Registrar. Any disputes involving the group members have to be handled by the Registrar under **Sections 10, 11, 12, 13,** and **15** of the Act. A Register of the members has to be kept and maintained by the group representatives under the supervision of the Registrar in the prescribed form.

- 68.** A copy of the register or document of the representatives to be presented in court has to be certified by the Registrar as a true copy of the extract to be admissible as prima facie evidence of its contents. The group register produced before this court has not been certified by the Registrar in accordance with the law. The document is not signed by the majority of the officials of the group ranch. The purported register has the majority of its columns unfilled, signed, dated, and countersigned. It is the Registrar of group ranches who has powers to authenticate all matters, minutes, proceedings, elections, and decisions of the group ranch. An adjudication record showing that the subject land of the group ranch land has been adjudicated, when it was adjudicated, and the status of the adjudication and registration is missing.

- 69. Section 17** of the Act provides that a register of members shall contain the name(s), date he became a member, his qualification of membership, cessation of membership, name of the guardian, where the member is under disability, and or if he is a minor. All the proceedings, activities, and dealings of a group ranch must be captured in formal statutory Form **Nos. A, B, C, D, E, F, G, H, I, J, K, L, M, and N**, in line with **Rule 7** of the Regulation **1970** and **Sections 28, 9, 11, 13, 23, 16, 8(1), and 15(4)** of the Act.
- 70.** Consent to subdivide land belonging to a group ranch is a statutory process governed by **Section 7(3)** of the Act. It is issued after an application is made in writing, signed by the majority of the group ranch representatives, and supported by a copy of minutes in which the resolution to effect the dissolution was passed.
- 71. Article 63** of the Constitution defines community land to consist of land lawfully registered in the name of a group representative, ancestral land. **Article 63(3)** of the Constitution provides that any unregistered community land shall be held in trust by the county government on behalf of the communities

for which it is held. **Article 63(4)** of the Constitution is clear that the community land shall not be disposed of or otherwise used except in terms of legislation specifying the nature and extent of the right of members of each community individually and collectively.

72. The Land (Group Representatives) Act was repealed by the Community Land Act **2016**. Under **Article 63** of the Constitution and **Section 47** of the Community Land Act, undissolved group ranches as of the effective date fell under the Community Land Act. As of the effective date, on **21/9/2016**, a registrar means the community land registrar. **Sections 5(2)** and **55 (14)** protect the rights of all the group members after **2016**, as a subsisting right to occupy any land belonging to a group ranch, where they are members.

73. Section 34 of the Community Land Act grants any person the right to use and occupy any part of the community land, under any law, to continue to use and occupy the land under that right. **Section 34(2)** of the Community Land Act nullifies any conversion of community land commenced after **2010**, unless done in line with **Section 21**, with the involvement

of the community land registrar and the approval in a special meeting convened for that purpose by the community land registrar and the registered community.

- 74. Sections 46 and 47** of the Act provide that the respective group representatives in the repealed Act shall be registered as a community in accordance with the Community Land Act, and upon registration, the respective group shall cause to hold office. **Section 47(3)** of the Community Land Act provides that land held by the group representatives shall not be sold, leased, or converted to private land before it has been registered under the Community Land Act.
- 75.** Applying the requirements of the law cited above, the question is whether the evidence tendered by the defendants meets the requirements of the law. **D. Exhibit No. (1)** is not authenticated by the group ranch registrar. It is not signed by the majority of the group representatives who hold office on the 8th defendant. **D. Exhibit No. (3)** was not submitted and received by the group ranch registrar or the Community Land Registrar within **14 days** of its determination.

- 76.** If the land fell within the Land Adjudication Section under Cap **284**, such proceedings and decision must involve the Land Adjudication Officer.
- 77.** Entry of **D. Exhibit No. (4)**, namely, the register of members is missing. **D. Exhibit No. (5)** is not signed by the Land Adjudication Officer. It bears a Ministry of Lands and Settlement Logo, yet the makers are private citizens who have no role to play under Cap **284** or **283**, or **Cap 287**.
- 78.** **D. Exhibits No. (6), (7), (8), and (10)** were not produced by the makers. The documents are not certified. **D. Exhibit No. (9)** is not certified by the Group Ranch Registrar. The minutes when the group ranch representatives were elected are missing. **D. Exhibit No. (10)** is not addressed to the group ranch. The document is not signed by the maker. The maker, DW2, who is alleged to be the chairman of the group ranch, produced nothing to show compliance with the law as regards group ranch pre and post **2010**. He could not tell even elementary issues governing a group ranch and its operation in relation to the law.
- 79.** The 2nd defendant, who is supposed to be the custodian of all official records of the 8th defendant,

according to its chairman, failed to testify and explain to the court why there has been non-compliance with the Act in terms of official documentation of the group ranch.

- 80.** The same case applied to the 8th and 10th defendants. Other than filing a statement of defence and a list of documents undated but filed on **2/10/2023**, the 9th and 10th defendant withheld vital information from the court, namely the particulars of the group ranch land and its status as of **27/10/2010**, and lastly, whether the group ranch was dissolved or undissolved as of **2016** and its current status.
- 81.** As regards the 7th defendant, the contention is that the suit land belongs to his family. On the other hand, DW2 and 3 allege that the land remains in the name of his mother, Cheporenger Tinapa, as per **D. Exhibit No. (5)**. The court has already made a finding that the document is not authentic. The adjudication register is not before the court. The **P. Exhibits No. (1), (2), and (3)** are also not certified. The originals were not available. The plaintiff did not tender any evidence to show the registration status of the group ranch in the eyes of the law. A copy of the record from the Land Adjudication and

Settlement Officer or witness summons to the officer to attend court and explain on which basis they visited his land and purported to subdivide and transfer a portion of it to the 7th defendant could have shed some light.

- 82.** There is no evidence under which legal land regime the defendants acted. As indicated above, customary rights or interests of occupants of group ranches are protected by law, whether the group ranch is unregistered land or not.
- 83.** The court finds, therefore, that the plaintiff has only been able to prove that the defendants acted without legal mandate.
- 84.** The upshot is:
- a)The court declines to grant prayers (a) and (c) of the plaint dated 22/6/2023.**
 - b)An order of status quo is hereby issued to preserve the status quo of the plaintiff's current occupation of the land that he bought with the knowledge, and approval of the area chief, group ranch officials of the 8th defendant as of 25/5/2022, to persist until the County Community Land Registrar, West Pokot regularizes the status of the group**

ranch within 6 months from the date hereof, in relation to its officials and the alignment of the group ranch with the Community Land Act.

c) There will be no order as to costs.

85. Orders accordingly.

Judgment dated, signed, and delivered via Microsoft Teams/Open Court at Kitale on this 24th day of March 2026.

In the presence of:

Court Assistant - Dennis

Sugut for Chebet for 1st, 2nd, 3rd, 4th, 5th, 7th, and 8th defendants present

Attorney General for 9th - 11th defendants

Keya for Wanyonyi for the plaintiff



**HON. C.K. NZILI
JUDGE, ELC KITALE.**