



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT KABARNET

ELC CASE NO. E005 OF 2024

CHERUIYOT MEUTI

PLAINTIFF

= VERSUS =

ALVIN KIPTOO 1ST

DEFENDANT

EVANS KIPTOO 2ND

DEFENDANT

JUDGMENT

1. The uncontroverted/undisputed facts of this case are as follows:-

- i) That Cheruiyot Meuti, the plaintiff herein, is the registered owner/proprietor of all that parcel of land known as Baringo/Marigat/759, hereinafter, referred to as the suit property.
- ii) That the suit property measures approximately 47.80 hectares.

- iii) That the suit property was registered in the name of the plaintiff on 19th April, 2024 and a title deed issued to the plaintiff on the same date.
- iv) That the defendants lived in the suit property, way before it was registered in the name of the plaintiff, but with the permission of the plaintiff's brother, Joseph Meuti.
- v) That the defendants lived in the suit property for between 9-10 years, according to the plaintiff's witness Kemboi Meuti (PW3).
- vi) That before the suit property was registered in the name of the plaintiff, it belonged to Marigat Group Ranch.
- vii) That neither the defendants nor their parents were members of Marigat Group Ranch.
- viii) That the defendants and/or their family had structures erected in the suit property but pursuant to the permission granted to them by the plaintiff's brother, Joseph Meuti.

- ix) That the circumstances that led to accomodation/or the defendants' family being allowed to erect houses or structures in the suit property were that the defendants' houses burnt down leaving them homeless.
 - x) That the defendants have their own land adjacent to the suit property, where they currently live.
 - xi) That the defendants, particularly the 1st defendant, has erected a toilet on the suit property and poured building materials thereon.
2. In his statement of defence dated 23rd September 2024, the 1st defendant acknowledges that the suit property is registered in the name of the plaintiff but contends that the registration of the plaintiff as proprietor of the suit property is subject to a trust in their favour (in favour of the defendants) to the extent of 18 acres or thereabout.
3. The 1st defendant having acknowledged or admitted that he entered into the suit property, built a toilet and poured

building materials in readiness to erect structures thereon, I find the sole issue for the court's determination to be whether the 1st defendant has proved that registration of the suit property in the name of the plaintiff is subject to a trust in his favour.

4. Concerning that issue, apart from leading evidence showing that his family was at some point in time living in the suit property, the defendants have not adduced any evidence capable of showing that the plaintiff or the plaintiff's brother who allowed them to enter into the suit property and erect structures/houses therein, held the suit property or any portion thereof in trust for him or his family members. The plaintiff, through the testimony of Kemboi Meuti (PW3) informed the court that the suit property belonged to Marigat Group Ranch. The defendants in their testimony before the court, admitted that neither they, nor their parents, were members of Marigat Group Ranch. In that regard, see the following excerpts of the testimony of the 1st defendant,

Alvin Kiptoo, who testified as DW1, which at the relevant part he stated as follows:-

“I am not a member of Marigat Group Ranch. My father was also not a member...what I stated in Paragraph 8 of my statement that my father was a member of the Group Ranch, Member number 310 is not true....Member No.310 is Joseph C. Cheptoo. This is not my father.....”

5. The plaintiff and his witnesses offered a plausible explanation as to why the defendants were accommodated by the plaintiff's brother in the suit property, that is, their family house(s) got burnt. That explanation was corroborated by DW2, Evans Kipkorir Cherutich, who informed the court as follows:-

“We moved into the suit land in 1995. We were given a place to live by the plaintiff's father after the 1st Defendant burnt our house in 1995.”

6. DW2 confirmed that they moved out of the suit property but stated that they later moved back to the suit property. In that regard, DW2 stated as follows:-

“We moved to the land across the road but later moved back to the suit property and started erecting structures. The plaintiff chased us away saying the land belonged to him.”

7. Like DW2, DW1 admitted/acknowledged that they currently live outside the suit property, across the road, but stated that they have erected structures on the suit property.
8. Although the defendants lived in the suit property with the permission of the prospective owners for a long period of time, the totality of the evidence adduced in this case shows that they left the suit property and are currently living on a parcel of land belonging to their family, adjacent to the suit property. The evidence adduced by the parties to this suit further shows that the 1st defendant has without the permission of the plaintiff, trespassed into the suit property

and erected a toilet thereon and poured building materials thereat which actions are inimical to the plaintiff's right to peacefully hold and enjoy the suit property as the registered proprietor thereof.

9. The 1st defendant having failed to lead any evidence capable of showing that the suit property is subject of any trust in his favour, I do find as a fact that the plaintiff has proved his pleaded case against the 1st defendant on a balance of probabilities. Consequently, I allow his case as prayed in the plaint dated 29th May, 2024 as against the 1st defendant. That is to say, an order of permanent injunction be and is hereby issued restraining the 1st defendant Alvin Kiptoo, by himself, his servants and/or agents or otherwise howsoever from entering, alienating, constructing on and/or trespassing upon, interfering with and/or in any other manner dealing with the parcel of land known as Baringo/Marigat/759.

10. If at the time of delivery of this judgment the 1st defendant is in occupation of the parcel of land known as

Baringo/Marigat/759, I direct him to, within 30 days from the date of delivery of this judgment to voluntarily vacate and/or remove himself with all his developments therein, failing which, upon expiry of the time herein given, he shall be evicted therefrom.

11. As the plaintiff has succeeded in his case against the 1st defendant, I award him the cost of the suit to be paid by the 1st defendant, Alvin Kiptoo.
12. I make no orders against the 2nd defendant as the case against him was withdrawn on 14th July, 2025.
13. Orders accordingly.

Judgement dated, signed and delivered virtually at Busia this 19th day of March, 2026 in the absence of the parties

L. N. WAITHAKA

JUDGE

ORIGINAL