



**Ngugi & 5 others v Board of Trustees of Kiambu Institute of Science and Technology
(Environment and Land Case 67 of 2020) [2026] KEELC 1823 (KLR) (16 March 2026) (Judgment)**

Neutral citation: [2026] KEELC 1823 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND CASE 67 OF 2020**

**JA MOGENI, J
MARCH 16, 2026**

BETWEEN

ALEXANDARINA NGUGI & 5 OTHERS PLAINTIFF

AND

**BOARD OF TRUSTEES OF KIAMBU INSTITUTE OF SCIENCE AND
TECHNOLOGY DEFENDANT**

JUDGMENT

1. The Plaintiffs have been staying at the Kiambu Institute of Science and Technology's residential premises on lease in their capacity as both academic and non-academic staff paying rent to the Defendant.
2. Their stay has however run into headwinds since they claim the Defendant has decided to increase rent paying in respect of the various premises. This led to the Plaintiffs seeking intervention of the Rent Restriction Tribunal which through its Ruling delivered on 21/09/2016 held that there was no justification to interfere with the rent rates at the time which were Kesh 9,000 for a three bedroomed and Kesh 6500 for a two bedroomed.
3. That however on 1/06/2018 upon the request by the Defendant the Plaintiffs agreed that rent payable to be adjusted to Kesh 16,800 and both parties mutually settled for that figure and that is the rent they are paying to date.
4. Notwithstanding the mutual agreement, the Defendant on 22/07/2020 served a notice requiring an upward adjustment of the rent to Kesh 37,058 from Kesh 16,800 and rent deposit of Kesh 37,058 payable in two months. Failure to which the Defendant had threatened to repossess the premises.
5. It is this increment that is the subject of the suit filed in this Court vide a Plaint dated 25/08/2020 where the Plaintiffs pray for Judgment against the Defendant for:



1. A permanent injunction restraining the Defendant either by herself, servants, agents, representatives and/or assignees from increasing rent, attaching and/or auctioning the Plaintiffs household good, repossessing, evicting, harassing and/or in any manner from dealing with the Plaintiff's tenancy at LR No. 81/32 more particularly known as Kiambu Institute Of Science And Technology.
2. Costs of the suit.
3. Any other relief that the Honorable Court may deem fit to grant in the circumstances.
6. The Defendant in response filed a Statement of Defence dated 22/09/2020 and denied all the averments in the Plaint and put the Plaintiff to strict proof but admitted the descriptive parts of the Plaint.
7. The Defendant admitted giving notice to increase rent since it is its right as proprietor and averred that the said rent is not exorbitant since it is lower than the market rates. Clarifying that the three bedroomed was going for Kesh 37,058 and two bedroomed was going for Kesh 29,647.
8. That the Defendant were dissatisfied with the orders of assessment by the Tribunal as it went out of its way to clothe itself with jurisdiction where it did not have any and that they had filed an appeal which had not been heard.
9. Furthermore, the Defendant averred that the Kiambu Institute of Science & Technology (hereinafter called "KIST") and that neither the Defendant and KIST is in a position or has an obligation to house the staff such as the Plaintiffs. That infact KIST only has 45 houses which are not adequate to house all the staff at KIST.
10. According to the Defendant, Kiambu town where the said houses are situated is reasonably well developed and the Plaintiffs and other members can get alternative accommodation. The Defendant avers that the Defendant is an independent institution separate from KIST and has no obligation in law to provide housing for KIST Lecturers and staff such as the Plaintiff.
11. The Defendant contends that under Clause 4.4 of the lease dated 1/06/2018 which was signed by both parties it was agreed that the Plaintiff would increase rent. Additionally, that under Clause 4.2 of the lease it was terminable by either of the parties giving the other two months' notice of intention to terminate. The Defendant prays that the Plaintiffs' suit be dismissed with costs.
12. The Plaintiffs filed a Reply to the Defence dated 9/10/2020 and averred that the Defendant is not the proprietor of the suit premises since they are institutional houses belonging to Kiambu Institute of Science and Technology (hereinafter "Institute or KIST") managed by Board of Governors. Which position is confirmed by the Attorney General's legal opinion dated 12/10/2018 where the Defendant was advised to surrender the parcel of land in dispute back to the Institute.
13. In their response they averred that the housing units are institutional housing not to be compared to commercial units at commercial rates which was a decision made when the Rent Restriction pronounced itself and stated that the comparison should be with other surrounding education institutions such as KTTC, Mangu High School among others.
14. That infact all teaching and non-teaching staff pay the Kesh 16,800 for a three bedroomed house and Kesh 13,000 for a two bedroomed house and not the Kesh 37,058 which is being paid by outsiders who are not staff or non-teaching staff of KIST.



15. According to the Plaintiffs the subdivision done by the Defendant is contrary to the directives of the Attorney General in the opinion dated 12/10/2018 where the Ministry of Land was directed to place a restriction on LR No. 81/32 which is the suit premises.
16. Further that whereas the Plaintiffs and Defendant entered into a Lease Agreement the rent increment being imposed on the Plaintiffs has not been agreed upon.

Plaintiffs' Case

17. Geofry Kariuki Kamau testified as PW1 on behalf of the other Plaintiffs who had given authority dated 25/08/2020 for him. He adopted the witness statement dated 25/08/2020 as his evidence in chief and also produced the exhibits in the List of Documents of even date with nine documents marked as "PW1-Exh 1-9".
18. He told the Court that the Defendant was not the proprietor of the suit property because the Legal Opinion (see page 37 paragraph 34 "B") and agreement at page 39 paragraph 42 B state that the management is vested in the Board of Governors. Also, the Attorney General advised that the management of KIST should be in line with TVET Act of 2018 where a Board was to manage institutional property.
19. That the receipt at page 12 of the Defendant's bundle is for a receipt for one Stanley Mugo who has paid Kesh 37,200 for July 2020 but the said Mugo is not a member of either teaching or non-teaching staff.
20. On cross-examination he told the Court that he is in Court as one of the institutional staff who does not agree with the increment made from Kesh 16,800 to Kesh 37,058 for institutional houses. That the action of the Defendant is not justified since this was not even in the contract and there is also no modification or improvement of the suit premises. He told the Court that he is not in contempt and neither has he been cited for contempt. That none of his household items have been auctioned for non-payment of rent.
21. With that the Plaintiffs closed their case.

Defendant's Case

22. Ruth Wambui Kamau testified as DW1 and she adopted her witness statement dated 21/11/2023 as her evidence in chief and she produced a List of and Bundle of Documents dated 22/09/2020 as exhibits and a further list dated 21/11/2023. She told the Court that she had been nominated and authorized by the Defendant institution to testify on its behalf and she had filed the authority to appear.
23. When she was cross-examined, she stated that she was the Finance Officer although she produced no supporting document to lend credence to this averment. She testified that they issued notice to increase rent because the Board was at liberty to increase rent more than double because the Agreement allowed the Board to do so. The tenant was asked for a counter-offer which they never did.
24. According to her, they were leasing the units to outsiders since there was nowhere in the agreement that states that they should not. However, when referred to Minutes dated 31/07/2017 which are in her bundle at page 46 she stated that the Resolution at paragraph B state that the houses are to be rented out to staff only Not outsiders.
25. When questioned about the Legal Opinion from the Attorney General, she told the Court that it was simply an opinion and according to her it was overruled by the Title Deeds. She told the Court that according to her it is the owner of the land who receives rent. Furthermore, to her the



Attorney General's opinion was overruled by the former President although she could not produce the document to support her claim.

26. On re-examination she told the Court that they issued notice to increase rent and that this was an invitation for the Plaintiffs to come to the table with the lessor and that they have rented the premises to tenants and there is no staff relationship in this matter. She testified the legal opinion does not address the issue of payment of rent neither does it address who should receive rent.
27. With that the Defendant closed their case.
28. The Court gave directions on filing of written submissions. The Plaintiff filed their submissions dated 10/07/2025 and the Defendants filed theirs dated 20/11/2025.

Submissions

Plaintiff's Submissions

29. The Plaintiffs' case is built upon the argument that their tenancy is not a standard commercial arrangement but a protected institutional residency governed by the [Rent Restriction Act](#) (Cap 296). They submit that the Defendant's attempt to nearly triple the rent from Ksh 16,800 to Ksh 37,058 for three-bedroom units is a flagrant violation of established Standard Rent protections and the fact that the houses are institutional houses which are not governed by the commercial rates for rent.
30. The Plaintiffs' primary submission is that the Defendant's reliance on the Lease Agreement to justify rent reviews is legally flawed. They argue that under Section 9 of the [Rent Restriction Act](#), a landlord is strictly prohibited from recovering any rent in excess of the standard rent, regardless of any Lease Agreements executed between the parties. This standard rent was judicially established by the Rent Restriction Tribunal in its Ruling of 21st September 2016 (Exhibit 2), which found no justification to subject institutional staff to open market rates.
31. The Plaintiffs contend that because this standard rent remains in force having been upheld by the Rent Restriction Tribunal any demand for rent exceeding these figures is not only a breach of the Act but a Criminal offense. They specifically cite Section 10 of the [Rent Restriction Act](#), which makes it a punishable offense for a landlord or agent to demand or accept rent that exceeds the permitted standard rent. By demanding these exorbitant sums, the Plaintiffs submit the Defendant is acting in direct contravention of the law.
32. The Plaintiffs further submit that the Defendant has failed to comply with the mandatory provisions of Section 11 of the [Rent Restriction Act](#), which outlines the only legal parameters for a rent increase. Under Section 11(1)(b), a landlord may only increase rent if they have incurred expenditure on the improvement or structural alteration of the premises excluding mere repairs or redecoration.
33. The Plaintiffs point to the testimony of the Defendant's witness, DW1, who admitted during cross-examination that no modifications or repairs had been done to the suit premises. Consequently, the Plaintiffs argue there is no substantive basis for an increment. Furthermore, they highlight a procedural failure under Section 11(1), noting that the Defendant failed to deliver a copy of the rent increase notice to the Tribunal for approval, as evidenced by the lack of an official Tribunal stamp on Exhibit 5.
34. A significant portion of the Plaintiffs' submission focuses on the Attorney General's Legal Opinion (Exhibit 7) and the minutes of the meeting held on 31st July 2017 (Exhibit 9). These documents establish that the houses are institutional assets intended solely for the staff of the Kiambu Institute of Science and Technology (KIST). The Plaintiffs submit that the Defendant's move to charge



commercial market rates is a bad faith tactic intended to displace staff in favor of outsiders who pay higher rates, as admitted by DW1.

35. Finally, to justify the grant of a permanent injunction, the Plaintiffs rely on the principles set out in *Giella v. Cassman Brown & Co. Ltd* [1973] EA 358. They argue they have established a prima facie case based on the 2016 Tribunal Ruling and that they will suffer irreparable loss if evicted. They emphasize that since they are employees whose livelihoods and children's schooling are tied to the institution, a mere award of damages cannot compensate for the loss of their homes. They conclude that the balance of convenience favors the preservation of their tenancy at the current rates, as the Defendant's demand for more than double the rent is both unreasonable and unlawful.

Respondent's Submissions

36. The Respondent's primary submission is that the relationship between the parties is a strictly commercial and contractual one, governed by the express terms of the Lease Agreements signed in 2018. They contend that the Court must uphold the sanctity of contracts and the absolute property rights of a registered owner, as protected under *the Constitution* and the *Land Registration Act* (2012).
37. It is the Respondent's contention that the Plaintiffs, having voluntarily entered into written Lease Agreements at a rate of Ksh 16,800, are now legally bound by the terms of those contracts. They invoke the fundamental legal principle of *pacta sunt servanda* meaning that agreements must be kept and submit that the Court has no jurisdiction to rewrite a contract for competent parties. To support this, they rely on the landmark holding in *National Bank of Kenya Limited v Pipeplastic Samkolit (K) Ltd & Anor* [2001] eKLR, which established that a Court cannot interfere with the terms of a bargain unless fraud, coercion, or undue influence is proved. Since the Plaintiffs signed the leases and occupied the premises under those terms, the Respondent submits they are now estopped from challenging the Respondent's right to review the rent.
38. Furthermore, the Respondent asserts its rights under the *Land Registration Act* (2012) as the absolute registered proprietor of L.R. No. 81/46. They submit that registration as an owner confers indefeasible rights to manage and derive economic value from the property. They argue that any previous Standard Rent established in 2016 was effectively superseded when the Plaintiffs entered into entirely new, fresh Lease Agreements in 2018, thereby creating a new legal reality outside the scope of the old Tribunal Ruling.
39. Regarding the *Rent Restriction Act* (Cap 296), the Respondent submits that the Act is intended to protect vulnerable tenants from exploitation, not to shield employees from paying market-competitive rates to a landlord who is not their employer. They argue that the subdivision of the land into a private title shifted the premises away from the "institutional" status the Plaintiffs claim.
40. The Respondent further contends that the Attorney General's Legal Opinion (Exhibit 7) is merely advisory and cannot override the statutory rights of a registered title holder. They submit that the Plaintiffs have failed to prove any illegality in the subdivision process, and as such, the Respondent maintains the legal authority to set rent at commercial levels to meet the rising costs of property maintenance and land rates.
41. Finally, the Respondent argues that the Plaintiffs' prayer for a permanent injunction must fail because it does not meet the mandatory criteria established in *Giella v. Cassman Brown & Co. Ltd* [1973] EA 358.
42. The Respondent submits there is no legal right to subsidized rent, and therefore no probability of success.



43. They rely on the principle from *Giella v. Cassman Brown*(supra) that an injunction should not be granted if the injury can be compensated by damages. Since the dispute is over a quantifiable amount of money (the rent difference), the Respondent argues that any potential loss to the Plaintiffs is strictly financial and does not warrant the extraordinary remedy of an injunction.
44. The Respondent maintains that the balance tilts in their favor, as an injunction would indefinitely deprive them of the rightful income from their private property, whereas the Plaintiffs can seek alternative, more affordable housing if they are unsatisfied with the market rates.
45. The Respondent concludes that the suit is a meritless attempt by the Plaintiffs to evade their contractual obligations and prays that the suit be dismissed with costs.

Analysis and Determination

46. This case presents a classic conflict between public law protection which leans more to the statutory rent control and private law autonomy which leans to sanctity of contract. From the pleadings, affidavits and submissions filed, the Court identifies the following four issues for determination:
 - i. Whether the *Rent Restriction Act* apply to these premises despite the 2018 Lease Agreements and the subsequent land subdivision;
 - ii. Did the 2018 mutual agreement to pay Ksh 16,800 legally terminate the 2016 Tribunal-fixed Standard Rent?
 - iii. Whether the Defendant follow the mandatory procedures under Section 11 of the *Rent Restriction Act*?
 - iv. Have the Plaintiffs satisfied the triple-test in *Giella v. Cassman Brown & Co. Ltd* [supra]?
47. The Defendant argued that under the principle of *pacta sunt servanda* meaning agreements must be kept, as articulated in *National Bank of Kenya Ltd v. Pipeplastic Samkolit (K) Ltd* [2001] eKLR, the Plaintiffs are bound by the 2018 lease which allows for rent reviews.
48. However, it is my view that where a statute provides a protective ceiling, a private contract cannot be used as a ladder to bypass that ceiling. Under Section 9 of the *Rent Restriction Act* (Cap 296), the landlord is prohibited from recovering rent in excess of the Standard Rent, notwithstanding any leases executed. Therefore, the 2018 lease did not grant the Defendant a *carte blanche* to increase rent outside the confines of the Law.
49. The Court notes that the Defendant increased rent from Ksh 16,800 to Ksh 37,058 (over 100%) without demonstrating any structural improvements. Section 11(1)(b) of the Act is clear: rent may only be increased if the landlord has incurred expenditure on the improvement or structural alteration of the premises. Under cross-examination, the Defendant's witness (DW1) admitted that no modifications were made.
50. Furthermore, the Defendant failed to obtain approval from the Rent Restriction Tribunal as required by Section 11(1). A landlord cannot unilaterally determine market rates and impose them on a protected tenancy. To do so is not only a civil breach but a potential offense under Section 10 of the Act.
51. The Court takes judicial notice of the Attorney General's Legal Opinion (Exhibit 7) and the Minutes of 31/07/2017 (Exhibit 9). These documents establish the institutional character of the housing. While the Defendant claims absolute rights under the *Land Registration Act* (2012), the Court observes that land used for public educational purposes carries a public trust element. The Defendant's



admission that they are leasing to outsiders to maximize profit contradicts the institutional mandate to house KIST staff.

52. Applying the test in *Giella v. Cassman Brown* [supra], I am persuaded to find that the Plaintiffs have a legal right to Standard Rent protections under Cap 296.
53. The threat of repossession and eviction of academic staff and their families from institutional quarters cannot be adequately compensated by damages. It disrupts the educational processes and ecosystem of the Institute.
54. Therefore, I am convinced that the balance tilts in favor of the Plaintiffs. The Defendant continues to receive the 2018 agreed rent, while the Plaintiffs face homelessness if the illegal increment is enforced.
55. Given the foregoing I will make the following orders:
 - i. A Permanent Injunction is hereby issued restraining the Defendant, her servants, or agents from increasing rent, evicting or harassing the Plaintiffs in respect of their tenancy at L.R. No. 81/32 (KIST), unless and until the procedures for rent increment under the [Rent Restriction Act](#) (Cap 296) are strictly followed and approved by the Tribunal.
 - ii. The Court declares that the rent payable remains Ksh 16,800 (as mutually agreed in 2018) until a fresh assessment is lawfully conducted.
 - iii. The Costs of this suit are awarded to the Plaintiffs.
56. It is so ordered.

DATED, SIGNED AND DELIVERED AT THIKA VIA MICROSOFT TEAMS THIS 16TH DAY OF MARCH 2026.

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MOGENI J

JUDGE

In the Presence of:

Eric Amati for 1st, 2nd, 3rd, 4th and 5th Plaintiffs

Waweru for the Defendant

Melita - Court Assistant.

