



REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT MAKUENI

ELC NO. 78 OF 2017

FORMALY MACHAKOS CIVIL CASE 13 OF 2014

FORMERLY NAIROBI CIVIL SUIT NO. 77 OF 2017

CYRUS ROBBERT SALA ZIBU.....1ST PLAINTIFF
DR. KLAUS HERBERT RICHTER.....2ND PLAINTIFF
STEVEN MAKAU.....3RD PLAINTIFF
PETER KIMEU MWANGANGI.....4TH PLAINTIFF
LILIAN KATUNGE MUEMA.....5TH PLAINTIFF
PETER MANG'ALA.....6TH PLAINTIFF
GIDIEON KIOKO KIVANGULI.....7TH PLAINTIFF
PETER MUSAU.....8TH PLAINTIFF
JUMA OLIVER MASILA.....9TH PLAINTIFF
MUTUKU KATALA.....10TH PLAINTIFF

(Suing on their behalf and on behalf of the people of Makuni County)

=VERSUS=

HENRY MULI MUNGUTI.....1ST DEFENDANT
HENRY MWAKE.....2ND DEFENDANT
DAVID NYUNGU.....3RD DEFENDANT
MICHAEL KIOKO.....4TH DEFENDANT
PENINA MUMBE.....5TH DEFENDANT
ALICE MWANGECI.....6TH DEFENDANT
NATIONAL LAND COMMISON.....7TH DEFENDANT
GOVERNMENT OF THE MAKUENI COUNTY....8TH DEFENDANT

REGISTRAR OF SOCIETIES.....9TH DEFENDANT

HON. ATTORNEY GENERAL.....10TH DEFENDANT

GOOD HOPE REHABILITATION

CENTER (CERTIFICATE NO. 26442).....11TH DEFENDANT

JUDGMENT

1. By their plaint dated 28th February, 2014 and filed in court on the 3rd March, 2014 the plaintiffs, suing on their own behalf and on behalf of the people of Mtito Andei Area Makueni County ,pray for judgement against the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 9th, 10th and 11th Defendants for orders;

a. A declaration that the relationship between the 2nd plaintiff and the 1st defendant starting from the year 1991 up to 2013 resulted in the creation of an implied trust.

b. A declaration that the 1st 2nd, 3rd 4th, 5th and 6th defendant are trustees of the 2nd plaintiff and the donor friends of the 2nd plaintiff for all set-ups systems, documents, entities, funds movable and immovable assets now registered in the name of the 1st defendant, the 1st defendant's agents, spouse, servants and/or appointees of the 11th defendant.

c. A declaration that all accounts currently operated in the name of the 11th defendant and the funds therein are assets of the trust of the 2nd plaintiff and the donors.

d. A declaration that the implied trust between the 2nd plaintiff and the 1st defendant graduated to and became a public trust in which the plaintiffs and the people of Makueni County are the beneficiaries thereof .

e. A declaration that the existing society known as Good Hope Rehabilitation Centre registration Number 26442 is an asset/entity of the plaintiffs and the current officials hold such an office as trustees of the plaintiffs.

f. A mandatory injunction compelling the 9th defendant to substitute the current officials of the 11th defendant within a period of thirty(30) days with officials appointed by the plaintiffs.

g. A mandatory injunction compelling the 1st, 2nd, 3rd, 4th, 5th and 6th defendant by themselves their agents and /or servants to surrender all bank accounts and the deposits therein, movable and immovable assets in his custody and/or currently in the name of the 11th defendant to the plaintiffs.

h. A mandatory injunction compelling the 7th defendants to register Plot No. 3292 in the name of the 11th defendant.

i. A perpetual injunction restraining the 1st, 2nd, 3rd, 4th, 5th and 6th defendants by themselves their servants and/or agents from interfering with the operations of the 11th defendant.

j. Any other order the court may find expedient

k. Costs of the suit.

2. The claim is denied by the 1st, 2nd, 3rd, 4th, 5th, 6th and 11th defendants vide their joint statement of defence dated 16th May, 2014 and filed in court on 19th May, 2014.

3. On the 25th July, 2014 the 8th defendant filed its defence dated 24th July, 2014. The 8th defendant's name was however struck off the proceedings vide the court's ruling dated 6th February, 2015. The 7th, 9th and 10th defendants never filed their defence.

4. On the 11th September, the plaintiffs and the 1st to 6th and 11th defendants filed a list of agreed issues dated 23rd June, 2017.

5. Hearing of the plaintiffs' case commenced on the 27th September, 2017 while that of the defendants proceeded on the 28th September, 2017.

6. The plaintiffs called Dr. Klaus Herbert Richter and Steve Makau who are the second and the third plaintiffs herein as their witnesses.

7. The second plaintiff adopted his statement dated 26th February, 2014 as his evidence. He said that he is a retired psychiatrist but works in a hospital as well as leading an organization in Germany known as Blue Cross that operates in more than 40 companies. The second plaintiff told the court that he met the first defendant in 1991 while he was on holiday. He pointed out that they became friends leading to the first defendant inviting him to his home. The second plaintiff added that he wanted to become a missionary doctor out of his desire to

help people. That the first defendant offered to escort him and thus the first defendant became a messenger and had a salary .

8. He revealed that Good Hope Rehabilitation Centre came into being in the year 2006 as a result of many children and addicts . He went on to say that he gave the first defendant money to renovate his house and gave the latter additional money to construct a bigger home which he could lease out so that he could work without hindrance. It was the second plaintiff's evidence that he got a sponsor to construct a home for the children and addicts. The second plaintiff produced pages 45 to 158 of bundle of documents annexed to the plaint and another set of documents running from pages 13 to 252 in the plaintiffs' application as PEX Nos. 1 and 2 respectively. He went on to say that he has constructed a home and a centre in Kisumu for street children and similar homes in Korogocho and Mathare in Nairobi, Runyejes in Embu, Jinja in Uganda as well as in Ethiopia.

9. The second plaintiff further said that he used to send the money directly to the first defendant and later to the accountant after they got one. He went on to say that they had many sponsors in Germany and revealed that each child that was sponsored was entitled to euros 50. It was also his evidence that he gifted Elbingerode to the first defendant.

10. His evidence in cross-examination was that he does not lay claim to Elbingerode home. He said that he knows of Bell Rehabilitation Centre. He further said that he and the first defendant worked on the basis of trust. He said that he informed the first defendant about the need to register an organization when the project grew. He further said that audit revealed misuse of funds and that other sponsors made their donations through him. He also said that bank transactions show where the donated money came from. And finally, the second plaintiff disclosed that he does not have a work permit.

11. The second plaintiff's evidence in re-examination was that document number 152 in PEX No. 1 shows the instructions that he gave to the first defendant whenever he sent him money. He went on to say that the purpose of sending money to the first defendant was for the development of the children in the home, education, buying of land, construction and activities to do with addicts. He said that even though he is not a registered member of Good Hope in Kenya, his agreement with the first defendant was that Good Hope Society that was formed would be for the welfare of children.

12. The third plaintiff in his evidence in chief adopted his statement dated 26th February, 2014. He said that the second plaintiff identified poverty and in the society and together with the first defendant chose Mtito Andei as their base. He went on to say that he joined the board of the children's home in the year 2001 upon the request of the second plaintiff and the first defendant. The third plaintiff added that upon joining the board, the board members decided to put structures of the organization. He said that they employed a manager to run home. He went on to say that they also decided to establish a trust to own the assets through a trust deed. He identified the assets as land, a big building and a directors' house. He said that the former building is known as Good Hope Children's Home. He revealed that all the assets were bought by the second plaintiff through the money channeled to the first defendant and pointed out that the assets were for the community and not the first defendant. It was also his evidence that when this case started, he realized that one of the parcels of land and two vehicles were registered in the first defendant's name.

13. His evidence in cross-exam by Mr. Anzala for the defendants was that he came to know the first defendant in 1996, a time when the latter was operating some business in the beach. He said that he was in the board that appointed one Henry Kosgei as the manager. He further said that when he saw the Registrar of Societies, the latter advised him to register a new entity whose name is Good Hope Centre. Regarding the trust deed, the third plaintiff said that none was prepared. He also said that he is not a registered member of Good Hope Rehabilitation Centre.

14. The defendants called the first defendant as their sole witness. His evidence was that he is a business man and also runs Good Hope Rehabilitation Centre. Like the plaintiffs' two witnesses, the first defendant adopted his statement dated 30th August, 2017. He produced his documents that he filed in court on 5th September, 2017 as DEX. No. 1.

15. The first defendant's evidence was that he met the second plaintiff in 1991 when that latter bought artifacts from him. The second plaintiff went to see him the following day. The second plaintiff thanked him for having offered him a good price for the artifacts that he had purchased. Their conversation led to their being friends. The first defendant took the second plaintiff to his rural home around christmas time where the latter met many children some of whom were from the first defendant's poor neighbours and it was at that time that the second plaintiff promised to look for sponsors upon going back to his country.

16. The first defendant admitted in his evidence in cross-examination by Mr. Munyithia for the plaintiffs that he received money from the second plaintiff even though he could not be able to disclose the amount that he has received since 1991. He said that he and the second plaintiff did not enter into any agreement over the issue of funds. He added that it was only him and the second plaintiff when the latter made the arrangements on how to help the children. He said that second plaintiff would direct him on how he was to spend the money in respect of the children. According to him, the second plaintiff was not a sponsor and only acted as a source for funds. The first defendant revealed that he would release the money to the children whenever it was sent to him. He said that he was the one who instituted the board and informed the second plaintiff about it. The first defendant said that he bought land from one Joseph Kitungu with his own money. He added that he sued five(5) people in Nairobi HCCC No. 140/13 and that the suit was dismissed on the 16th August, 2016. He further stated that he also filed Nairobi HCCC No. 77/17. Regarding the money in the two accounts referred to in page 42 of HCCC No. 77/17 (DEX No. 1), the first defendant said that it came from International Federation of Blue Cross (IFBC). The first defendant told the court that he does not know of the relationship between the second plaintiff and IFBC. He also said that he received donations from other donors and added that the second plaintiff and other donors did not give him money for the construction of a center. It was also his evidence that no donor gave him money with instructions to buy land and nor could he remember having been given money by a donor to drill a bore-hole. He said that he received money from IFBC to buy materials for two green houses on the disputed parcel of land. Regarding the pump, the first defendant told the court that he bought it himself. He said that he lives in a house which he personally built and pointed out that the second plaintiff did not donate any house to him. He however said that the second plaintiff gave him money after the construction stalled. He said that he did not use donors money to buy a 5 acre plot. The first defendant however admitted that plot number 3792 ought to have been registered in the name of Good Hope Centre.

17. His evidence in re-examination was that the money that came from the second plaintiff was for paying school fees. Regarding plot number 3792, the first defendant reiterated that it belongs to him while plot number 3763 is in the name of Good Hope Centre.
18. The plaintiffs filed their submissions on the 19th October, 2017 while the 1st, 2nd, 3rd, 4th, 5th, 6th and 11th defendants filed theirs on the 7th November, 2017. Their advocates highlighted their submissions on the 15th February, 2018.
19. The plaintiff's counsels submissions were that the parties relationship was founded on trust and pointed out that in order for them to formalize their relationship, the second plaintiff asked the first defendant to form an organization.
20. The counsel further submitted that funds were disbursed to the first defendant who purchased movable and immovable property. He went on to submit that records of the second defendant were not available from the Registrar of Societies and that the plaintiffs have sued in a representative capacity. The counsel submitted that the operation of the first defendant is for the benefit of Mtito Andei Community.
21. The counsel further submitted that two major issues that arise are :-
- I. Whether the relationship between the second plaintiff and the first defendant created an implied trust where the first defendant was the interim trustee of the second plaintiff being the founder.
 - II. Was there a breach of trust between the second plaintiff and the first defendant?
22. The counsel submitted that there are three major disputes which he highlighted as :-
- I. Immovable property
 - II. Movable property i.e money in the bank account
 - III. Control and management of the 11 defendant
23. Regarding the first dispute the counsel submitted that the same relates to plot number 3792 where the Rehabilitation Centre is situated. As for the second dispute the counsel submitted that money was donated by the second plaintiff and other donors. He added that motor vehicles were also donated.
24. The counsel went on to submit that for an implied trust to be created, there need not be a document in writing. The counsel added that the court should ask itself as to what was the intention of the parties. The counsel posed the following questions;
- I. Did the donors spend money towards the purchase of the property?
 - II. Did the donors give specific instructions on the expenditure of the money?
 - III. Did the donee receive any money and act on those instructions?
25. The counsel submitted that in paragraph 8 of their defence, the first defendant admitted that he received money from the second defendant as one of the donors of the 11th defendant as stated in paragraph 14 of the plaint and correctly pointed out that parties are bound by their pleadings. The counsel pointed out that there is symbiotic relationship between the email communication and the bank statements and added that there was specific instructions on how money was to be spent.
26. The counsel submitted that the notable facts of the 3 properties i.e plots numbers 3762, 3763 and 3792 is that they are all located in the same geographical area and that they were all bought as a result of the funds provided by the second plaintiff. The counsel pointed out that the third fact is that plots numbers 3762 and 3763 are registered in the name of the 11th defendant while plot number 3792 is registered in the name of the first defendant and pointed out that there is mischief to be read in the latter plot.
27. The counsel further submitted that the plaintiffs have discharged their burden of proof by showing that money was sent to the 1st defendant which meant for purchase and construction of home and establishment of a society. As such, the counsel opined, the burden of proof had shifted to the defendants to prove otherwise.
28. It was the counsel's submissions that having established trust the next issue is whether there was a breach of judiciary duty.
29. In answer to this question, the counsel referred the court to the audit report and the minutes of 16th February, 2013 at 66 of PEX No. 1 and answered his own question in the positive.
30. On the other hand, the counsel for the 1st, 2nd, 3rd, 4th, 5th, 6th and 11th defendants submitted that the audit report cited in paragraph 22 of the plaint was neither shown to the court nor was it produced. The counsel went on to submit that none of the plaintiffs is an official of the 11th defendant and that the second plaintiff does not have a work permit in Kenya. The counsel added that IFBC is not a party to this suit. The counsel further submitted that the first defendant does not deny having received money and that the funds were used as instructed. The counsel pointed out that the first defendant did state that he has other donors who are not connected to the second plaintiff.

31. The counsel further submitted that the 11th defendant was registered in 2008 as a society and it is governed under the Societies Act. He went on to submit that no trust deed has been produced to show that the officials of the 11th defendant hold their positions in trust for other persons. The counsel further submitted that as officials, they have the mandate to hold the property of the society and added that this is not the proper forum to bring such dispute.

32. Regarding the case said to be pending in Nairobi, Mr. Anzala submitted that a ruling was delivered by Justice Serگون on 17th November, 2017. On the ownership of plot number 3792, Mr. Anzala Submitted that the guiding principle is the law of Contract Act and that there was no evidence on purchase of the said property.

33. The counsel referred to page 17 of the plaintiffs' submissions where it is said that the property was purchased in 2006 and pointed out that the first defendant has a sale agreement for 2010.

34. The defendants' counsel went on to submit that prayer c,d,e,f,g, i and (h) cannot be granted by this court on account of lack of evidence and jurisdiction.

35. The counsel further submitted that even though it is admitted that the second plaintiff did contribute toward the management of the society; there is no creation of a trust. The counsel termed the case before court as one that lacks legs to stand on.

36. I have read the evidence on record together with the exhibits produced in evidence and the submission filed by the parties herein. It seems to me that the dispute between the parties revolves around ownership of certain assets allegedly acquired using donor funds from the second plaintiff and the other donors. These assets are:-

I. Immovable property,

II. Money in bank account and,

III. Control and management of the 11th defendant

37. As for the immovable property, these are plot numbers 3762, 3763 and 3792. The first two plots are registered in the name of the 11th defendant while the latter plot is in the name of the first defendant. The three plots are all situated in an area known as Mang'elele Settlement Scheme in Kibwezi.

38. The immovable properties constitute money in bank accounts and two motor vehicles. The second plaintiff avers that he is the founder of the 11th defendant and contends that the first defendant was the interim trustee while the rest of the plaintiffs were the beneficiaries of the 11th defendant.

39. The plaintiffs' claim is based on breach fiduciary duty by the first to the sixth defendants. In my view, this suit will turn on the following two questions.

I. How and with what funds were the properties acquired?

II. Did the relationship between the second plaintiff and the first defendant create an implied trust?

Acquisition of the Properties

40. The second plaintiff produced a bundle of bank transfer document as PEX No. 2 showing the transfer of funds from him to the first defendant. The transfer of funds would be followed by email communication from the second plaintiff giving directions to the first defendant on how the money would be spent.

41. I will highlight some of the extracts of the email conversations for ease of reference:-

a. At page 152 there is an email of 12th January, 2006 where the second plaintiff writes to the first defendant as follows:-

"Today I will send money for the construction you asked for the start for around a quarter of the money 8000 (euros) plus ... total 9.095(euros)"

b. At page 158, there is an email of 5th September, 2005 where the first plaintiff gives directions on how the money will be spent on fencing

"the fencing for the land bought for the home"

c. At page 222 there is bank transfer of Kshs. 3,500 euros dated 22nd December, 2006 indicating the purpose for which the money was sent under the column

"details of payment" which is for "equipment children home and water hole"

d. At page 227 there is bank transfer for the purpose of

“Construction” the same was sent on the 29th May, 2006 for 15,000 euros.

e. At page 230 there is bank transfer for “construction” where 8000 euros was sent to the first defendant on the 28th March, 2006. Evidence was also adduced to show the first defendant’s response to the emails written to him by the second plaintiff.

f. At page 146 of the same exhibits 2, there is an email of 20th June, 2006 where the first defendant gives a report of how the money sent by the second plaintiff was spent. There is quotation form attached showing the items purchased and the total expenditure. The same is titled “quotation form for Mang’etele children’s home (Hill side Mtito Andei)

g. At pages 150 and 151 there is an email of 8th March, 2006 where the first defendant reports that he has embarked on the duty of “building the home”

From the material placed before me, there is evidence to show that the second plaintiff brought on board other donors. at page 143 of PEX No.2 the second plaintiff wrote to the first defendant via email that “I will send you the addresses of two new sponsors soon” at pages 141 and 142 he also writes that he will get sponsors for the children.

h. At page 143 of PEX N.2 the second plaintiff wrote to the first defendant via email that, “ I will send you the addresses of two new sponsors soon”. At pages 141 and 142 he also writes that he will get sponsors for the children.

i. At pages 153 to 158 the email of 5th September, 2005 shows the list of sponsors that the second plaintiff sent.

42. In paragraph 9 of their defence, there is an admission that International Federation of the Blue Cross(IFBC) was a donor of the 11th defendant.

43. In his statement of defence, the first defendant denied that IFBC was brought on board by the second plaintiff but in his evidence in court, the first defendant confirmed that he knew the second plaintiff as the chairman of IFBC. The first defendant further confirmed that he had never received money from any official of IFBC other than the second plaintiff but this seems to be an afterthought on his part.

44. From the evidence on record, it is apparent that the three (3) plots i.e 3762, 3763 and 3792 were purchased during the time when the second plaintiff and the first defendant were on communication. Plot number 3762 was purchased from one Timothy Mutuku Matenge between 2005 and 2008, while plot numbers 3763 and 3792 were purchased from one Peter Kyama. Plot number 3763 was registered in the name of the 11th defendant while plot number was registered in the name of the first defendant. The plaintiffs contend that the latter plot was purchased using funds provided by the second plaintiff even though the second defendant registered it in his name which the plaintiffs say was contrary to their intention.

Implied trust

45. The plaintiffs contend that what existed between the second plaintiff and the first defendant was an implied trust.

46. The plaintiffs have referred the Court to **Snells, Equity, 13th Edition, Sweet & Maxwell**, chapter where it is stated that trusts can be created expressly but can also be created informally or be implied. One of the recognized categories of this form of trust is where one person purchases a property but the same is conveyed in the name of someone other than the purchaser.

47. In the case of **Dyer Vs Dyer [1788] 28 Cox. Eq. 92 at 93** (quoted in Snells, Equity, Supra, page 206) it was stated as follows:-

“The clear result of all the cases, without a single exception, is, that the trust of a legal estate, whether freehold, copyhold, or leasehold; whether taken in the names of others without that of the purchaser; whether in one name or several, whether jointly or successive, results to the man who advances the purchase money. This is a general proposition supported by all the cases, and there is nothing to contradict it; and it goes on a strict analogy to the rule of common law that where a feoffment is made without consideration, the use results to feoffer.”

48. In the case of **Twalib Halayan Twalib Hayatan & Another Vs Said Saggas Ahmed Al-Hady & Others [2015] eKLR**, the Court of Appeal sitting in Mombasa (A. Makhandia, William Ouko & Kathurima M’noti JJA) stated the law of trust as follows:-

“According to Black’s Law Dictionary, 9th Edition; a trust is defined as

“ 1.The right, enforceable solely in equity, to the beneficial enjoyment of property to which another holds legal title; a property interest held by one person (trustee) at the request of another (settlor) for the benefit of a third party (beneficiary).”

Under the Trustee Act, “ ... the expressions “trust” and “trustee” extend to implied and constructive trust, and cases where the trustee has a beneficial interest in the trust property”

In the absence of an express trust, we have trusts created by operation of the law. These fall within two categories; constructive and resulting trusts. Given that the two are closely interlinked, it is perhaps pertinent to look at each of them in relation to the matter at hand.

A constructive trust is an equitable remedy imposed by the court against one who has acquired property by wrong doing.... It arises where the intention of the parties cannot be ascertained. If the circumstances of the case are such as would demand that equity treats the legal owner as a trustee, the law will impose a trust.

A constructive trust will thus automatically arise where a person who is already a trustee takes advantage of his position for his own benefit (see Halsbury's Laws of England Supra at Para 1453). As earlier stated, with constructive trusts, proof of parties' intention is immaterial; for the trust will nonetheless be imposed by the law for the benefit of the settlor. Imposition of a constructive trust is thus meant to guard against unjust enrichment

A resulting trust is a remedy imposed by equity where property is transferred under circumstances which suggest that the transferor did not intend to confer a beneficial interest upon the transferee... This trust may arise either upon the unexpressed but presumed intention of the settlor or upon his informally expressed intention. (see Snells's Equity 29th Edn, Sweet & Maxwell p. 175). Therefore, unlike constructive trusts where unknown intentions may be left unexplored, with resulting trusts, courts will readily look at the circumstances of the case and presume or infer the transferor's intention. Most importantly, the general rule here is that a resulting trust will automatically arise in favour of the person who advances the purchase money. Whether or not the property is registered in his name or that of another, is immaterial (See Snell's Equity at P.177).”(emphasis added).

49. From the evidence on record, it is clear that the purchase money was either advanced by the second plaintiff or through his efforts. The defendants and more particularly the first defendant has admitted that he received funding from the second plaintiff. In my view, there was an implied trust between the second plaintiff and the first defendant. It follows therefore that plot number 3792 which was registered in the first defendant's name is being held by him subject to trust.

50. This position is expressly provided for in section 25 of the Land Registration Act No. 3 of 2012 where it provides as follows:-

“ The rights of proprietor, whether acquired on first registration or subsequently for valuable consideration or by an order of court, shall not be liable to be defeated except as provided for in this Act, and shall be held by the proprietor, together with all privilege and appurtenances belonging thereto, free from all other interests and claims whatsoever, but subject:-

- a. To the leases, charges and encumbrances and to the conditions and restrictions, if any show in the register, and
- b. To such liabilities, rights and interests as affect the same and are declared by section 28 not to require noting on the register, unless the contrary is expressed in the register.

(2) Nothing in this section shall be taken to relieve a proprietor from any duty or obligation to which the person is subject to as a trustee.(emphasis are mine)

51. As for the control and management of the 11th defendant, there is evidence to show this is an issue that is being litigated in another forum and more specifically in Nairobi HCCC No. 77 of 2017. The parties in the said suit are the first, second and third defendants herein versus Martin Mischrack and four(4) others.

52. It is up to the plaintiffs decide as to whether or not they will file their own suit. As such I hold that prayers (e), (f), (g) and (i) cannot be granted.

53. For the reasons that I have given, all indications from the evidence on record point to a resulting trust that arose between the second plaintiff and the first defendant. In my view, the defendants and particularly the first defendant should not be allowed to derive personal benefits from projects that were intended to benefit the less fortunate in the society. As such, I am satisfied that the plaintiffs have on a balance of probabilities a cause of action against the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, 9th, 10th, and 11th defendants. I, therefore, proceed to enter judgment for the plaintiffs and against the aforementioned defendants jointly and severally in terms of prayers (a), (b), (c), (d) (h) and (k) of the plaint. It is so ordered.

Signed, dated and delivered at Makueni at this 20th day of June, 2018.

**MBOGO
C.G**

JUDGE

IN THE PRESENCE OF ;

Mr. Musesya for the plaintiffs.

Ms Kwang'a holding brief for Mr. Anzala for the 1st to 6th and 11th defendants .

Mr. Kwemboi Court Assistant

MBOGO C.G, JUDGE

20/6/2018