



**Waweru & another (Suing as the administrators of the Estate of Mary Ngina Kamau - Deceased)
v Kaay (Sued as the legal representative of the Estate of John Kaay Mwaura - Deceased) & another
(Environment & Land Case 43 of 2008) [2025] KEELC 973 (KLR) (27 February 2025) (Judgment)**

Neutral citation: [2025] KEELC 973 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
ENVIRONMENT & LAND CASE 43 OF 2008
AA OMOLLO, J
FEBRUARY 27, 2025**

BETWEEN

NANCY NJERI WAWERU 1ST PLAINTIFF

HANNAH WANJIRU MURIITHI 2ND PLAINTIFF

**SUING AS THE ADMINISTRATORS OF THE ESTATE OF MARY NGINA
KAMAU - DECEASED**

AND

**EUNICE NDUTA KAAAY (SUED AS THE LEGAL REPRESENTATIVE OF THE
ESTATE OF JOHN KAAAY MWAURA - DECEASED) 1ST DEFENDANT**

DISTRICT LAND REGISTRAR, KIAMBU 2ND DEFENDANT

JUDGMENT

1. The Plaintiff filed this suit vide Plaintiff dated 13th February 2008, amended on 13th July 2009, further amended on 30th October 2017 and further further amended on 28th July 2022 seeking for the following orders
 - a. A declaration that property Titles Numbers Kiambaa/Kihara/4092,4093 & 4094 (previously Kiambaa/Kihara/2473) belongs to the Plaintiff.
 - b. A permanent injunction restraining the Defendant by himself, the trustees, servants, workmen & agents or otherwise howsoever interfering with the Plaintiffs quiet enjoyment of, dispossessing or evicting the Plaintiff from; auctioning, sub-dividing, combining, selling, developing, developing, dealing with or in any manner interfering with property Title Numbers Kiambaa/Kihara/4092,4093,4094 (previously Kiambaa/Kihara/2473).



- c. An order that the 1st Defendant's name be cancelled from the register as the owner to Title Numbers Kiambaa/Kihara/4092,4093 & 4094 (previously known as Kiambaa/Kihara/2473) and in its place enter/register the Plaintiff's name.
 - d. An order that the 2nd Defendant cancels the name of the 1st Defendant from the proprietorship section of the register of parcels Kiambaa /Kihara /4092,4093 &4094(previously known as Kiambaa/Kihara/2473) and in its place enter/register the Plaintiff's name.
 - e. Special damages-Kshs.35,000/=
 - f. General damages
 - g. Any other order that this Honourable court may deem necessary.
 - h. Cost of the suit
2. The Plaintiff averred that at all materials, they were the registered owner and in possession of Land Parcel Numbers Kiambaa/Kihara/4092,4093 & 4094 (previously known as Kiambaa/Kihara/2473) situated in the Kiambu Registration District herein after referred to as "the suit land".
 3. That on 4th August 2004, the Plaintiff realized that she had been deprived of the suit land by the 1st Defendant who together with the assistance of the 2nd Defendant fraudulently transferred the same to his name.
 4. The Plaintiffs particularized the Defendants' fraud to be that they changed the Title Number which were previously known as Kiambaa/Kihara/1515 to Kiambaa/Kihara/2473 without her knowledge and/or consent.
 5. That the 1st Defendant lied to the Plaintiff who was her close confidant and caused her to put her thumbprint on forms, without explaining the true nature of the forms or the implication thereof, despite knowing that the Plaintiff was ignorant and illiterate.
 6. Further, that the 1st Defendant through enticement used the 1st Plaintiffs son, John Kamau Karongo (deceased) whom the 1st Defendant had helped the Plaintiff to adopt, to obtain the Plaintiff's National Identity Card and Original title to the suit land.
 7. Also, that the 1st Defendant fraudulently obtained consent for transfer from the Land Control Board without the knowledge, attendance or involvement of the Plaintiff and despite a caution being placed over the suit land and with the assistance of the 2nd Defendant, subdivided the land into three sub-plots namely Kiambaa /Kihara /4092,4093 & 4094 with the intention of selling the same to frustrate and/or defeat the Plaintiffs claim and to conceal his fraudulent acquisition.
 8. The Plaintiffs stated that on 28th November 2004, the 1st Defendant maliciously and without reasonable and probable cause made a complaint at the Kiambu Police Station against the Plaintiff of Forcible detainer contrary to Section 91 of the Penal code and giving false information to a person in public service contrary to section 129(b) of the Penal code which charges, the Plaintiff was acquitted.
 9. The Plaintiffs further particularized 1st Defendant's particulars of malice stating that he was her the only close confidant, who knew her state of affairs including the fact that she did not have any close blood relations who would stand surety for her or assist her.
 10. That the 1st Defendant knew the Plaintiff had discovered his fraudulent transfer of the suit land to himself thus made a complaint to the relevant entities with intention to have her locked up during the hearing of the criminal case to intimidate her in giving up on her complaint of fraud against him.



11. The Plaintiffs added that on 29th November 2004, she appeared before the Senior Resident Magistrate's Court Kiambu in Criminal Case No.2479/2004 to answer to the said charge which case went to full trial and she was acquitted.
12. She said that as a result, her reputation was injured, caused considerable trouble, inconvenience, anxiety, expense, suffered loss and damage, particularizing special damages as cost of defence at a cost of Kshs.35,000. The Plaintiff stated that the 1st Defendant has set plans to unlawfully evict her from the suit property. Despite notice of intention to sue, the Defendants have failed to stop interfering with her peaceful possession of the suit property.
13. The 1st Defendant filed a defence dated 31st March 2008 to the Plaintiff, a defence dated 14th June 2010 to the amended plaintiff and a defence dated 29th November 2022 to the further further amended plaintiff. He denied the Plaintiff's averments specifically the particulars of fraud, malice and put the Plaintiff to strict proof thereof.
14. The 1st Defendant stated that the Plaintiff was a willing participant, privy to and consented to the sale(s) of the suit land to him at all times since early 1990's. That the Plaintiff was not illiterate but fully conscious, knowledgeable and her son was not enticed at all in the sale/transfers thereof.
15. The 1st Defendant pleaded that the Plaintiff consciously attended the Land Control Board and duly authorized/executed the relevant sale(s) and transfer (s) in favour of him. Further, the Plaintiff was paid Kshs.700,000 as value of the suit land and there was no fraud by or with the knowledge of the 1st Defendant committed.
16. The Defendant explained that there was an understanding between the Plaintiff and himself that he would continue to take good care of her which agreement she has betrayed by disowning the sale transaction. That the Plaintiff has since acknowledged sale of her previous immovable properties to the 1st Defendant, thus she is estopped from belatedly denying the same.
17. The 1st Defendant contended that his quest for justice through the concerned police authorities due to the Plaintiff's trespass to the suit land was not malicious and that her acquittal in Kiambu SRM Criminal Case No.2479/04 was entirely due to bungled/shoddy police investigations and does not imply her innocence.
18. The 2nd Defendant did not file any statement of defence or call any witness during the trial.
19. Each of the parties called witnesses in support of their claim and or defence. The Plaintiff called two witnesses while the 1st Defendant relied on the evidence of one witness. Nancy Njeri Waweru who introduced herself as daughter in law to the deceased Plaintiff testified as PW1. She adopted her witness statement filed on 3/11/2017 as evidence in chief and produced the bundle of documents filed on 18/2/2010 as Pexh1-16, a further list of document containing a Limited grant of Letters of Administration dated 18/5/2016 as PExh 17.
20. She stated that it was after the death of her husband, John Karongo that they learnt the suit land was registered under the name of the 1st Defendant. That she lived with Mary Ngina-deceased in the same compound but different houses and she was aware of the facts relating to this case as she informed her. any sale taking place between the deceased and the 1st Defendant. That the deceased was left approx. 8 acres of land when her husband died out of which she sold a portion to the 1st Defendant and the remainder was shared with the co-wife.
21. That on the piece which was not sold is where Mary Ngina lived and also put up houses which she rented. It is the evidence of PW1 that Mary Ngina-deceased could not have sold the portion where



- they lived and which is where she is still residing today. She asserted that the 1st Defendant got title to the suit land from her deceased husband – John Karongo and the deceased plaintiff only learnt of this after the death of the said John Karongo when the 1st Defendant purported to restrain them from burying him on the said land.
22. The witness wondered how the suit land could have been transferred to the 1st Defendant without the knowledge and involvement of Mary Ngina-deceased and so she believed the said transfer was fraudulent. She added that the 1st Defendant enticed her late husband with money to obtain the original title deed and the national ID of the deceased plaintiff. She added that the 1st Defendant took advantage of the deceased plaintiff due to the longstanding good relationship they enjoyed, knowing very well she was illiterate. That the deceased told her that one time the 1st Defendant brought some forms and asked her to put her thumbprints on them on the pretext that he was to use them to replace his lost title for the portion sold to him.
 23. According to the witness, the deceased put her thumbprint thinking it was in respect to the one-acre piece of land sold to the 1st Defendant. After the turn of events on 18.11.2004, Mary Ngina wrote to the then Minister for Lands who then directed the CID to investigate the matter. Instead, she was the one who was arrested and charged in Kiambu law courts with a criminal case of forcible detainer. She concluded her evidence that the deceased plaintiff did not sell the suit portion.
 24. During cross examination, PW1 testified that she did not have a certificate to prove her marriage to the late John Karongo but they were married in 2001. That the mother-in-law's co-wife told her that the suit land was sold to the 1st Defendant but before then, she was not aware that her mother-in-law had sold the same and whether she had attended any board meeting. PW1, testified that the deceased mother-in-law constructed houses on the suit land which she found when she got married.
 25. She stated that she and her child are staying on the suit land where they lived with the deceased husband who died in 2004 but the 1st Defendant claims the land does not belong to them. The witness testified that she was present when the 1st Defendant brought some papers to the late Plaintiff to sign, which she did not look at. She stated that, it was during her husband's burial that the 1st Defendant returned mother-in-law's identity card.
 26. Hannah Wanjiru Muriithi who is the step daughter to the deceased Plaintiff gave her evidence as PW2. She also adopted her written statement dated 14th May 2012 as evidence in chief. It is her evidence that she got to know about the dispute during the burial arrangements of her brother.
 27. She testified that she knows the 1st Defendant was sold a portion of land measuring one acre but does not know how he acquired the suit land and believed the same was acquired fraudulently. In her further evidence in court, PW2 said that the 1st Defendant had a good relationship with the Plaintiff calling her 'mama' and even helped pay hospital bill for the late son late Solomon Karogo, a sum of KShs.30,000 which the funeral committee was unable to raise.
 28. She explained that they summoned the 1st Defendant after the burial because they wanted to know how he acquired the land but he did not come to any subsequent meeting. Thereafter the Plaintiff was arrested and charged with forcible detainer on the 1st Defendant's land.
 29. During cross examination, PW2 testified that the 1st Defendant demanded title to the land and Plaintiff's National Identity Card but have no evidence to show it. She stated that the Plaintiff sold ½ acre to the 1st Defendant and also her mother sold land to him but the 1st Defendant claims the whole land save the grave which was on the portion belonging to the Plaintiff.



30. Eunice Nduta Kaayi gave her evidence on behalf of the 1st Defendant who was deceased by the time the matter was being heard. She said that she is the wife of John Kaay Mwaura, and adopted her witness statement dated 25th January 2023 as evidence in chief. She stated that the 1st Defendant purchased the suit land from the Plaintiff in the 1990s and that she has little and green card confirming him as the owner.
31. She produced documents in the list dated 25.9.2013 as DEx1-9 as per the list. That the Plaintiff and the son took them to the land board to obtain the consents. The witness testified that the first purchase was in 1997, and the Plaintiff kept selling to them in portions until they reached the tarmac road while paying in installments. That there was no sale agreement but the 1st Defendant was writing in a note book.
32. During cross examination, DW1 testified that they lived with the Plaintiff since 1972 and that she was like a mother to them. That LR 4092-4094 was a subdivision of the land they had bought and the Plaintiff sold all her land to them telling them to put up a house for her in their home.

Submissions

33. The Plaintiff filed submissions dated 29th November 2024 in support of their case, first outlining the background of the case. That Mary Ngina Kamau Kigara, an illiterate widow and registered owner of several parcels of land in Gachie, Kiambu, inherited the land from her late husband and the 1st Defendant, a close confidant whom she treated like a son, had purchased some of her land.
34. That when her son died in 2004, the 1st Defendant claimed ownership of a portion of the land where the Plaintiff had her house and rental properties. Shocked by this, the Plaintiff reported the issue, alleging fraudulent transfer of the land and the withholding of her identity card and title by the 1st Defendant.
35. Despite the Plaintiff being arrested and charged with forcible detainer and giving false information, she was acquitted in 2007. Subsequently, the Plaintiff filed a suit to recover the land and seek damages for malicious prosecution.
36. The Plaintiffs submitted that the 1st Defendant claimed to have purchased the suit property from the Plaintiff, but failed to produce any sale agreement or proof of payment. That he obtained the title document by pretending it was for another purpose, later using it to process the transfer of the property into his name.
37. They submitted that the Green Card records indicate that the 1st Defendant became a co-owner of the property as early as 1997, long before he allegedly purchased it from the Plaintiff in 2001 and his ownership increased in stages until, by 2002, the property was entirely in his name, raising suspicions about his true intentions and fraudulent actions.
38. That despite the 1st Defendant's claims in court that he was approached by the Plaintiff to buy the property in 2001, the Green Card records reveal that his share of the land had already increased by 1998.
39. Further, that the 1st Defendant's testimony, which described paying the Plaintiff in instalments starting in 2001, contradicts the documented transfers that had already taken place years earlier noting that he never disclosed to the court that he had been co-owning the property since 1997, and instead portrayed the acquisition as a purchase in 2001/2002, misleading both the criminal and civil courts.
40. The Plaintiff denies any sale of the suit property to the 1st Defendant and asserts that no money was ever paid for it and that his actions were aimed at obtaining the property through deceit and without the Plaintiff's knowledge.



41. The Plaintiff submit that the 1st Defendant's actions are further questioned by the fact that, as a co-owner, he had significant control over the property and could have conducted transactions without the Plaintiff's active involvement, exploiting her illiteracy and limited understanding.
42. Citing the case of Peter Mbiri Michuki v Samuel Mugo Michuki [2014] eKLR, the Plaintiff submitted that there is no written contract or proof of partial performance of an oral contract, which would be required under the Law of Contract Act for a valid transfer of land noting that the Plaintiff's family continues to occupy the land with the family and tenants continue to pay rent to the Estate, while the 1st Defendant has never resided there.
43. In support, the Plaintiff stated that evidence such as notices issued by the 1st Defendant to tenants attempting to change the landlord and evict them shows that the acquisition of the property was unlawful and fraudulent, as he never took actual possession of the land.
44. The Defendants did not file any submissions as at the time of writing this judgement.

Analysis and determination:

45. From any reading of the pleadings, the oral and documentary evidence and the submissions rendered, the Plaintiff's claim is premised on the ground that the 1st Defendant irregularly acquired title to the suit property. To determine if the case is proved, I frame the following questions for determination of the dispute at hand:
 - i. Whether the 1st Defendant fraudulently acquired and transferred the suit properties into his name or
 - ii. Whether the suit properties were sold to him by Ngina Kamau – deceased.
46. The law is clear that, the Certificate of Title issued by the Registrar upon registration shall be taken by all courts as prima facie evidence that the person named as proprietor of the land is the absolute and indefeasible owner and the title of that proprietor shall not be subject to challenge except – On the ground of fraud or misrepresentation to which the person is proved to be a party; or Where the certificate of title has been acquired illegally, unprocedurally or through a corrupt scheme.
47. The plaintiff accused the 1st Defendant of fraud and set out the particulars in paragraph 4 and 5 of the further amended plaint. It is the law of evidence as stated in section 107 – 109 of the Evidence Act that he who alleges certain facts must prove their existence in order to get a decision made in their favour. Hence this court does proceed to analyse whether the plaintiff has proved the particulars of fraud levelled against the 1st Defendant.
48. The standard of proof in cases where fraud is alleged is higher than the balance of probabilities. In the case of Kinyanjui Kamau vs George Kamau [2015] eKLR the Court of Appeal stated that:

“It is trite law that any allegations of fraud must be pleaded and strictly proved. see Ndolo vs Ndolo (2008)1KLR (G & F) 742 wherein the court stated that “.. we start by saying that it was the Respondent who was alleging that the will was a forgery and the burden to prove the allegation lay squarely on him. Since the Respondent was making a serious charge of forgery or fraud, the standard of proof required of him was obviously higher than that required in ordinary civil cases, namely; proof upon a balance of probabilities; but the burden of proof on the Respondent was certainly not one beyond a reasonable doubt as in criminal cases.” In case where fraud is alleged it is not enough to simply infer fraud from the facts.



49. The evidence presented by PW 1 and PW 2 was that Ngina – Kamau deceased was the registered owner and in possession of Land Reference No. Kiambaa/Kihara/4092, 4093 and 4094 (previously known as Kiambaa/Kihara/2473). Both parties have produced copies of searches and green cards for the said parcels of land. As per the certificates of official searches dated 8th February, 2008 and produced by the plaintiffs, L.R Numbers 4092 – 4093 were registered in the 1st Defendant’s name on 17th January, 2008.
50. They argue that the subdivision of 2473 was carried out despite the deceased having registered a caution on the register of L.R No. 2473 on 9th March, 2007 as is evidenced by the application for registration of caution dated 5th March, 2007 and receipt of payment dated 9th March, 2007. It is important to look at the history of the suitland based on the copies of green cards provided by both parties to ascertain whether or not the subdivision process which created land title numbers 4092-4093 was fraudulent.
51. How did the No. 2473 come about? From the green cards presented by the Plaintiff, came about after combination of L.R 2150 and a foot path to form L.R 2473 on 21st January, 1997. L.R 2150 is indicated as a sub-division of L.R 1515 undertaken on 13th July, 1994. Both L.R 1515 and 2150 were registered in the names of John Karongo Kamau (minor) and Ngina Kamau. Before combination, the acreage is given as 0.32ha and the new number 2473 now measured 0.385ha.
52. The name of the 1st defendant was entered in the register of the suit land (2473) on 3rd July, 1997 as owning a share measuring 0.25 acres. On 8th April, 1998, the share of the 1st defendant increased to 0.50 acres. On the same date at entry 6, the 1st Defendant’s share increased to 0.62 acres leaving 0.331 acres to John Karongo and Ngina Kamau. Subsequently on 30th January 2002, the 1st Defendant acquired ownership of the entire land at entry number 9 and 10.
53. All the changes in the green cards produced, the plaintiff assert was done fraudulently. One such fraudulent entry is the process that led to the change of the number from 1515 to 2473 without her consent. The plaintiff did conceded to putting her thumbprint on some form which the 1st Defendant told her was to help him process replacement of his lost title. Although the Plaintiff states the forms were for replacing the lost title, no mention is made of the title number transferred and registered in the name of the 1st Defendant for the sold portion.
54. The Plaintiff has produced proceedings in a criminal case where she had been charged with the offence of forcible detainer. The evidence of the 1st Defendant narrated the parcels of land he had bought from the Plaintiff which included 2478, 2577 and 1172 Kiambaa/Kihara. According to his evidence in these criminal proceedings, the Plaintiff was living adjacent to him (to the land 2473). Further, in the criminal case the 1st Defendant was not the accused and so I donot see how it assists the Plaintiff in proving fraud used to acquire the suit property.
55. Both witnesses to the Plaintiff said the husband of Mary Ngina had left them 8 acres of land part of which she sold to the plaintiff and the remainder portion shared with the co-wife. After the sharing of the co-wife, the plaintiff does not disclose the number of her land or give its size. None of the green cards produced in evidence gave land that measured eight (8) acres. Yet, the 1st Defendant is being accused of taking more land than was sold to him, the gap created is that he was taking from which number?
56. The plaintiff added that the 1st defendant enticed her son John Kamau Karongo – deceased to obtain the plaintiff’s national ID and original title to parcel Kiambu/Kihara/2473. The plaintiff does not disclose the details of the enticement and when she learnt of the enticement, was it before or after the death of John Karongo? She also did not plead that the one time she placed her thumb prints on the impugned documents that the same was done under duress or coercion.



57. The plaintiff in her own words stated that the 1st Defendant was her close confidant and it is pleaded both in the original plaint and amended plaint at paragraph 4(d). Hence the close relationship shared between the plaintiff and 1st Defendant require a lot more evidence to prove that the 1st Defendant took advantage of her. The law does not allow the Court to infer fraud merely on the statement that she did not willingly sign the contested forms.
58. According to PW 1, such evidence is constituted from the fact inter alia that they discovered the land was registered in the name of the 1st Defendant when her husband (John Karongo) died. This contradicts the assertion that the Ngina Kamau – deceased learnt that the 1st Defendant had enticed John Karongo to give out the original title to the 1st Defendant? Who was disclosing the enticement after the death of John?
59. The witness also confirmed during cross-examination that she was present when the 1st defendant brought her mother in law (Ngina Kamau) some documents to sign. That her mother in law trusted the 1st defendant. There was no evidence led on the dates when the forms that were voluntarily signed and no evidence that it was for replacing a title whose number the court was not shown/told. The Plaintiff submitted that it raises eye brows that on the same date of 8. 4. 1998, the 1st Defendant's share in the land increased twice from 0.25acres to 0.50acres and later to 0.62 acres. This still demonstrate fraud as the Plaintiff's own evidence admits sale of one (1) acre of land to the 1st Defendant. Mathematically, 0.62 acres is less than one acre of land.
60. The evidence of PW 2 was not very useful to the Plaintiff's case. In her written statement, she said she knew the Plaintiff had sold the land but did not have details. She only learnt of the dispute when her brother died so what would make her believe the transaction was fraudulent? It can only be what she heard people say and which cannot meet the threshold of standard of proving the alleged fraud. She also confirmed that the 1st Defendant came to the land (which land) by virtue of the sale. She further said the 1st Defendant paid the hospital bill of Kshs.30,000 of her brother Solomon Karogo but was never refunded.
61. According to the witness, in cross-examination what was sold was ½ acre yet the 1st defendant is claiming the whole land. She added that Ngina (plaintiff) said she gave the 1st Defendant title because she trusted him. This position again contradicts the pleading and evidence of PW1 that the 1st defendant got the original title by enticing the son of the plaintiff.
62. The evidence of the 1st defendant's witness is tandem with their documents produced hat the plaintiff kept selling them land in portion. The size of land owned by the 1st defendant increased from 0.25 acres to 0.62 acres and finally owning the whole land 2473 (see paragraph 52 hereinabove).
63. The transaction between the 1st Defendant and the plaintiff took place between 1997 – 2002 before the amendment to the *law of Contract Act*. The submission that the absence of a written document would void the transaction is unfounded as the application law of the time permitted oral agreements for the disposition of an interest in land.
64. The Court of Appeal in Kivindu *Œ another v Musau Œ 4 others (Civil Appeal 233 of 2020)* [2023] KECA 1015 (KLR) (28 July 2023) (Judgment) held;
- “The question is whether an oral agreement for sale of land is valid if it all there was one. Before the amendment of the *Law of Contract Act* in June 2003, the law allowed for oral agreements for disposition of land.



36. Section 3(3) of the Law of Contract Act provides that no suit based on a contract of disposition of interest in land can be entertained unless the contract is in writing, executed by the parties and attested. Section 3(7) of the Law of Contract Act then excluded the application of section 3(3) of the said Act to contracts made before the commencement of the subsection. Prior to the amendment of section 3(3) of the Law of Contract Act as aforesaid, the subsection read as follows:

“(3) No suit shall be brought upon a contract for disposition of an interest in land unless the agreement upon which, the suit is founded, or some memorandum or note thereof, is in writing and is signed by the party to be charged or by some person authorized by him to sign it; Provided that such a suit shall not be prevented by reason only of the absence of writing, where an intending purchaser or lessee who has performed or is willing to perform his part of a contract-

- i. Has in part performance of the contract taken possession of the property or any part thereof; or
- ii. Being already in possession, continues in possession in part performance of the contract and has done some other act in furtherance of the contract.”

65. Thus, the evidence laid before the court confirm that there was an action of buying and selling that took place. The only question would be whether the whole land which from the documents measures 0.385 ha was sold. 0.385ha translate to about one (1) acre of land. Ngina Kamau had stated in the witness statement that the whole land measured Eight (8) acres and she sold a portion (which she does not disclose the size) and the remainder portion was shared with the co-wives. The burden of proof could only shift to the 1st Defendant who already has a title that he was entitled to less than one comprised in the suit title only if the allegations of fraud had been proved.

66. I am therefore not persuaded that any fraud leveled against the 1st defendant not having been proved, his title cannot be viciated. The 1st Defendant as a purchaser of the suit property Kiamba/Kihara/2473 measuring 0.385 ha which he subsequently subdivided to 4092, 4093 and 4094 is entitled to user and possession.

67. In conclusion, I find no merit in the plaintiff’s suit and hereby dismiss it.

DATED, SIGNED AND DELIVERED AT NAIROBI THIS 27TH DAY OF FEBRUARY, 2025

A. OMOLLO

JUDGE

