



**Kinyanjui v Kuria (Sued as the Administrator of the Estate of Tabitha
Wanjiku Kuria - Deceased) & another (Environment & Land Case
19 of 2020) [2024] KEELC 5333 (KLR) (15 July 2024) (Order)**

Neutral citation: [2024] KEELC 5333 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE 19 OF 2020**

**BM EBOSO, J
JULY 15, 2024**

BETWEEN

JAMES MIRACHO KINYANJUI PLAINTIFF

AND

**PETER KIMANI KURIA (SUED AS THE ADMINISTRATOR OF THE ESTATE
OF TABITHA WANJIKU KURIA - DECEASED) 1ST DEFENDANT**

**JOSEPHAT CHEGE KURIA ALSO KNOWN AS CHEGE
KURIA 2ND DEFENDANT**

ORDER

1. Through a plaint dated 6/2/2020, the plaintiff sought the following verbatim reliefs against the defendants:
 - a. A declaration that the process that led to the issuance of the title deed in favour of the 2nd defendant in respect of the property known as Title No Ruiru/Ruiru East Block 2/1889 unlawful, unprocedural and fraudulently procured.
 - b. A declaration that the property known as title No Ruiru/Ruiru East Block 2/1889 belongs to James Miracho Kinyanjui.
 - c. An order directing the Land Registrar to cancel and deregister the title deed in respect of Title No Ruiru/Ruiru East Block 2/1889 in the name of the 2nd defendant or any other party deriving his interest from the 2nd defendant.
 - d. An order compelling the 1st defendant to transfer the suit property to the plaintiff.
 - e. In default of the transfer by the 1st defendant, the executive officer of this court do execute all documents necessary for transfer of the suit property to the plaintiff.



- f. Mesne profits.
 - g. Costs of the suit and interest thereon.
 - h. Such other or alternative remedy as this honourable court may deem apt to grant.
2. During trial, the plaintiff produced a certified extract of the land register relating to parcel number Ruiru/Ruiru East Block 2/1889 [the suit land]. The said certified extract of the land register was expressed as having been certified and issued on 23/10/2019. The extract indicates that on 25/9/2018, the suit land was registered in the name of Peter Kimani Kuria pursuant to succession orders issued in Kerugoya CMC Succession Cause No 1881 of 2011. On the same day, the land was transferred to Chege Kuria. A title deed was issued to Chege Kuria on the same day.
 3. On their part, the two defendants produced and relied on an extract of the land register expressed as issued on 9/9/2020. The said extract contained all the entries that are in the extract that was produced by the plaintiff. In addition, the extract presented by the defendants contains the following two entries: (i) Entry No 9 – denoting a caution registered at the behest of James Miracho Kinyanjui who claims a purchaser’s interest in the land [the relevant narrative has an ink line running through it as a cancellation]; and (ii) Entry No 10 – denoting closure of the register on subdivision creating parcel numbers 3338 to 33352. [sic]
 4. The case of the defendants is that parcel number 1889 no longer exists. It is, however, not clear how subdivision would be lawfully undertaken during the subsistence of entry no 9 which relates to the plaintiff’s caution. There are also serious doubts that 30,014 subdivisions were surveyed out of the suit land, which measures approximately 0.470 hectares.
 5. The land register relating to Ruiru/Ruiru East Block 2/1889 is at the centre of this dispute. Indeed, one of the key reliefs sought in this suit is an order cancelling the registration of the 2nd defendant as proprietor of the land and all subsequent registrations. The Land Registrar is the custodian of the said land register. He is the one who is expressed as having made entry numbers 9 and 10. For the complete and effectual determination of all the important questions in this dispute, the Land Registrar is a necessary party to this dispute. He is hereby joined to the suit as a 3rd defendant. He will be expected to tender the current register relating to Ruiru/Ruiru East Block 2/1889 and any subdivision therefrom. He will also be expected to tender all documents culminating in the entries appearing in the register or registers. The above decision is made by the court suo motto under Order 1 rule 10(2) of the [Civil Procedure Rules](#).
 6. Consequently, the order reserving a judgment date in this suit is vacated. A date for directions on further hearing will be fixed at the time of rendering this order.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA ON THIS 15TH DAY OF JULY 2024

B M EBOSO

JUDGE

In the presence of:

Mr Kamotho for the Plaintiff

Ms Wanjiru for the Defendant

Court Assistant: Hinga

