



**Githinji (Legal representative of Magu Rutere) & 2 others (t/
a Maganjo and Company) v Thuo & 6 others (Environment & Land Case
E069 of 2021) [2024] KEELC 7283 (KLR) (31 October 2024) (Judgment)**

Neutral citation: [2024] KEELC 7283 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KAJIADO
ENVIRONMENT & LAND CASE E069 OF 2021
MN GICHERU, J
OCTOBER 31, 2024**

BETWEEN

**SAMUEL GITHINJI (LEGAL REPRESENTATIVE OF MAGU
RUTERE) 1ST PLAINTIFF
WILFRED NJOGU MWANIKI (LEGAL REPRESENTATIVE OF MWANIKI
MIANO) 2ND PLAINTIFF
PATRICMWANIKI MBOGO (LEGAL REPRESENTATIVE OF MBOGO
IRERI) 3RD PLAINTIFF
T/A MAGANJO AND COMPANY**

AND

**PETER KARANJA THUO 1ST DEFENDANT
HANNAH WANJIRU THUO 2ND DEFENDANT
MAGANJO & COMPANY ADVOCATES 3RD DEFENDANT
NATIONAL HOUSING CORPORATION 4TH DEFENDANT
CHIEF LAND REGISTRAR 5TH DEFENDANT
LAND REGISTRAR, KAJIADO 6TH DEFENDANT
REGISTRAR OF COMPANIES 7TH DEFENDANT**

JUDGMENT

1. The plaintiffs seek the following reliefs against the defendants both jointly and severally.



- a. A declaration that the plaintiffs are the bonafide owners of L.R. 9923/18 currently known as Kajiado –Township/Block 1/140.
 - b. A declaration that the conversion of the said parcel from L.R. 9923/18 into Kajiado Township/Block 1/140 was unlawful, illegal, null and void ab initio and the same be and is hereby quashed forthwith and documents presented therein struck out from the land records and the grant issued in favour of the plaintiffs being Grant No. I.R. No. 2521 and land reference No. 9923/18 reinstated forthwith.
 - c. An order directing the 5th defendant to release forthwith the Grant No. I.R. No. 2521 and land reference No. 9923/18 in their custody to the plaintiffs herein.
 - d. The court do grant an order that the certificate of lease issued for parcel of Land No. Kajiado/ Township/ Block 1/140 formerly L.R. No. 9923/18 issued by the 6th defendant to the 3rd defendant company be recalled and cancelled and the charge thereof by the 4th defendant be declared unenforceable against the said certificate of lease.
 - e. An order of permanent injunction restraining the defendants singularly and severally from entering, encroaching, or in any other way whatsoever dealing in land reference No. 9923/18 currently known as Kajiado Township/Block 1.
 - f. A declaration that the registration of the 3rd defendant company as the owner of L.R. No. 9923/18 currently known as Kajiado/Township/Block 1/140 and certificate of lease issued to it by the 6th defendant is illegal, fraudulent, obtained through a corrupt scheme and null and void ab initio.
 - g. The court do grant an order that the certificate of registration issued to the 3rd defendant company by the 7th defendant and any other document thereof be recalled and cancelled.
 - h. The court do grant an order directing the 7th defendant to strike out the name of the 3rd defendant company from their records and the 7th defendant be prohibited from approving from registration or registering any company with a similar name like the plaintiff's business name of "Maganjo and Company".
 - i. Costs of the suit.
 - j. Any other remedy this court may deem fit to grant.
2. The plaintiff's case is as follows. It owns L.R. No. 9923/18 which is currently known as Kajiado/ Township/Block 1/140 which is situated within Kajiado County. The 1st defendant was an employee of the plaintiff. On an unknown date the 1st defendant stole the title documents in respect of the suit land together with other documents. When the plaintiff applied for a provisional title deed, it was informed by the land registry that the original title had been surrendered and the land parcel had been converted to number Kajiado/Township/Block 1/140 by the 1st and 2nd defendants and registered in the name of the 3rd defendant company. The 1st and 2nd defendants used the stolen documents and obtained a loan of Kshs. 1.5 million from the National Housing Corporation. On discovering the fraud, the plaintiff's directors made a report to the police. The 1st and 2nd defendants were arrested and charged at Kibera Law Courts in Criminal Case No. 40 of 2013 where the 1st defendant was convicted and sentenced to a fine of Kshs. 510, 000/- in default to serve 4 ½ years imprisonment. This was on 6/7/2023.
 3. In support of its case, the plaintiff filed the following evidence.



- a. Witness statements by Wilfred Njogu Mwaniki and Samuel Githinji Giti dated 22/10/2021.
 - b. Further witness statements by the same witness as (a) above dated 4/11/2023.
 - c. 39 documents in the list dated 22/10/2021.
 - d. 15 documents in the list dated 25/10/2023.
4. The 5th, 6th and 7th defendants filed a written statement of defence dated 25/11/2021 generally denying the plaintiffs claim. In addition a witness statement by Patroba Omolo dated 22/11/2023 was filed. The witnesses agree with the plaintiff that it holds the authentic grant while the 1st and 2nd defendants do not hold a genuine title. In addition to the above evidence the Attorney General filed a list of 27 documents in the list dated 22/11/2023.
 5. On 12/6/2024, only the plaintiff's witness and counsel turned up. The counsel for the 5th, 6th and 7th defendants did not turn up even though the date had been taken by consent. The plaintiff's witness adopted his witness statement and documents as his evidence.
 6. I have carefully considered all the evidence adduced in this case by the plaintiff which evidence is uncontroverted. This evidence is supported by the evidence by the 5th, 6th, and 7th defendants which is to the effect that the plaintiff holds the authentic grant. I therefore find that the plaintiff's case is proved to the required standard. Consequently, I enter judgment as prayed for in terms of prayers (a), (b), (d), (e), (f), (g), (h) and (i) of the plaint dated October 22, 2021.

It is so ordered.

DATED SIGNED AND DELIVERED AT KAJIADO VIRTUALLY THIS 31ST DAY OF OCTOBER 2024.

M.N. GICHERU

JUDGE

