



REPUBLIC OF KENYA



**Wanjiku v Lutatwa (Environment & Land Case E015 of 2022)
[2024] KEELC 14101 (KLR) (19 December 2024) (Judgment)**

Neutral citation: [2024] KEELC 14101 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT & LAND CASE E015 OF 2022**

JG KEMEI, J

DECEMBER 19, 2024

BETWEEN

FELISTAS WANJIKU WAITITU ALIAS FERISTA WANJIKU PLAINTIFF

AND

MARY MURONJI LUTATWA DEFENDANT

JUDGMENT

1. The Plaintiff filed her Originating Summons dated 4/5/2022 expressed under Order 37 Rule 2 of the Civil Procedure Rules against the Defendant and urged the Court to determine the following issues; -
 - a. Whether Leonard Waititu Kahiu and the Plaintiff solemnized their marriage on 4th December 1982 under the African Christian Marriage and Divorce Act Cap 151 Laws of Kenya (Repealed).
 - b. Whether Leonard Waititu Kahiu and the Plaintiff jointly purchased land parcel no Ruiru Kiu Block 13/447 on or about 22/6/1985.
 - c. Whether Leonard Waititu Kahiu and the Plaintiff jointly developed land parcel No. Ruiru Kiu Block 13/447.
 - d. Whether Leonard Waititu Kahiu and the Plaintiff jointly occupied land parcel no. Ruiru Kiu Block 13/447 until the demise of Leonard Waititu Kahiu on 3/7/2017.
 - e. Whether Leonard Waititu Kahiu and the Plaintiff were joint tenants and or proprietors of land parcel no. Ruiru Kiu Block 13/447.
 - f. Whether upon the death of his interest in land parcel No. Ruiru Kiu Block 13/447 vested in the Plaintiffs the surviving tenant; in view of Section 60 as read with Section 91 of the [Land Registration Act](#).



2. The Originating Summons is supported by an Affidavit of even date of Felistus Wanjiku Waititu, the Plaintiff. She deponed that she got married to the late Leonard Waititu Kahiu (Leonard) on 4/12/1987 and annexed copy of marriage Certificate issued on 28/8/2017 (PP1) and identification card as P1(b). That later on 22/6/1985 the couple jointly purchased plot no. Ruiru Kiu Block 13/447 (hereinafter the suit land) vide Share Certificate no. 1161 issued by Mwiki Company Limited as shown by the Share Certificate and letter dated 10/1/2018 annexed as P2 (a) and (b). That further they jointly developed the suit land and raised their children thereon – see letter dated 8/1/2018 and copy of valuation report marked P3 (a) and (b). The Plaintiff averred that she is a retired Civil Servant and heavily contributed to the purchase and development of the suit land as shown by copy of Certificate of service marked P4 and P5 being a copy of Death Certificate for her husband Leonard who passed away on 3/7/2017 aged 63 years.
3. Additionally, the Plaintiff deponed that after the demise of Leonard she visited the offices of Mwiki Co. Ltd to present Leonard’s Death Certificate for purposes cancelling his name from the suit land register. That she was told to pay Kshs 40,000/- which she paid as evidenced by receipt marked ‘P6’ but the transfer was not effected because the Defendant lodged an objection claiming that she was also a wife to the late Leonard. The deponent disputes the said marriage allegations and claim of ownership of the suit land maintaining that at the time the Plaintiff and Leonard bought the suit land, the Defendant was still a minor and no interest can accrue to her in respect of the suit land. The Plaintiff asks the Court for Declarations that;
 - a. That property known as Ruiru Kiu Block 13/447 belongs to Leonard Waititu Kahiu and Felistus Wanjiku Waititu alias Ferista Wanjiku as joint tenants and or proprietors.
 - b. That upon the demise of the joint tenant known as Leonard Waititu Kahiu, his interest in Ruiru Kiu Block 13/447 vested in Felistus Wanjiku Waititu alias Ferista Wanjiku pursuant to operation of law and in particular section 60 as read with section 91 LRA.
 - c. That the directors of Mwiki Company Limited be and are hereby ordered to effect transfer of all interests of Leonard Waititu Kahiu (deceased) in property known as Ruiru Kiu Block 13/447 into the name of Felistus Wanjiku Waititu alias Ferista Wanjiku forthwith.
 - d. A declaration that Felistus Wanjiku Waititu alias Ferista Wanjiku is the sole proprietor of land parcel no. Ruiru Kiu Block 13/447.
 - e. A permanent injunction be and is hereby issued against the Defendant Mary Muronji Lutatwa restraining her, her agents, servants, goons, from interfering with the property known as land parcel no. Ruiru Kiu Block 13/447 and all developments thereon.
 - f. Costs of the Originating Summons be borne by the Defendant.
 - g. Any other order or such further relief as the Court may deem fit and just to grant in the circumstances.
4. The Originating Summons is opposed by the Defendant Mary Muronji Lutatwa vide her Replying Affidavit on 8/5/2022. She deponed that the Originating Summons is frivolous and an abuse of the Law of Succession Act. That this Court has no jurisdiction to determine matters relating to the Estate of Leonard Waititu as there is Succ. Cause No. 780 of 2019 pending determination before Nairobi High Court Milimani. See copy of petition marked MM1. That the Plaintiff lacks locus standi to act for the Estate of Leonard for want of Grant of Letters of Administration and that there is another pending suit ELC 64 of 2021 between the same parties over the same subject matter as shown by annexure MM4.



5. The Defendant also filed a Further Affidavit sworn on 26/3/2024. She averred that she was a wife to Leonard and together they sired two children whose Birth Certificates and bundle of Chief's letters are annexed as MM1 – MM7. That she is the Administrator of Leonard's Estate as shown by annexure MM8 who she avowed solely acquired the suit land in his lifetime. That together with Leonard they developed the suit land through joint funds from Family Bank as shown by MM9. She denied the Plaintiff's averment of jointly purchasing the suit land with the late Leonard. That the Plaintiff has not demonstrated any occupation or contribution of developing the suit land.
6. In a rejoinder the Plaintiff filed a Further Affidavit dated 11/9/2023. She deponed that the Defendant has expressly admitted that the suit land is jointly registered in the names of the late Leonard and the Plaintiff. That as such the principle of survivorship takes effect in favor of the Plaintiff. The deponent relied on the Defendant's Affidavit in Milimani Succession Cause No. 780 of 2019 in her Replying Affidavit sworn on 18/8/23 wherein the Defendant conceded that the Plaintiff and Leonard were jointly registered as owners of the suit land but it is the Defendant and Leonard who developed it.
7. The firm of Milimo Muthomi & Co. Advocates filed the Plaintiff's submissions dated 26/7/2024.
8. The Plaintiff submitted on three issues; whether the Plaintiff and her deceased husband are joint proprietors; whether the Plaintiff is the legal spouse/widow of the deceased and fraud on the Defendant. It was posited that registration does not act retrospectively especially if it interferes with vested legal rights. Reliance was placed on Sections 106, 107 and 2 of the Land Registration Act to expound that the Share Certificate issued in the joint names of Leonard and the Plaintiff qualifies as an instrument in disposition of land. That all rights, interests and obligations accrued under the repealed Registered Land Act which was in force in 1985 when the Share Certificate was issued, continued to be applicable before the commencement of the current legislation by dint of the Transitional and Savings Provisions Act. To support this proposition the Court of Appeal case of Florence Asami Agoro & 5 Others Vs. Samuel Oyindi Agoro & 2 Others [2019] eKLR was cited.
9. Further the Plaintiff submitted that while the said Share Certificate is silent on their respective shares in the suit land, the favourable legal interpretation is that the couple were joint proprietors and in light of the principle of survivorship, the Plaintiff is now the beneficial owner of the suit land. Reliance was placed on the Court of Appeal decision in Mukazitoni Josephine Vs. Attorney General Republic of Kenya [2015]eKLR. That such interpretation is a rebuttable presumption with the Defendant bearing the onus to rebut it.
10. The second issue was answered in the affirmative. The Plaintiff maintained that she is the legal widow of the late Leonard having solemnized their monogamous marriage on 4/12/1982 at which time the Defendant lacked the capacity to contract marriage with the Defendant.
11. Lastly the Plaintiff submitted that the Defendant fraudulently obtained the grant of Letters of Administration on 5/6/2023. That the said Grant is now the subject for revocation proceedings in Succ. Cause No. 780 of 2019.
12. On the other the Defendant through the firm of Thaama Mbugua Associates Advocates filed submissions dated 29/7/2024.
13. The Defendant relied on her trial bundle filed on 26/3/2024 and submitted that the suit land was acquired by Leonard and jointly they developed it. Impugning the marriage certificate produced by the Plaintiff, she argued that the same could not be authenticated in light of Section 80 of the Evidence Act and thus a nullity. She disputed the monogamous marriage between the Plaintiff and Leonard and maintained that the suit land is not matrimonial property between the Plaintiff and Leonard. Further



she denied any fraudulent activity in the acquisition of the Grant of Letters of Administration in her name for the Estate of Leonard.

14. The issues for determination in my view are;
 - a. Whether the Plaintiff has proved her case; and,
 - b. Who bears costs?
15. The gist of the Plaintiff's case is that having been married to the late Leonard in 1982, they jointly purchased the shares/suit land in 1985 and it was duly registered in their joint names. The Plaintiff produced evidence of their marriage in form of a marriage Certificate issued on 28/8/2017 and Share Certificate from Mwiki Company Limited No. 1161 issued on 22/6/1985 bearing the couple's names. The Plaintiff further contend that they raised their children on the suit land besides developing their matrimonial home thereon where they resided. That upon the demise of her late husband Leonard, she armed herself with the Death Certificate and approached Mwiki Company Limited to have Leonard's name deleted and the suit land be solely registered in her name. To this end she was charged Kshs. 40,000/= as transfer fees which she paid vide a receipt dated 30/5/2018. This process was never to be as the Defendant objected to the transfer of the suit land to the Plaintiff's name on account of her marriage to Leonard and thus claimed proprietary interests over the suit land as well hence the instant suit.
16. Evidently the Plaintiff possesses a Share Certificate in her name and that of the late Leonard. Section 83 of the Repealed *Companies Act* provided as follows in respect of such Share Certificates;
 - " 83. A Certificate, under the common seal of the Company specifying any shares held by any member shall be prima facie evidence of the title of the member to the shares."
17. It is trite that the process of acquiring property under land buying companies is initiated by such members obtaining shares in the Company, balloting and allocation of their respective parcels of land and upon requisite payments including title fees, a Company issues a Clearance Certificate. The Clearance Certificate is then used to process a resultant title deed. The Land Registrar can only properly process a title against a validly issued Clearance Certificate by the Company.
18. In the instant case the Plaintiff further adduced a letter dated 10/1/2018 from Mwiki Company Limited confirming that the suit land belonged to the Plaintiff and late Leonard. The Company went ahead to state that the mother title had been surrendered to the Commissioner of Lands upon subdivision of the larger property into plots. As it is therefore the suit land title is yet to be processed.
19. In rebuttal the Defendant denied the Plaintiff's claim of joint purchase and ownership of the suit land. It was her case that Leonard singly purchased the suit land but together (Leonard and the Defendant) they occupied and developed the suit land using loan facility from Family Bank. The Defendant tendered Birth Certificate for her children but no evidence as to when she got married to Leonard if at all. The Chief's letters annexed in her Replying Affidavit recognize the Plaintiff as the 1st wife while the 2nd Defendant is named as the 2nd wife.
20. In her Further Affidavit the Defendant averred that the suit land was solely purchased by Leonard and together they jointly developed it. This is direct contradiction to the Plaintiff's averment that she and Leonard jointly bought the suit land in 1985. Neither did the Defendant lead evidence to support her averment that Leonard solely purchased the suit land nor evidence as to when she got married to Leonard if at all. Even if that was to be the case (which is not) it would be strange to reconcile the contents of the Chief's Letters adduced by the Defendant as MM1 and MM2. In MM1 dated



27/7/2018 the Chief himself while addressing Mwiki Company Limited acknowledged that the suit land was registered in the names of the Plaintiff and Leonard only. That notwithstanding it is indicated that both the Plaintiff and Defendant had agreed to share the suit land upon removal of the caveat placed by the Defendant in the ratio 65%:35% in favor of the Plaintiff. Why would the Defendant concede a larger share (65%) to the Plaintiff if her defence is that the late Leonard solely purchased the land and they (Leonard and Defendant) developed it together is anything to go by?

21. Moreover, the Defendant avowed that in developing the suit land they applied their joint funds as shown by the bundle marked MM9. The said later of offer from Family bank dated 3/10/2011 shows an amount of Kshs. 100,000/- whose purpose in Clause 1 is stated for 'working capital'. As it reads it is a letter of offer and that is distinct from the actual loan itself. The bank statements attached in the Replying Affidavit show a joint account between Leonard and the Defendant reflecting credit and debit transaction and nothing more in respect of the suit land.
22. In addition, the Defendant averred that there is another suit before this Court namely ELC 64 of 2021 between the same parties over the suit land herein. I have perused the said file and noted that the suit was initially filed in Milimani as ELC E163 of 2020 by the Plaintiff herein against Mwiki Company Limited and the Defendant herein listed as an Interested Party. The suit was transferred from Milimani and renumbered Thika ELC 64 of 2021 on 31/5/2021 on the basis of territorial jurisdiction of the suit land at Ruiru. On 24/3/2022 counsel for the Plaintiff moved the Court to withdraw the suit with no orders as to costs which request was acceded to by this Court differently constituted (Eboso J). Accordingly, the Defendant's averment in the Replying Affidavit that ELC 64 of 2021 is live a matter is not correct as per the Court records.
23. It is trite that he who alleges must prove. The burden of proof in civil cases like this is on a balance of probabilities. See Section 107 of the *Evidence Act*:-

“Whoever desires any Court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.”

24. The Plaintiff claims that together with Leonard they purchased the suit land in 1985. The Defendant has not rebutted the Share Certificate produced by the Plaintiff bearing the joint names of Leonard and Felistus Wanjiku in evidence to that end. The applicable law on joint tenancy as at that time the said purchase (1985) was Section 101 of the Registered *Land Act*, Cap 300 (RLA) (now repealed) where it was provided that:-

“An instrument made in favour of two or more persons and the registration giving effect to it shall show whether those persons are joint proprietors or proprietors in common...”

25. The current legislation recognizes co-tenancies as modes of ownership of property. Under Section 91(1) of the *Land Registration Act* co-tenancy means the ownership of land by two or more persons in undivided shares and includes joint tenancy or tenancy in common. Section 91 (2), (3), (4) & (5) further provides a detailed legal framework on the scope of the rights of joint tenants and common tenants and the attendant statutory features in the following terms;

“(2) Except as otherwise provided in this Act, if two or more persons, not forming an association of persons under this Act or any other way which specifies the nature and content of the rights of the persons forming that association, own land together under a right specified by this section, they may be either joint tenants or tenants in common.



- (3) An instrument made in favour of two or more persons and the registration giving effect to it shall show—
 - (a) whether those persons are joint tenants or tenants in common; and
 - (b) the share of each tenant, if they are tenants in common.
- (4) If land is occupied jointly, no tenant is entitled to any separate share in the land and, consequently—
 - (a) dispositions may be made only by all the joint tenants;
 - (b) on the death of a joint tenant, that tenant's interest shall vest in the surviving tenant or tenants jointly; or
 - (c) each joint tenant may transfer their interest inter vivos to all the other tenants but to no other person, and any attempt to so transfer an interest to any other person shall be void.
- (5) If any land, lease or charge is owned in common, each tenant shall be entitled to an undivided share in the whole and on the death of a tenant, the deceased's share shall be treated as part of their estate.”

26. In the persuasive case of *Isabel Chelangat Vs. Samwel Tiro Rotich & 5 Others* [2012] eKLR the nature and effect of joint tenancies and tenants in common were expansively discussed thus;

“At this juncture, I must distinguish between joint ownership of land and land held in common. These are two different types of tenancies by which two or more people are entitled to simultaneous enjoyment of land. To expound on this point, I have borrowed heavily from two texts. Megary & Ward, *The Law of Real Property* and Cheshire & Burn's, *Modern Law of Real Property*. According to Burn, “... a joint tenancy arises whenever land is conveyed or devised to two or more persons without any words to show that they are to take distinct and separate shares” Further, that “there is a thorough and intimate union between joint tenants. Together, they form one person. A joint tenancy imparts to the joint owners, with respect to all other persons than themselves, the properties of one single owner. Although as between themselves joint tenants have separate rights, as against everyone else they are in the position of a single owner. Joint tenancy carries with it the right of survivorship and “four unities”. The right of survivorship (just accrescendi) means that when one joint owner dies, his interest in the land passes on to the surviving joint tenant. A joint tenancy cannot pass under will or intestacy of a joint tenant so long as there is a surviving joint tenant as the right of survivorship takes precedence. The four unities that must be present in a joint tenancy are;

- (i). The unity of possession.
- (ii). The unity of interest.
- (iii). The unity of title.
- (iv). The unity of time.

On unity of possession, each co-owner is entitled to possession of any part of the land as the other/s. One co-owner cannot point to any part of the land as his own to the exclusion of the



other/s. if he could, then this would be separate ownership and not co-ownership. No one co-owner has a better right to the property than the other/s, so that an action for trespass cannot lie against another co-owner. Unity of interest means that the interest of each joint tenant is the same in extent, nature and duration, for in theory of Law, they hold just one estate. Unity of title means that each joint tenant must claim his title to the land under the same act or document. This is satisfied by having the joint tenants acquiring their rights by the same conveyance and being so registered as joint tenants. Unity of time means that the interest of each tenant must vest at the same time. Tenancy in common on the other hand is different from joint tenancy. In a tenancy in common, the two or more holders hold the property in equal undivided shares. Each tenant has a distinct share in the property which has not yet been divided among the co-tenants. In other words, they have separate interests only that it remains undivided and they hold the interest together. The largest factor that distinguishes a joint tenancy from a tenancy in common is the absence of the doctrine of survivorship in the latter. The share of one tenant is not affected by the death of one of the co-owners. The share of the deceased, devolves not to the other co-owner, but to the estate of the deceased co-owner. Although the four unities required for a joint-tenancy may be present, only one, the unity of possession is essential. A joint tenancy can be converted into a tenancy in common by the doctrine of severance. But unless this is done the rights of joint holders so remain.”

27. The Court of Appeal in *Bonniface Awour & Moses Awour Vs. Victor Otieno Nyadimo, George Odera & Barclays Bank of Kenya Ltd* [2017] KECA 124 (KLR) highlighted as follows on the issue of joint tenancy;

“The registration being a joint tenancy, upon the demise of the joint owner, the interest in the land passes to the joint tenant. It was unfortunate it is Monica who died first, were it that she survived Charles the shoe would have been on the other side and there is nothing that can be done in this regard as that is the principle of common law see the Text book by Kevin Gray and Susan Francis Gray’s *Elements of Land Law* 5th Edition has equally given a succinct exposition of law of Joint Tenancies. The learned authors state at page 914 as follows:-

“The essence of joint tenancy consists in the theory that each joint tenant is wholly entitled to the whole of the interest which is the subject of co-ownership ... the key to understanding joint tenancy is the realization that no joint tenant holds a specific or distinct share himself but which is (together with other joint tenant or tenants) interested with the totality of the co-owned interest. The whole is not so much the sum of the parts, for each and every part is itself co-extensive with the whole Each holds everything and yet holds nothing.”

At Para 7.4.3, the authors state that:

Joint owners are bound up in a thorough and intimate union of interest and possession. So comprehensive is this co-ownership that joint tenants comprise, in the eyes of the law a collective entity one composite person – together holding one and the same estate in the subject land, whether that estate be freehold or leasehold. Accordingly, any transfer of land to two or more persons as joint tenants operates so as to make them, vis a vis the outside world, one single owner.”



In Birmingham CC V. Walker [2006] IWLR 2641 Blackstone J. elegantly described the right of survivorship in the following words:

“When two or more people are seised of a joint estate

The entire tenancy upon any of them remain to the survivors; and at length to the last survivor...The interest of two joint tenants is not only equal or similar, but also one and the same. One has not originally a distinct moiety from the other... but each has a concurrent interest in the whole; and therefore on the death of his companion, the sole interest in the whole remains to the survivor.”

28. The Court of Appeal in Mukazitoni (supra) cited by the Plaintiff dismissed an appeal inter alia challenging the trial Court’s findings on joint tenancy of the suit land and held;

“34. We have considered the appellant’s contention and the learned judge’s finding. The title document to the property has two names and this is concurrent ownership. There is no indication as to whether the property is held on a tenancy-in-common or joint tenancy or tenancy in entirety. When a property is registered in more than one name, in the absence of a contrary entry in the register, the property is deemed to be held in joint tenancy and not tenancy-in-common or tenancy in entirety.

.... In the absence of evidence, the legal presumption remains that a property registered in joint names is indivisible and not severable.”

29. The foregoing provisions and precedents in my view shed light in the instant scenario. There is evidence of the registration of the Plaintiff and Leonard as owners of the suit land as shown by Share Certificate No. 1161. The suit land / Share Certificate from Mwiki Company Limited did not indicate whether the suit land ownership was joint tenancy or in common. However, going by the Court of Appeal decision in Mukazitoni (supra) and the position in Cheshire & Burn’s, Modern Law of Real Property cited with approval in the case of Isabel Chelangat (supra), a joint tenancy arises whenever land is conveyed or devised to two or more persons without any words to show that they are to take distinct and separate shares. That is to say that a presumption would arise that the tenancy is intended to be joint tenancy. This presumption may be rebutted in the manner set out in Section 93 (2) above. Absent such evidence in rebuttal, then the provisions of Section 60 and 91 (4) (b) of the Land Registration Act above set in. That is to say the interests of Leonard in the suit land automatically devolved to the Plaintiff under the doctrine of survivorship upon his death. Applying this principle to the present case, I am of the view that the late Leonard and the Plaintiff were joint tenants of the suit land.

30. The Defendant bears the burden to rebut the joint tenancy claimed by the Plaintiff. In the Court of Appeal case of MB Vs. BBAM (Civil Appeal 181 of 2020) [2022] KECA 895 (KLR) the Court observed as follows with respect to joint tenants’ interests;

“Their interest was not equal or similar but one and the same, a concurrent interest in the whole property. And more importantly, where “... no joint tenant holds a specific or distinct share ...”

31. According to the Death Certificate produced in Court, Leonard died on 3/7/2017 and the current legislation Land Registration Act was applicable. Even at the time of purchasing the suit land (1985) the position in law in Section 102 of the Repealed Registered Land Act which is replicated in Section 91 of the current Land Registration Act.



32. Section 102 repealed Registered [Land Act](#) provided;

“ 102.

- (1) Where the land, lease or charge is owned jointly, no proprietor is entitled to any separate share in the land, and consequently-
 - (a) dispositions may be made only by all the joint proprietors; and
 - (b) on the death of a joint proprietor, his interest shall vest in the surviving proprietor or the surviving proprietors jointly.
- (2) For avoidance of doubt, it is hereby declared that -
 - (a) the sole proprietor of any land, lease or charge may transfer the same to himself and another person jointly; and
 - (b) a joint proprietor of any land, lease or charge may transfer his interest therein to all the other proprietors.
- (3) Joint proprietors, not being trustees, may execute an instrument in the prescribed form signifying that they agree to sever the joint proprietorship, and the severance shall be completed by registration of the joint proprietors as proprietors in common and by filing the instrument.”

33. Having reached the conclusion that the Plaintiff and late Leonard were joint tenants in the suit land, what is the effect of death on a joint tenancy? The answer is traced in Section 60 of the [Land Registration Act](#) which is a replica of Section 118 of the Repealed Registered [Land Act](#). Section 60 of the [Land Registration Act](#) provides;

“ 60. Transmission on death of joint proprietor

If any of the joint tenants of any land, lease or charge dies, the Registrar shall, upon proof of the death, delete the name of the deceased tenant from the register by registering the Death Certificate.”

34. In comparison Section 118 repealed Registered [Land Act](#) provided;

“ 18. If one of two or more joint proprietors of any land, lease or charge dies, the Registrar, on proof to his satisfaction of the death, shall delete the name of the deceased from the register.”

35. The totality of the forgoing in my view is that the Plaintiff has proven her case on a balance of probabilities.

36. Regarding costs, it is trite that costs follow event. See Section 27 (1) of the [Civil Procedure Act](#) and the Supreme Court decision in the case of *Jasbir Singh Rai & 3 Others Vs. Tarlochan Singh Rai & 4 Others* [2014] eKLR.



37. Final Orders for disposal;

- a. That property known as Ruiru Kiu Block 13/447 belongs to Leonard Waititu Kahiu and Felistus Wanjiku Waititu alias Ferista Wanjiku as joint tenants and or proprietors.
- b. That upon the demise of the joint tenant known as Leonard Waititu Kahiu, his interest in Ruiru Kiu Block 13/447 vested in Felistus Wanjiku Waititu alias Ferista Wanjiku pursuant to operation of law and in particular Section 60 as read with Section 91 of the [Land Registration Act](#) No. 3 of 2012.
- c. That the Directors of Mwiki Company Limited be and are hereby ordered to effect transfer of all interest of Leonard Waititu Kahiu (Deceased) in property known as Ruiru Kiu Block 13/447 into the name of Felistus Wanjiku Waititu alias Ferista Wanjiku forthwith.
- d. A declaration that Felistus Wanjiku Waititu alias Ferista Wanjiku is the sole proprietor of land parcel No. Ruiru Kiu Block 13/447.
- e. A permanent injunction be and is hereby issued against the Defendant Mary Muronji Lutatwa restraining her, her agents, servants, goons from interfering with the property known as land parcel No. Ruiru Kiu Block 13/447 and all developments thereon.
- f. Costs of the Originating Summons be borne by the Defendant.

38. Orders accordingly.

DATED, SIGNED AND DELIVERED VIRTUALLY AT THIKA THIS 19TH DAY OF DECEMBER, 2024 VIA MICROSOFT TEAMS.

J G KEMEI

JUDGE

Delivered online in the presence of;

Muthomi for the Plaintiff

Ms. Mbugua for the Defendant

Court Assistant – Phyllis

