



**Odanga (In her capacity as the legal representative of the Estate of Peter Odanga Olang) v Getui (Environment & Land Case E022 of 2022) [2025] KEELC 221 (KLR) (30 January 2025) (Judgment)**

Neutral citation: [2025] KEELC 221 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISUMU  
ENVIRONMENT & LAND CASE E022 OF 2022  
E ASATI, J  
JANUARY 30, 2025**

**BETWEEN**

**ALICE AWINO ODANGA (IN HER CAPACITY AS THE LEGAL REPRESENTATIVE OF THE ESTATE OF PETER ODANGA OLANG) ..... PLAINTIFF**

**AND**

**MOSES KAUNDA GETUI ..... DEFENDANT**

**JUDGMENT**

1. Vide the plaint dated 4<sup>th</sup> July, 2022, the Plaintiff, Alice Awino Odanga, in her capacity as the legal representative of the estate of Peter Odanga Olang sued MOSES KAUNDA GETUI over a parcel of land known as Kisumu/ Nyalunya/224. She sought for orders of:-
  - a. A permanent injunction against the Defendant, his servants and/or agents from trespassing, occupying, harassing, interfering with the Plaintiff's quiet and/or peaceful enjoyment of land parcel number Kisumu /Nyalunya/224.
  - b. A declaration that the transfer of land parcel number Kisumu Nyalunya/224 from Peter Odanga Olang to Moses Kaunda Getui was irregular, un-procedural, illegal, unlawful, null and void ab initio.
  - c. An order for cancellation of the title deed of land parcel number Kisumu/ Nyalunya/224 issued in the name of the Defendant herein Moses Kaunda Getui and reverting the same to the original owner Peter Odanga Olang.
  - d. Cost of this suit.
  - e. Interest on (d) above at court rates.



- f. Any other or further relief this Honourable court may deem just and fit to grant.
2. Vide court order dated 6<sup>th</sup> December, 2023, the Defendant was served through substituted service by way of advertising in the standard Newspaper.
  3. The Plaintiff testified that the suit land belonged to her late husband by the name Peter Odanga Olang, deceased. That she does not know the Defendant but that she found that his name replaced that of her late husband on the title. That she stays on the land.
  4. She produced Grant of Letters of Administration, Certificate of Death, Green card and photographs.
  5. The Plaintiff prayed that her claim be allowed. She called one witness,
  6. John Omollo Osome who testified as PW2. He stated that the Plaintiff is his neighbour whom he has known for over 30 years. That her husband died and was buried on the suit land. That he knows that the suit land belongs to the Plaintiff because that is where her late husband left her.
  7. The death certificate produced by the Plaintiff shows that the deceased died on 24<sup>th</sup> June, 1993 aged 33 years. The copy of register (green card) also produced as exhibit shows that the suit land was transferred from the deceased to the Defendant on 29<sup>th</sup> June, 1992. This was in the life time of the deceased, no evidence was placed before court that it was not the deceased who transferred the land to the Defendant.
  8. The copy of register also shows that the suit land was on 24<sup>th</sup> March, 1994 charged to Victoria Finance Company Limited for a loan facility of Kshs.50,000/-
  9. There was no evidence that the said charge had been discharged. Victoria Finance Company Limited was not joined in the suit so as to defend its interest in the suit land as the Chargee.
  10. The Defendant did not enter appearance or file defence. This however does not relieve the Plaintiff of the burden of proof under the provision of section 107 to 109 of the *Evidence Act*. The Plaintiff had the burden to prove her claim on a balance of probabilities. She has brought the suit in her capacity of legal representative of the deceased.
  11. However, it is clear from the copy of the register that the suit property ceased to belong to the deceased in his life time and hence could not form part of the estate of the deceased.
  12. I find that the Plaintiff has failed to prove her case on balance of probabilities. The suit is therefore hereby dismissed. No orders as to costs.

Orders accordingly.

**JUDGEMENT DATED AND SIGNED AT KISUMU AND DELIVERED THIS 30<sup>TH</sup> DAY OF JANUARY 2025 VIRTUALLY THROUGH MICROSOFT TEAMS ONLINE APPLICATION.**

**E. ASATI,**

**JUDGE.**

**In the presence of:**

Maureen - Court Assistant.

The Plaintiff in person.

No appearance for the Defendant.

