



REPUBLIC OF KENYA



**Ndibu v Ngugi & another (Environment & Land Case 6 of 2023)
[2025] KEELC 3337 (KLR) (27 March 2025) (Ruling)**

Neutral citation: [2025] KEELC 3337 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NYANDARUA
ENVIRONMENT & LAND CASE 6 OF 2023**

**JM KAMAU, J
MARCH 27, 2025**

BETWEEN

JEREMIAH MUCHERU NDIBU PLAINTIFF

AND

DAVID GICHURE NGUGI 1ST DEFENDANT

DEBORA WANGARI MUCHERU 2ND DEFENDANT

RULING

1. Under a certificate of urgency, the Defendant/Applicant moved this court on 11/1/2025 in an Application for Orders that:
 1. Spent.
 2. Pending hearing and determination of the instant Application inter partes there be an inhibition Order, inhibiting all dealings with land parcel No. Nyandarua/Ol'Aragwai/1919 by the Respondent.
 3. The Registration of Debora Wangari Mucheru, 2nd Respondent as the proprietor of land reference No. Nyandarua/Ol'Aragwai/1919 be cancelled and a portion of quarter (1/4) Acre thereof be transferred in favour of the defendant in terms of the Decree issued him.
 4. Costs of the Application.
2. The grounds of the Application are that Judgment was delivered in this case on 25/5/2020 in favour of the Defendant/Applicant, no Appeal was preferred and that during the process of execution of the Decree the Applicant found that the 1st Respondent had transferred the suit property to the 2nd Respondent, his daughter with a clear intention of scuttling and defeating the Judgment of the court. The Plaintiff was to sign all the necessary transfer papers to effect transfer of a quarter of an acre out of L.R. No. Nyandarua Ol'Aragwa/1919 in favour of the Defendant contrary to this the Plaintiff had



transferred the same to the 2nd Respondent. This was on 7/3/2024 long after the Judgment. In the meantime, the Respondents are in the process of sub-dividing the land to 3rd parties.

3. In his Replying Affidavit sworn on 10/2/2025, the Plaintiff admits that the 2nd Respondent is his daughter and that L.R. No. Nyandarua/Ol'Aragwa/1919 was not inhibited, injunctioned or restricted and that because he intended to raise money for his treatment, he decided to sale the land to the 2nd Respondent at Kshs.2,000,000/= which she fully paid and the Plaintiff annexed 3 agreements, to that effect dated 1/6/2019, 5/2/2020 and 2/12/2023 respectively. Consequently, the land was registered in the name of Debora Wangari Mucheru, the 2nd Respondent and that she has no intention of conveying it to a third party. He depones that all along he had not told the purchaser, Debora Wangari Mucheru that the suit land was a subject of this case. He, therefore, prays that the Application be disallowed.
4. The 2nd Respondent, Debora Wangari Mucheru also swore an Affidavit on even date where she describes herself as a 58 year old with 6 children and is married to one John Kamau Nduati. She states that she stays about 5 Kilometres away form her father's homestead. She was not privy to the existence of this suit until she was served with the current Application. She says that her father, aged 89 sold the suit land to her at Kshs.2,000,000/= because he was ailing and required money for treatment which she fully paid and took possession of the land. she claims to have been an innocent purchaser for value without Notice of any Court Orders relating to the parcel of land. She also denies that she does not intend to pass over the land to any other person. She became the registered proprietor of the land on 7/3/2024. She prays that the orders sought in this Application be disallowed.
5. I direct all the parties to file written submissions. A direction they all complied with. I have looked at the said submissions before retiring to write this Ruling.
6. The plaintiff admits that he knew Judgment had been delivered and whose contents he knew but which he did not communicate to his daughter, the 2nd Defendant. He purportedly received Kshs.2,000,000/= from her as consideration. It would be difficult to convince this court that all this time this case was going on for a period of over 3 years the 2nd Defendant, a daughter of the Plaintiff, did not know that the case was going on. Secondly, it was not shown how the Kshs.2,000,000/= was paid by the 2nd Defendant to the Plaintiff. I believe the alleged sale was just for convenience so that the Plaintiff would escape the Decree. It is also unfortunate that the Land Registrar failed to register the Decree when the same was presented to him/her by the Decree Holder.
7. Any attempt at defeating a Court Decree cannot be entertained by this court and must not only be refused but also punished. It has not even been shown that consent of the Land Control Board was obtained as a pre-requisite in transferring the suit property to the 2nd Defendant.
8. The Court will spare the Plaintiff the punishment for going against the Court Order and Registering the suit land in favour of the 2nd Defendant in spite of a clear Judgment/Decision of the Court. We also wish topg.4.....the Land Registrar for failure to register the Decree of this court and proceeding to register the transfer of the suit land in favour of the 2nd Defendant without the requisite consent of the Land Control Board or even evidence of payment of Stamp Duty.
9. Finally, under Sectionof the [Land Registration Act](#), I order the cancellation of the Title Deed in the name of Debora Wangari Mucheru forthwith and that the same returns to the name of Jeremiah Mucheru Ndibui. Immediately, thereafter, the Decree of this court will be satisfied by way of excision of ¼ an acre of Nyandarua/Ol'Aragwa/1919 to be transferred in the name of the 1st Defendant/Applicant herein. All those transactions shall be at the costs of the Plaintiff. I also award the costs of this Application to the Applicant.



RULING DATED, SIGNED AND DELIVERED AT NYANDARUA THIS 27TH DAY OF MARCH, 2025.

MUGO KAMAU

JUDGE

In the Presence of: -

Court Assistant: Eric.

Mr Gichuki.....for the Appellant

Ms Ndegwa..... for the Respondent

