



**Murungi v Murungi (Environmental and Land Originating Summons
14 of 2019) [2023] KEELC 781 (KLR) (15 February 2023) (Judgment)**

Neutral citation: [2023] KEELC 781 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENTAL AND LAND ORIGINATING SUMMONS 14 OF 2019**

CK NZILI, J

FEBRUARY 15, 2023

BETWEEN

MARCELLA GAKII MURUNGI PLAINTIFF

AND

GRACE KANYUA MURUNGI DEFENDANT

JUDGMENT

1. By an originating summons dated 22.3.2019 the plaintiff sought for the court to find her entitled to LRNo. Nkuene/Nkumari/2181. She averred that the suit land was initially bequeathed to her by her late parents after she divorced her former husband and came back to her parents' home. The plaintiff averred that she took vacant possession of the land and out of advice from the said parents, her late brother, one Mbaabu, who was the registered owner, actualized the bequest by a sale agreement and transfer to the defendant, her first born daughter. She stated that she has lived on the said land for over 40 years. The originating summons was accompanied by witness statement and a further list of witness statement and documents dated 30.7.2019.
2. Grace Kanyua Murungi, the defendant opposed the summons by a replying affidavit sworn on 4.7.2019 which was also accompanied by a list of witness's statements and documents dated 23.7.2019. Her defense was that initially the land belonged to her uncle Mbaabu Murungi (deceased) then known as LRNo. Nkuene/Nkumari/311, which was subdivided into two portions. The defendant averred that her uncle, sold and transferred one of the portions to her as LRNo. Nkuene/Nkumari/2181.
3. The defendant averred that she willingly allowed the plaintiff to live on her land after she divorced with her husband one Stephen Mwiti in 2014, purely on humanitarian grounds since she had nowhere to live. She denied any alleged purchase, trust or adverse possession claim since the plaintiff was on the land out of her consent. Further the defendant averred that the land was never ancestral land. She averred that she was the sole purchaser of the land, which consideration came from disposing her Sacco society shares. Further the defendant averred all the developments on the land were hers



including a semi-permanent house, pit latrine, a water tank, assorted trees and the installation of water and electricity. She denied that the registration of the land in her names was aimed at avoiding any future rivalry between the plaintiff and her aunts. The defendant averred that her mother was fond of creating divisions, had become a thorn in her flesh and was always bulldozing her way into all her undertakings.

4. Following an interlocutory application, the court granted interim injunctive orders and directed for a scene visit by the executive officer of the court. The outcome was a scene visit report dated 30.3.2020.
5. At the trial, PW1 the plaintiff adopted both her affidavit sworn on 22.3.2019 and a witness statement filed on 2.4.2019 as her evidence in chief. As exhibits to buttress her case the plaintiff produced a letter dated 18.7.2019 as P. Exh No. (1), a water project membership card as P. Exh No. (2), a letter from the OCS Mitunguu police station as P. Exh No. (3), a billing statement from the Kenya Power & Lighting Company as P. Exh No. (4), a bundle of photographs as P. Exh No. (5) and the scene visit report as P. Exh No. (6) respectively.
6. In cross examination PW1 told the court that her late parents directed her to pay Kshs.60,000/= to her late brother Mbaabu Muriungi as consideration for the suitland so as to avoid any future conflicts and to facilitate the transfer. The plaintiff testified that it was out of her instructions to his late brother that the land be registered in the name of her first-born daughter, the defendant to hold it in trust on her own behalf and that of herself and the children. PW1 admitted that the both the sale agreement and the transfer forms were kept by the defendant. She denied entering the land in 2014 as alleged. PW1 denied that the defendant had ever made any developments on the suit land a part from her own structures. PW1 clarified that the portion she was claiming was half an acre of land which contains all her developments including a water tank that she built in 1996.
7. Lucieta Murungi was PW2, a daughter of the plaintiff. She confirmed that her late uncle John Mbaabu was the one who sold and transferred the suit land to the defendant which land initially belonged to her late grandfather one M'Murungi. PW2 said that the photographs before the court reflected all the plaintiff's developments on the suit land, unlike the defendant who was only holding the land in trust for the plaintiff and her entire family. PW2 confirmed that the defendant had also bought a separate portion of his uncle's land apart from the suit land. She also clarified that the defendant was not living on the suit land but in her husband's homestead at Mitunguu area.
8. Paul Gichuru a neighbor of the plaintiff was PW3. He confirmed that PW1 was the one in occupation of the suit land, though registered under the defendant's name, out of instructions by her mother. He confirmed that the developments on the suit land belonged to the plaintiff and not the defendant. PW3 also confirmed that a family meeting took place on a date he would not recall where the late John Mbaabu agreed to give out a portion to the plaintiff in 1985 and later on formalized the process by transferring the land to the defendant in 2002/2003, following the agreement that she would hold the land in trust of her mother.
9. PW3 testified that none of the plaintiff's brothers and sisters had complained over the suit land since they all had permanent residences in the locality but on the lower side separated at the middle by an access road.
10. Fridah Mirikwa was PW4. Her testimony was that the defendant got married in Mitunguu area where she lives with her husband. As the last-born child of PW1, she confirmed that the defendant was holding the land in trust of her mother and her children. She stated that her mother had developed it over the years. Similarly, PW4 clarified that the registration in the name of the defendant was in line with the Ameru customs where a first-born child acquires a land title deed on behalf of the rest of the young siblings. PW4 said that she the suit land was their homestead since 1986.



11. PW4 claimed the defendant also brought another portion of land from her late uncle but was yet to develop it and which was separated from the suit land by an access road in between. Additionally, PW4 testified that the rest of her uncles occupied the lower side of the family land where their late grandparents and uncles were also buried.
12. DW1 adopted her replying affidavit 5.7.2019 as her evidence in chief and produced a copy of the title deed as D. Exh No. (1), bank statement as D. Exh No. (2), mutation form as D. Exh No (3) and copy of the records for P. No. 311 as D. Exh No. (4) respectively.
13. In cross examination, DW1 admitted that the plaintiff was the one occupying her land since 2008/9. Her testimony was that she bought the suit land from her late uncle in 2001 for Kshs.67,000/= as per the Bank statement.
14. DW1 told the court that she had lost the transfer documents, even though she had no police abstract to that effected. PW1 admitted that her late uncle had also inherited the suit land from her late grandfather during the demarcation process. She clarified that her deceased uncle had three other brothers who occupy and own separate portions of land under their individual names.
15. DW1 said she bought the land for the benefit of her mother, the plaintiff and clarified that she had no intentions to order her out of the suit land. DW1 said that she only got concerned when the plaintiff wantonly and unlawfully destroyed some trees on the suit land. She denied the assertion that the plaintiff had lived on the suit land for 37 years, given that she at one time in 2008 left and eventually permanently came back in 2014. DW1 said that the plaintiff should claim her for a share of the ancestral land from the rest of her brothers. She said that after purchasing the land, she compensated her late uncle for all the developments therein so that he could relocate from the suit land. DW1 insisted that the trees on the suit land were hers and not the plaintiff. She denied ever attending a family meeting where it was agreed that she would be registered as the owner of the land in trust for her mother and her family.
16. DW1 however clarified that she bought the land out of the frustration her mother had gone through in her various aborted marriages, all this time leaving her to stay alone with her grandparents. She said that the dispute herein started in 2019 after her siblings incited the plaintiff following warning to her against cutting down the trees or attempting to sell the suit land. DW1 said that even after withdrawing the criminal charges at the police station, PW1 refused to amicably discuss the issues with her and instead filed the suit. She denied ever ordering the plaintiff to vacate the land.
17. DW2 was Richard Mutonga Ntiba. During his testimony, the court observed that he was very evasive in answering questions during the examination in chief. Though not a party to the sale agreement between the defendant and the late John Mbaabu, DW2 claimed to have been privy to the details. He stated that DW1 had tremendously improved the suit land unlike the plaintiff. He denied the alleged existence of a resultant trust in favor of the plaintiff.
18. DW3 was Mark Mutwiri, a brother to PW3 and a son of DW2. He opposed the contents of the scene visit report and the evidence of PW3. Just like DW2, he seemed to confirm the contents of the sale agreement between the deceased and DW1. He said that he was privy to some information that PW1 was intending to dispose the suit land yet it exclusively belonged to the defendant with no intended trust.
19. At the close of the defence, parties filed written submissions dated 10.11.2022 and 13.11.2022. The plaintiff submitted that her evidence had satisfied the ingredients of adverse possession as discussed in the caselaw of *Wilson Kazungu Katana & 101 others v Salim Abdalla Bashwein & another* (2015) eKLR, *Wambugu v Njuguna* (1983) KLR172, *Kipketer Togon v Isaac Cipriano Shingore* (2012) eKLR.



Maweu v Lin Ranching Coop Society Ltd (1985) eKLR430 & *Charles Mukoma Kimaru v Johnstone Muchomba Kaguva* (2018) eKLR.

20. On the other hand, the defendant submitted that there was no dispute that she was the registered owner of the suit land, which she bought from the plaintiff's late brother and willingly allowed the plaintiff to occupy though the cumulative years of occupation were less than 12 years.
21. Similarly, the defendant submitted that the developments on the land belonged to her and not exclusively to the plaintiff. The defendant submitted the sale and transfer to her did not contemplate any trust as alleged. As to adverse possession, the defendant submitted the plaintiff had failed to discharge the burden of proof to and prove the ingredients of adverse possession since the entry and occupation was permissive and not inconsistent with her rights to the land. Reliance was placed on *Wambugu v Njuguna* (1983) KLR172, *Mtana Lewa v Kabindi Ngala Mwangandi* (2015) ekLR, *Mbira v Gachubi* (2002) 1 EALR137, *Mombasa Teachers Coop Savings & Credit Society Ltd v Robert Mubambi Katana & others* (2018) eKLR and *Samuel Kihamba v Mary Mbaisi* (2015) eKLR.
22. The court has gone through the pleadings, evidence tendered, written submissions and the law cited. The issues calling for determination are:
 - a. Whether the plaintiff pleaded both trust and adverse possession
 - b. If the plaintiff has proved her claim and
 - c. If the plaintiff is entitled to the reliefs sought.
23. It is trite law that parties are bound by their pleadings and issues flow from pleadings.
24. In this suit the plaintiff pleaded the concept of adverse possession under Sections 38 (1), (2) and (4) of the *Limitation of Actions Act* as read together with Order 37 Rule 7 of the *Civil Procedure Rules*. The question raised in their originating summons for this court to answer were:
 - i. Who was owner of LRNo's Nkuene/Nkumari/311 and 2181?
 - ii. What were the circumstances surrounding the registration of the defendant as the owner?
 - iii. If the plaintiff enjoyed any proprietary rights over the suit land.
 - iv. If the defendant was entitled to evict the plaintiff from the land.
 - v. Who was the current occupier of the land?
25. By way of particulars to the suit, the plaintiff swore on oath in her affidavit in support to the originating summons that after her divorce, she went back to live in her parents' home, who agreed to bequeath her part of their family land and went ahead to advise her that she should buy a portion of the land she was occupying from her late brother and transfer it to the defendant. The plaintiff pleaded that she was born on the said suit land and has lived thereon till filing of the suit which the defendant had never occupied or undertaken any developments thereof.
26. This fact was also repeated in the plaintiffs witness statement accompanying the originating summons where she explained the manner in which the sale and transfer came about so as to avoid any future complaints from her siblings. The plaintiff averred that she paid her late brother Kshs.60,000/= and the land was transferred to the defendant. The plaintiff testified that the defendant eventually got married, left her on the land together with her other children until 2019 when the defendant caused her to be arrested for allegedly selling some timber produce from the suit land to a third party.



27. In response to the notice of motion dated 22.3.2019 seeking for inhibition orders, the defendant swore an affidavit dated 5.7.2019 in which she attached a copy of the title deed and the sale agreement marked as annexures GKM “1” & “2”.
28. Further and in response to the originating summons, the defendant admitted his late uncle was the initial owner of the suit land and that she allowed her mother to live on the land after her divorce. She however denied that her mother had any right over the land since she was on it at her mercy. As part of her evidence, the plaintiff produced an assistant chief’s letter dated 18.7.2019 which confirmed her occupation of the land for 34 years. PW1 also produced a membership card for Kirri Nkumari and Kirambuli B water project, a letter from the police regarding her arrest, a Kenya power and lighting billing statement and photographs showing her various developments on the suitland bearing the date of 19.7.2019. Similarly, the plaintiff produced the scene visit report dated 30.3.2020.
29. In this suit, the plaintiff has based her claim on adverse possession and trust. She led evidence that the sale and transfer of the land to the names of the defendant was for and on behalf of herself and the family. She also pleaded and testified that the suit land was also bequeathed to her by her late parents. On the other hand, the defendant pleaded that she solely bought the land and settled the plaintiff thereon since she had no where else to go after divorcing her former husband. At paragraphs 7, 8, 9 & 11 of the replying affidavit the defendant admitted that the defendant had been in occupation of the suit land with her consent since 2014. She averred that her mother never paid any money or spent anything to assist her in purchasing the property. Further, at paragraph 15 of the replying affidavit, the defendant averred that the plaintiff had no claim whatsoever over the suit in the nature of a trust land and has occupied the same on invitation and her own mercy.
30. For a party to establish a claim based on adverse possession, he must prove non-permissive or non-consensual, actual, open, notorious, exclusive and adverse use by him or those under whom he claims for the statutory period without interruption. This was the holding in *Mbira v Gachubi* (2003) 1 EARL 131. In *Jandu v Kirparl & another* (1975) E.A 225, the court held that to prove adverse possession, it was not enough to show that some acts of adverse possession must be adequate in continuity, in publicity, and in extent to show that it was adverse to the owner; but must be actual, visible, exclusive, open and notorious.
31. In the case of *Mtana Lewa* (supra) the court held that adverse possession was essentially a situation where a person takes possession of land, asserts rights over it and the person having title omits or neglects to act against such a person in assertion of his title for a period of 12 years.
32. In the case of *Mbui v Maranya* (1993) eKLR the court held that the possession must be non-permissive from the true owner, occupation must be hostile to the true owner and that there must be unmistakable animus possidendi, that is the intention to exclude the owner as well as other people from possession.
33. As to the dictates of law on close relatives alongside a claim of constructive trust in *Alice Wairimu Macharia v Kirigo Philip Macharia* (2019) eKLR, the court held that the burden to prove the existence of trust rested with the one asserting the right and who must prove that the land was ancestral land. In other words, the court held that there must be evidence of a nexus or link of the trust to the title holder and the claimant.
34. In *Muthuita v Muthuita* (1982-1988) 1 KLR42, the court held that customary law trust must be proved by leading evidence, since trust was a question of fact. Coming to the ingredients of a customary trust, in *Isaack Kiebia M’Inanaga v Isaaya Theuri M’Lintari & another* (2015) eKLR, the Supreme



Court of Kenya held that each case has to be determined on its own merits and the quality of evidence tendered. The court cited with approval *James Kiarie v Godfrey Kinuthia*.... Where it was held thus'

“That what was essential was the nature of the holding of the land and the intention of the parties that if the holding of the land is for the benefit of other members of the family, the court should presume a trust in favour of other family members, whether or not they were in possession or actual possession.”

35. The court in *Kiebia supra* laid some of the elements to qualify a claimant as a trustee to be:
 - a. The land in question was before registered family, clan or group land.
 - b. The claimant belongs to such family, clan or group
 - c. The relationship of the claimant to such family, clan or group is not so remote or tenuous as to make the claim idle or adventurous.
 - d. The claimant could have been entitled to be registered as the owner or other beneficiary of the land but for some intervening circumstances.
 - e. The claim is directed against the registered proprietor who is a member of the family, clan or group.
36. In the case of *Juletabi African Adventure Ltd & another v Christopher Michael Lockley* (2017) eKLR, the court held that the law never implied and the court never presumed a trust unless in a case of absolute necessity in order to affect the intention of the parties, which intention must clearly be determined before a trust could be implied.
37. The implication of the foregoing binding caselaw is that the onus was on the plaintiff to lead evidence that the intention of the parties during the sale and transfer of the suit land in 2001 in the name of the defendant was for and in trust of the plaintiff. It was therefore incumbent upon the plaintiff to lay evidence before the court that the land prior to the sale and transfer was family, clan or group land, that she belonged to that family, group or clan, that she would have been the registered owner were it not for some intervening circumstances, that the claim is directed at such a family member and that she was related to the members of that family group or clan.
38. In the case of *Wilson Kenyenga v Joel Ombwori* (2001) eKLR, the respondent had commenced the action by way of a plaint while the appellant's claim was by way of a counterclaim seeking or adverse possession. The appellant had also raised the issue of trust though not pleaded. The court held that in absence of a pleading of trust such a claim could not be permitted to be raised or decreed. The court held that as a rule, relief not founded on pleading could not be given and cases must be decided on the issues on record, more so where a statute states that particulars of trust must be pleaded.
39. In the case of *Peter Muchoki v Elias Mwororo Kamau* (2018) eKLR, the applicant had pleaded a claim based on adverse possession. The respondent had raised defence denying any trusteeship and asserting that the occupation was out of a license pursuant to the permission given by his father on humanitarian grounds. The respondent had denied any semblance of an ancestral or family land and or a trust. The court went on to determine both the issue of trust and adverse possession. The court cited with approval *Mwinyi Hamisi Ali v AG and Mwaisaka* (1997) eKLR, that the entry to the land by consent, permission or license of the registered owner did not create a right to land by way of adverse possession.
40. In this suit, the plaintiff testified that she initially entered the suit land as a daughter of her now deceased parents and at the invitation by the late brother Mbaabu who later on at the request of the said late



parents agreed to translate the occupation into ownership, which the plaintiff accepted and directed the land be registered in the name of defendant, as her first born child to hold it on her own behalf and the rest of her siblings.

41. The plaintiff testified that she was in occupation prior to the sale and transfer in 2001. The defendant while admitting some of this fact insisted the defendant after 2001 left the land and only came back in 2014. The title deed for the land was dated 9.8.2016. The mutation form was registered on 4.12.2007. A copy of the records produced as D. Exh No. 4 indicated that the register was opened on 11.5.1977 for Parcel No. 311 and a title deed issued to the late Mbaabu Murungi on 30.3.1978. The register was closed for subdivision into parcel No's 2181 and 2182 on 28.2.2002.
42. The questions posed for this court to determine in the originating summons for this court to establish are; who was the original owner of L.R. Nkuene/Nkumari/311; who is the registered owner of L.R. Nkuene/Nkumari/2181; the circumstances under which the defendant was registered as the owner; if the plaintiff was enjoying proprietary interest on the land; if the defendant should evict the plaintiff from the lands and if the plaintiff is entitled to be registered as the owner.
43. In her supporting affidavit, the plaintiff went on to give the particulars of her entry into the land as through both her late parents and her late brother. She said that the reason the transfer had to be under the name of the defendant was to avoid any complaints in future from her siblings. The plaintiff pleaded that she was born on the suit land and her occupation of the same was out of accrued family rights preceding the registration in the names of the defendant.
44. The defendant in her testimony was categorical that she bought the land to settle her mother and for her own benefit after what had happened to her previous marriage. The defendant admitted that her other uncles who were still alive and were not complaining against her claim to the land. Unfortunately, the defendant never called the said uncles to support her claim or rebut the presumption that there was no intended trust in the manner the land was transferred and her mother settled therein. In *Mbui Maranya* (supra) the court held thus:

“..... people are so caring and mindful of one another’s welfare thanks to the African milk of generosity and kindness our way of living has always been to depend on one another for mutual survival and progress. This is at every level. To us if you want any help if you want a cow, if you want a piece of land for as long as the owner does not immediately require it you are given these things....” and ignorance on the part of a judge would be a calamity for the innocent”.
45. In this suit, the issue is a unique one between a daughter who is already married. She is a registered owner of land arising from her maternal grandparents through a maternal uncle to her but occupied by the defendant, her mother together with her siblings, some said to be also married. The defendant in her words pleaded and testified that the plaintiff was living on her land on humanitarian grounds, out of her mercy and through an invitation to occupy the land.
46. The plaintiff on the other hand denied such an alleged act of benevolence. She pleaded and testified that there was much more to it that it was her bequest following the generosity of the previous owner(s) of the land that she was able to acquire it, make a direct decision and intention to have it registered under the name of her daughter, the defendant who has now turned around to deny the circumstances leading to the registration her names.
47. In *Peter Muchoki v Mwororo* (supra), the court stated that the keeping on one’s land of landless relatives for long period was a known custom and that if the doctrine of adverse possession was not reasonably qualified and properly trimmed, it could destroy the cherished idea and sound cultural foundations



and destabilize the society. The court went on to say that there was a presumption of consent where relatives were allowed to occupy someone's land which an alleged adverse possessor must disapprove by way of evidence.

48. From the evidence tendered by parties herein, there is no dispute that Parcel No. 311 together with the resultant subdivisions, which was initially owned by the plaintiff's brother now deceased. Similarly, from the evidence tendered the plaintiff was prior to the sale and transfer to the defendant in possession and or occupation of the land with the consent of the previous owner, the late Mbaabu Muriungi. A copy of records produced shows that the land was transferred and registered in the name of the defendant on 28.2.2002 going by the title deed which was produced as P. Exh No. (1).
49. So, going by the holding in *Kimani Ruchine v Swift Rutherford & Co. Ltd* (1980) KLR10, the defendant as at 2002 knew that her mother, was in occupation of her land with no force, secrecy or persuasion up to 2014 when she went and caused her to be arrested and locked up. Prior to this, the defendant had never evicted the plaintiff nor given her a notice to vacate the land. P. Exh No's. 1, 2, 3, 4, 5, 6 & 7 are all indicative that the plaintiff has made immense developments on the suit land to the exclusion of the defendant.
50. In *Teresia Wanjiru Macharia v Kiuru Macharia & another* (2007) eKLR, a daughter had returned to the parents from her aborted marriage and settled on the land of her parents till they passed on. She had consented with her brothers, but was left out of the distribution of the estate, yet she was in occupation of part of the estate. The court held that she was entitled to adverse possession and that she should not have been disinherited simply because she was a woman and hence not falling under the paternal patriarchal lineage. The court invoked Article 13 of the Convention on Elimination of Discrimination Against Women as ratified by Kenya on 9.3.1984 among other international instruments Kenya was party to at the time.
51. In this suit, the defendant has pleaded that her mother has no rights to the suit land and can only live on it at her mercy and or on humanitarian grounds. Article 57 of the *Constitution* abhors such an attitude by children such as the defendant. The state is mandated to ensure that older persons live in dignity and respect and be free from abuse. The old are also entitled to receive reasonable care from their family and the state.
52. The defendant has pleaded and testified that her parent, the plaintiff has no rights worthy enforcing and urges the court to sanction her rights on the land at the exclusion of her own mother. PW1 testified that other than herself, she was living on the land together with her other children among them PW3 and PW4. DW1 admitted this, though accordingly to her all her other sisters are already married, except her brother.
53. In the case of *MM G v J.G & another* (2018) eKLRa foster parent had sought an order to evict her elderly children from her land and who were demanding the sharing of the land during her lifetime. The court cited with approval *Nabashon Kareng'e v Justus Thiru Zakayo* (2008) 1 KLR1073 where it was that there exists no vested right of inheritance during the lifetime of parents and subject to beneficial and occupation rights, children cannot force parents to subdivide and distribute their assets unless held in trust prior to registration, since such rights were inchoate, only accruing after the death of the parents. The court issued a voluntary order to vacate the land.
54. In my considered view, the plaintiff in this suit has established some beneficial and or occupation rights over the suit land which preceded the registration of the title deed in the name of the defendant. She has proved that she has been on the land as of right with no consent by the defendant in an open, notorious manner to the exclusion of the defendant, with the intention to possess the land. The defendant on the other hand has admitted that she is married elsewhere and her sole intention in buying the land from



her late uncle was to settle the plaintiff therein and by extension her siblings following her mother's troubled past marriages.

55. The defendant expressed no doubt in her mind before this court that she had no intention of evicting or taking over possession of the land to exclude the plaintiff from either possession or occupation.
56. Given the foregoing, the answers to the questions posed by the plaintiff in the originating summons are that LRNo. Nkuene/Nkumari/311 was owned by the late Mbaabu Muriungi who subdivided it into LRNo's. 2181 and 2182 and caused the latter to be registered in favour of the defendant in circumstances reflective of a trust in favor of the plaintiff and her children.
57. On the questions of the enjoyment of proprietary rights, evidence tendered was that the plaintiff has been in open continuous and exclusive ownership of the suit land since 1998 to the filing of the suit. Given the defined and admitted beneficial and possessor's rights the plaintiff has beneficial rights over the land hence it would be unjust and unconstitutional to deny her such accrued and admitted rights.
58. Therefore, the appropriate orders in the circumstances are that the defendant holds the suit property in trust of not only the plaintiff but also her siblings.
59. There will be no orders as to costs.

DATED, SIGNED AND DELIVERED VIA MICROSOFT TEAMS/OPEN COURT THIS 15TH DAY OF FEBRUARY, 2023

IN PRESENCE OF:

C/A: KANANU

GICHUNGE FOR PLAINTIFF

MR. MUNENE FOR DEFENDANT

HON. C.K. NZILI

ELC JUDGE

