CM ADVOCATES LLP



COMPULSORY ACQUISITION CLAIMS IN KENYA: LIMITATION PERIODS AND ENFORCEMENT OF COMPENSATION

What Landowners, Estate Administrators, Trustees, Investors and Developers Need to Know

30th September 2026

EXECUTIVE SUMMARY

Compulsory acquisition disputes are governed by strict constitutional, statutory and procedural requirements. A landowner who fails to act promptly may lose the right to challenge the acquisition, contest the compensation awarded, recover land or enforce another available remedy.

There is no single limitation period applicable to all compulsory-acquisition claims. The relevant period depends on:

- The nature of the challenged decision or omission;
- The legal character of the claim;
- The forum with original jurisdiction;
- The date upon which the right of action accrued; and
- The relief sought.

A person dissatisfied with a decision of the National Land Commission relating to compulsory acquisition should ordinarily apply to the Land Acquisition Tribunal within 30 days. Although the Tribunal may extend time for sufficient cause, an affected person should not assume that an extension will automatically be granted.

Where the substantive claim is for recovery of land, Section 7 of the Limitation of Actions Act ordinarily imposes a 12-year limitation period from the date upon which the right of action accrued. In ***ITSL Trust Company Limited &***

another v National Land Commission & 2 others [2021] KEELC 998 (KLR), proceedings filed approximately 49 years after completion of the compulsory acquisition were struck out as statute-barred.

Where a compensation award has been issued but remains unpaid, Article 40(3) (b) (i) of the Constitution and Section 111 of the Land Act require prompt payment in full, of just compensation to the person whose land was compulsorily acquired. The landowner should pursue payment, interest and appropriate protective remedies without delay.

KEY TAKEAWAYS

1. Different claims attract different deadlines. The applicable period depends on whether the claimant challenges the acquisition, compensation award, payment default, possession or another decision.
2. The Tribunal period is short. A challenge to a National Land Commission decision should ordinarily be filed before the Land Acquisition Tribunal within 30 days.
3. Recovery claims may be barred after 12 years. The ITSL Trust decision confirms that the limitation period may run from completion of the acquisition.
4. Compensation must be prompt and in full. Budgetary constraints or failure by the acquiring authority to remit funds do not displace the constitutional obligation.
5. Correspondence does not necessarily stop time. Negotiations, reminders and administrative assurances should not replace protective filing.
6. The correct forum and parties are critical. Filing before the wrong court or omitting the acquiring authority may delay or defeat the claim.
7. Interest should be claimed expressly. Delayed payment may justify an award of interest from the date of the award or another legally supportable date.

1. CONSTITUTIONAL AND STATUTORY FRAMEWORK

Article 40(3) of the Constitution prohibits the State from depriving a person of property unless the deprivation:

- Is undertaken in accordance with the Constitution and an Act of Parliament;
- Is for a public purpose or in the public interest;
- Requires prompt payment in full, of just compensation; and
- Allows every affected person access to a court of law.

Article 47 separately guarantees administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

Part VIII of the Land Act regulates the compulsory-acquisition process, including:

1. Initiation of the acquisition by the acquiring authority;
2. Publication and service of the notice of intention to acquire;
3. Publication and service of the notice of inquiry;
4. Submission of claims by interested persons;
5. Determination of ownership and other interests;
6. Assessment of just compensation;
7. Issuance of a separate award to each affected person;
8. Acceptance or challenge of the award;
9. Prompt payment of compensation; and
10. Possession and vesting of the acquired interest.

A failure to comply with these requirements may give rise to statutory, administrative-law or constitutional relief.

2. WHAT CLAIMS MAY ARISE FROM COMPULSORY ACQUISITION?

a) Challenge to the legality of the acquisition

A claim may arise where:

- The acquisition lacks a lawful public purpose;
- The National Land Commission or acquiring authority acts outside its mandate;
- The prescribed notices are not published or served;

- The affected person is denied participation in the inquiry;
- The statutory inquiry is not conducted;
- Possession is taken prematurely; or
- The process violates Articles 40 or 47 of the Constitution.

b) Challenge to the compensation award

A compensation dispute may concern:

- Inadequate valuation;
- Application of the wrong valuation date;
- Failure to recognise an interest in the land;
- Payment to the wrong person;
- Exclusion of compensable losses;
- Severance or injurious affection;
- Disturbance and relocation expenses;
- Loss of business or earnings where legally recoverable; or
- The form of compensation offered.

c) Enforcement of unpaid compensation

A payment claim arises where:

- An award has been issued but remains unpaid;
- Only part of the award has been paid;
- Possession has been taken before payment;
- The acquiring authority has not remitted compensation funds;
- Payment is deferred pending an uncertain budgetary allocation; or
- The responsible institutions dispute which one must pay.

(d) Challenge to possession or occupation

- A claim may also arise where:
- The State enters the land before completing the statutory process;
- Construction begins before compensation is paid;
- The proprietor is displaced prematurely;
- The State occupies land outside the acquired boundaries; or
- The taking does not comply with the Land Act.

3. THE 30-DAY LAND ACQUISITION TRIBUNAL PERIOD

Sections 133A–133C of the Land Act establish the Land Acquisition Tribunal.

A person dissatisfied with a decision of the National Land Commission relating to compulsory acquisition may apply to the Tribunal within 30 days.

The Tribunal may:

- Confirm, vary or quash the decision by the Commission;
- Determine complaints relating to compulsory acquisition;
- Reconsider the form or amount of compensation;
- Recognise an affected person's interest;
- Order payment of outstanding compensation;
- Award interest where legally justified; and
- Grant appropriate relief within its statutory jurisdiction.

The Tribunal may extend time for sufficient cause. An extension is nevertheless discretionary and requires a satisfactory explanation for the delay.

Landowners should therefore obtain advice immediately upon receiving:

- A notice of acquisition;
- A notice of inquiry;
- A compensation award;
- A determination rejecting their interest;
- A payment decision; or
- Any other adverse decision from the National Land Commission.

4. THE TRIBUNAL AS THE FIRST FORUM

Section 133C (6) of the Land Act requires a matter relating to compulsory acquisition of land, creation of wayleaves, easements or public rights of way to be referred to the Land Acquisition Tribunal in the first instance.

Proceedings filed directly before the Environment and Land Court may face an objection based on jurisdiction or failure to exhaust the statutory process.

An appeal from the Tribunal lies to the Environment and Land Court on a question of law under Section 133D of the Land Act.

Direct constitutional or judicial-review proceedings may remain available in appropriate cases. However, a claimant should explain why the Tribunal process is unavailable, inadequate or inapplicable. Merely describing a dispute as constitutional does not automatically displace the Tribunal's original jurisdiction.

5. RECOVERY OF LAND AND THE 12-YEAR LIMITATION PERIOD

Section 7 of the Limitation of Actions Act provides that an action to recover land may not be brought after the expiry of 12 years from the date upon which the right of action accrued.

In ***ITSL Trust Company Limited & another v National Land Commission & 2 others [2021] KEELC 998 (KLR)***, the Government completed the compulsory acquisition of part of L.R. No. 5989/6 in 1970–1971.

The applicants commenced proceedings on 6th October 2020. The Attorney General and Registrar of Titles raised a preliminary objection under Section 7 of the Limitation of Actions Act.

The Environment and Land Court held that:

- The compulsory acquisition was completed in 1970–1971;
- The former proprietors' title was extinguished upon completion of the acquisition;
- The Government became entitled to possession;
- The right of action accrued when the acquisition was completed;
- The 12-year period expired around 1983; and
- The proceedings filed approximately 49 years later were statute-barred.

The Court consequently struck out the suit for want of jurisdiction.

The decision demonstrates that the court will consider the substance of the relief sought. A claimant may not necessarily avoid the limitation period governing recovery of land by describing the proceedings as constitutional, declaratory or administrative.

6. UNPAID COMPENSATION AND THE DUTY TO ACT PROMPTLY

Article 40(3) (b) (i) of the Constitution and Section 111 of the Land Act require prompt payment in full, of just compensation.

The acquiring authority is required to deposit the compensation funds with the National Land Commission before the acquisition is undertaken.

A landowner should take action where:

- An award has been issued but payment is delayed;
- Possession has been taken without payment;
- Only part of the award has been paid;
- Payment is deferred pending a budgetary allocation;
- The Commission attributes the delay to the acquiring authority; or
- The acquiring authority does not provide a definite payment date.

In ***Okeyo & 26 others v National Land Commission & another [2025] KELAT 163 (KLR)***, the Land Acquisition Tribunal rejected the argument that compensation could await a future budgetary allocation. It directed payment within 90 days and awarded interest from the dates of the awards.

The Tribunal emphasized that the acquiring authority should secure compensation funds before undertaking the acquisition.

7. LIMITATION OF AN UNPAID COMPENSATION CLAIM

A claim for unpaid compensation should be filed promptly. Its limitation treatment depends upon its proper legal character.

The claim may constitute:

- Enforcement of a statutory duty;
- Recovery of an award or statutory debt;
- A constitutional property-rights claim;
- A complaint concerning unlawful administrative inaction;
- A claim arising from possession without compensation; or
- A combination of these causes of action.

The claimant should calculate time from the earliest potentially applicable date, including:

- The date of the compensation award;
- The date the award was accepted;
- The date payment became due;
- The date possession was taken; or
- The date of a formal refusal to pay.

Constitutional claims do not have one universal statutory limitation period. Nevertheless, prolonged and unexplained delay may lead a court or Tribunal to refuse relief or conclude that the claim has become stale.

Repeated demands, negotiations or assurances of future payment should not be assumed to suspend or restart time.

8. JUDICIAL REVIEW AND CONSTITUTIONAL CLAIMS

A claimant seeking to quash a compulsory-acquisition decision through judicial review must act promptly.

An application for certiorari may be subject to the six-month restriction under Order 53 Rule 2 of the Civil Procedure Rules, depending upon the nature of the decision or proceedings challenged. Other judicial-review remedies remain subject to the requirement that proceedings be brought without unreasonable delay.

A constitutional claim should identify:

- The particular constitutional right violated;
- The impugned decision, conduct or omission;
- The role of each respondent;
- The date and circumstances of the violation;
- The resulting prejudice; and
- The precise relief sought.

Constitutional pleadings should not be used simply to avoid the Land Acquisition Tribunal or an otherwise applicable statutory period.

9. CLAIMS BY ESTATES AND PERSONAL REPRESENTATIVES

Where the registered proprietor has died, the personal representative(s) should investigate the acquisition immediately.

Obtaining a grant of representation does not necessarily create a new cause of action or restart a limitation period that began during the deceased proprietor's lifetime.

The estate should:

- Obtain the title, Gazette Notices and inquiry records;
- Establish whether an award was made;
- Confirm whether the award was accepted;
- Determine whether compensation was paid;
- Identify the date upon which the claim accrued;
- Obtain the appropriate grant of representation; and
- Commence proceedings before the applicable period expires.

Administrative requirements relating to succession documents, identification, banking information and proof of entitlement should be addressed promptly.

10. WHO SHOULD BE SUED?

The appropriate respondents depend upon the challenged conduct and relief sought.

They may include:

- **The National Land Commission**

The Commission administers compulsory acquisition, conducts inquiries, determines interests and makes compensation awards.

- **The acquiring authority**

This is the ministry, State corporation, county government or public body for whose project the land was acquired and which must provide the compensation funds.

- **The Attorney General**

The Attorney General may be necessary where relief is sought against the National Government or a responsible ministry.

- **The County Government**

The relevant County Government may be joined where the acquisition was undertaken for a county purpose.

- **The Land Registrar**

The Chief Land Registrar or relevant registrar may be necessary where correction of the register forms part of the relief.

Where payment remains outstanding because the acquiring authority did not remit funds to the National Land Commission, both institutions should ordinarily be considered for joinder.

11. EVIDENCE REQUIRED

A claimant should assemble:

- The title and current official search;
- The Gazette Notice of intention to acquire;
- The notice of inquiry;
- Proof of service;
- The written compensation claim;
- Records of the inquiry;
- Valuation reports;
- The compensation award;
- Evidence of acceptance or objection;
- Banking and payment documents;
- Evidence of partial payment, if any;
- Correspondence concerning payment;
- Survey plans and deed plans;
- Evidence showing when possession was taken;
- Succession or trust documents, where applicable; and
- A complete chronology of material events.

The chronology should record the dates of the notices, inquiry, award, acceptance, possession, payment demand, refusal and intended filing.

12. PRE-ACTION DEMAND

A formal demand should ordinarily be issued to both the National Land Commission and the acquiring authority.

The demand should:

1. Identify the property and acquired interest.
2. Refer to the Gazette Notice and compensation award.
3. Confirm the claimant's interest.
4. State whether the award was accepted or challenged.
5. Identify the principal amount outstanding.
6. Confirm whether possession has been taken.
7. Demand payment within a specified period.
8. Claim applicable interest.
9. Request written reasons for continued non-payment.
10. Reserve the claimant's rights before the Tribunal and other competent forums.

A demand should not be allowed to consume the applicable filing period. Where a deadline is approaching, protective proceedings should be commenced.

13. REMEDIES AVAILABLE

Depending on the claim, relief may include:

- A declaration that the acquisition process was unlawful;
- An order quashing or varying a Commission decision;
- Reassessment of compensation;
- Recognition of the claimant's interest;
- Immediate payment of an award;
- Payment of the outstanding balance;
- Interest from the date of the award, possession or other supportable date;
- A declaration that delayed payment violates Articles 40 and 47 of the Constitution;
- Mandamus compelling performance of the duty to pay;
- Protective injunctive relief where legally available;
- Rectification of the register;

- Legally recoverable consequential loss;
- Costs; and
- Other appropriate constitutional, statutory or equitable relief.

14. INTEREST ON DELAYED COMPENSATION

Interest should be expressly pleaded and supported.

The claimant should identify:

- The date of the award;
- The date compensation became payable;
- The date possession was taken;
- The legally supportable interest rate; and
- The period for which interest is claimed.

Recent Tribunal decisions have awarded interest from the date of the compensation award until payment in full.

In ***Muchai v National Land Commission [2025] KELAT 175 (KLR)***, the Tribunal ordered payment within 45 days together with interest at the applicable Central Bank base lending rates from the date of the award.

In ***Mbugua v National Land Commission & another [2025] KELAT 160 (KLR)***, the Tribunal directed payment of the outstanding balance and awarded interest at court rates from the date of judgment until payment in full.

The appropriate rate and commencement date remain fact-sensitive.

15. ENFORCEMENT AFTER JUDGMENT

Where the judgment debtor is the Government or a public body subject to the Government Proceedings Act, the claimant must comply with the applicable statutory enforcement procedure.

This may require:

- Obtaining a certificate of order against the Government;
- Serving the certificate upon the Attorney General and responsible accounting officer;
- Demanding satisfaction of the certified amount; and
- Seeking mandamus if the accounting officer fails to pay.

The Supreme Court confirmed in In ***re National Land Commission [2025] KESC 12 (KLR)*** that the constitutional entitlement to prompt compensation remains enforceable, but the decree holder must comply with Section 21 of the Government Proceedings Act where it applies.

Ordinary attachment or execution may not be available against the Government. Enforcement strategy should therefore be considered before proceedings are commenced.

HOW WE CAN ASSIST

CM Advocates LLP provides integrated support in relation to:

- Compulsory-acquisition audits;
- Challenges to acquisition notices and procedures;
- Representation at compensation inquiries;
- Valuation and compensation disputes;
- Enforcement of unpaid compensation awards;
- Claims for interest arising from delayed payment;
- Proceedings before the Land Acquisition Tribunal;
- Constitutional and judicial-review proceedings;
- Mandamus and Government Proceedings Act enforcement;
- Rectification of the Land Register;
- Estate and succession-related compensation claims; and
- Appeals before the Environment and Land Court and superior courts.

The Firm's Real Estate, Infrastructure & Environmental Disputes Unit (RIEDU) works closely with the Constitutional, Administrative & Regulatory Unit (CARU) and the Dispute Resolution & Appellate Practice Group to provide seamless support from the initial acquisition audit, valuation and demand stages through Tribunal proceedings, constitutional litigation, judicial review, appellate advocacy and enforcement.

CM ADVOCATES LLP

Practice Contacts:

Real Estate, Infrastructure & Environmental Disputes Unit (RIEDU)
E: riedu@cmadvocates.com

Constitutional, Administrative & Regulatory Unit (CARU)
E: publiclaw@cmadvocates.com

Dispute Resolution & Appellate Practice Group
E: disputeresolution@cmadvocates.com

Contributor:

Jamila Mbwana
Senior Associate
mjamila@cmadvocates.com

CM Advocates LLP – Contact Details

Head Office Nairobi
I&M Bank House, 7th Floor, 2nd Ngong Avenue
T: +254 20 2210978 or +254 716 209673
P.O. Box 22588 – 00505, Nairobi Kenya
E: law@cmadvocates.com

Mombasa Office
Links Plaza, 3rd Floor, Links Road, Nyali
T: +254 041 447 0758 / +254 41 447 0548
P.O. Box 90056 – 80100, Mombasa Kenya
E: mombasaoffice@cmadvocates.com

Regional Presence
Uganda | Tanzania | Rwanda | Zambia | Ethiopia | South Sudan

www.cmadvocates.com

Disclaimer: *This CM Regulatory Alert is issued for general information purposes only and does not constitute legal advice.*

©2026 CM Advocates LLP. All Rights Reserved.