

HUNDREDS TO LOSE MILLIONS FROM A KSHS. 10 BILLION LAND TUSSLE: UNTANGLING THE MARRIOT AFRICA INTERNATIONAL CASE

"Instructively, the mere holding of the certificate of title without proof of its validity [root] does not avail to the Plaintiff herein any Legal right[s] to the Suit Property."- Mboya J

Land remains one of the most contested assets in Kenya, often entangling families, companies, and investors in lengthy disputes. This reality was brought home on **15th August, 2025**, when a Gazette Notice stunned hundreds of unsuspecting landowners who had purchased plots carved out of **Land Reference Number 11261/76**. The notice directed all holders of titles arising from that subdivision to **surrender them to the Chief Land Registrar for revocation and cancellation**, within 90 days from the date of the Decree. Failure to comply with the directive to surrender the affected titles nonetheless deems such tittles canceled and revoked.

Behind that drastic step lay a courtroom saga, the case of **Marriot Africa International Limited v Murigu & 3 others; Ukombozi Holdings Ltd (Interested Party), [ELCC 4 OF 2021] KEELC 5299 (KLR)**, decided by Justice J.O. Mboya.

The case revolved around a **500-acre prime parcel in Ruiru (L.R No. 11261/76)**, tied to the estate of the late intelligence chief **James Kanyotu**. What began as a property developer's dream turned into a cautionary tale about the limits of due diligence, the sanctity of court orders, and the dangers of fraudulent documentation.

FACTS OF THE CASE

- The land in question belonged to **Kangaita Coffee Estates Ltd** (4th Defendant), a company in which the late James Kanyotu was the majority shareholder.

- Following his death, the land became part of the estate under administration in **High Court Succession Cause No. 1239 of 2008**, which had issued express orders restraining dealings with the property.

- Despite this, the land was allegedly sold to **Trendsetters Investment Ltd**, which later sold it to **Marriot Africa International Ltd (Plaintiff)**.

- Marriot subdivided the land into over 1,000 plots and disposed many of those resultant plots to third parties, before later transferring its interest to **Ukombozi Holdings Ltd (Interested Party)**.

- This triggered challenges from the widows and heirs of Kanyotu, who claimed the transactions were fraudulent and contrary to succession law.

THE PLAINTIFF'S CASE

Marriot Africa argued that:

1. It was a **bona fide purchaser for value without notice**, having paid **Kshs. 750 million** and the requisite stamp duty.
2. It lawfully acquired the land from Trendsetters Investment Ltd, which held a clean title at the time.
3. The company had already subdivided and sold part of the land, and therefore sought permanent injunctions to protect its title and quiet possession.

THE DEFENDANTS' CASE

The Defendants and the Interested Party countered this narrative:

- **Widows of James Kanyotu (1st & 2nd Defendants):** Asserted that the sale was illegal and fraudulent, undertaken in violation of court orders in the succession proceedings. They denied authorizing or benefiting from the sale.

- **3rd Defendant (Willy Kihara):** Produced forensic evidence showing that land control board consents used to validate the transfer were **forgeries**.

- **4th Defendant (Kangaita Coffee Estates Ltd):** Maintained it was the rightful owner and that any sale not sanctioned by its lawful board and the succession court was null. It sought cancellation of subdivisions and restoration of the original title.

COURT'S DECISION

Justice Mboya made the following findings:

1. The transactions involving the land, from Kangaita Coffee Estates Ltd to Trendsetters, to Marriot Africa, and eventually to Ukombozi Holdings Ltd, were all tainted by fraud and **illegality**.
2. The **succession court's orders** barring dealings with the estate were binding and could not be circumvented.
3. The doctrine of b**ona fide purchaser for value** did not protect Marriot, as the company had notice of the encumbrances and ignored them.
4. The **letters of consent** presented were proved to be **forged**, invalidating the transactions from the root.

Accordingly, the Court declared the transfers **null and void ab initio** and ordered restoration of the property in line with succession proceedings.

IMPORTANCE OF THE CASE

This decision is significant for several reasons:-

a) **It affirms the supremacy of succession law**. Where property forms part of an estate under administration, court orders must be respected above corporate resolutions or private deals.
b) **It limits the shield of bona fide purchaser**. Developers and financiers must go beyond the land registry and probe succession files, court orders, and corporate governance records.
c) **It reinforces the principle that fraud nullifies all transactions**. No matter how many times land is resold, fraud at the root of title cannot be cleansed.
d) **It is a warning to investors and third-party buyers**. A "clean" title can unravel if its history is tainted by illegality.

The foregoing resonates with the Supreme Court's decision in Dina Management Limited v. County Government Of Mombasa.

HOW WE CAN HELP

At **CM Advocates LLP**, we appreciate the complexity of land transactions, especially those intertwined with succession disputes and corporate structures. Our team offers:

- **Thorough due diligence** that extends beyond registry searches into court records, succession files, and corporate resolutions.
- **Strategic litigation support** in land, corporate, and succession disputes to safeguard our clients' investments.
- **Advisory for developers and financiers** to structure transactions that minimize risk and withstand legal scrutiny.
- **Tailored solutions** for families, companies, and investors facing competing claims or fraudulent dealings.

The Marriot Africa case is a stark reminder that land is more than an asset, it is history, legacy, and law intertwined. At CM Advocates, we stand ready to protect your interests with precision, foresight, and integrity. For more information, visit **www.cmadvocates.com** or contact us via **law@cmadvocates.com** or the contributors for more information.

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