REPUBLIC OF KENYA



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THE NATIONAL ASSEMBLY

Paper laid
By the chair.
Hon. ALEX MWIRI
On Tuesday
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ELEVENTH PARLIAMENT - THIRD SESSION – 2015

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THE DEPARTMENTAL COMMITTEE ON LANDS

REPORT ON OWNERSHIP OF MOMBASA CEMENT LIMITED LAND IN KILIFI COUNTY

DIRECTORATE OF COMMITTEE SERVICES
CLERK'S CHAMBERS,
PARLIAMENT BUILDINGS,
NAIROBI

NOVEMBER, 2015

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1.0 PREFACE

On behalf of the Departmental Committee on Lands and pursuant to provisions of Standing Order 199, it is my pleasant privilege and honor to present to this House the Report of the Committee on Mombasa Cement Limited Land in Mombasa.

1.1 MANDATE OF THE COMMITTEE

The Committee is established pursuant to the provisions of Standing Order 216 and is mandated to, among others:-

a) investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations, and estimates of the assigned ministries and departments;
b) study the Programme and policy objectives of Ministries and Departments and effectiveness of the implementation;
c) study and review all legislation referred to it;
d) study, assess and analyze the relative success of the Ministries and Departments as measured by the results obtained as compared with their stated objectives;
e) investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House;
f) vet and report on all appointments where the Constitution or any Law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments); and
g) make reports and recommendations to the House as often as possible, including recommendations on proposed legislation.

The Committee oversees the operations of the Ministry of Lands, Housing and Urban Development on the following matters: Land Policy and Physical Planning, Land Transactions, Survey and Mapping, Land Adjudication, Settlement, Land registration, Land Valuation, Administration of community and Public Land, and Land Information and Management System.

1.3 COMMITTEE MEMBERSHIP

The Committee comprises of the following Members:

1. The Hon. Alex Mwiru, M.P. **(Chairperson)**
2. The Hon. Moses Ole Sakuda, M.P **(Vice Chairperson)**
3. The Hon. Onesmus Ngunjiri, M.P.
4. The Hon. Mutava Musyimi, M.P.
5. The Hon. John Kihagi, M.P.
6. The Hon. Francis W. Nderitu, M.P.
7. The Hon. Francis Njenga, M.P.
8. The Hon. A. Shariff, M.P.
9. The Hon. Eusilah Jepkosgei, M.P.
10. The Hon. Benard Bett, M.P.
11. The Hon. Kipruto Moi, M.P.
12. The Hon. Oscar Sudi, M.P.
13. The Hon. Hellen Chepkwony, M.P.
14. The Hon. Sarah Korere, M.P.
15. The Hon. Julius Ndegwa, M.P.
16. The Hon. Benson Mbai, M.P.
17. The Hon. Kanini Kega, M.P.
18. The Hon. Esther Murugi, M.P.
19. The Hon. Gideon M. Mung'aro, M.P.
20. The Hon. Hezron Awiti Bollo, M.P.
21. The Hon. Suleiman Dori Ramadhani, M.P.
22. The Hon. George Oner Ogalo, M.P.
23. The Hon. Lekidime Lempurkel Mathew, M.P.
24. The Hon. Shakila Abdallah, M.P.
25. The Hon. Paul Otuoma, M.P.
26. The Hon. Thomas Mwadeghu, M.P.
27. The Hon. Magwanga Joseph Oyugi, M.P.
28. The Hon. Aburi Lawrence Mpuru, M.P.
29. The Hon. Patrick Makau,M.P.

1.4 MEETINGS AND VISIT TO MOMBASA CEMENT LIMITED LAND IN MOMBASA

1.4.1 The Committee undertook a tour of the land at Mombasa Cement on Friday 6th February 2015;

1.4.2 The objective of the visit was to assess the situation on the ground with an aim of recommending sustainable solution and settle outstanding issues;

1.4.3 The following Members undertook the visit:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Onesmus Ngunjiri, M.P.
3. The Hon. John Kihagi, M.P.
4. The Hon. Francis Kigo Njenga, M.P.
5. The Hon. Athman Shariff, M.P.
6. The Hon. Kipruto Moi, M.P.
7. The Hon. Hellen Chepkwony, M.P.
8. The Hon. Benson Mbai, M.P.
9. The Hon. Patrick Makau, M.P.
10. The Hon. Esther Murugi, M.P.
11. The Hon. Thomas Mwadeghu, M.P.
12. The Hon. Dr. Paul Otuoma, M.P.
13. The Hon. Gideon Mung'aro, M.P.
14. The Hon. Sarah Korere, M.P.

1.5 COMMITTEE GENERAL OBSERVATIONS AND RECOMMENDATIONS

Having held meetings, undertaken the inspection/fact finding visit and considered the submissions presented, the Committee made the following observations and recommendations:-

1.5.1 OBSERVATIONS

The Committee made the following observations: -

i. Documentation submitted to the Committee by various stakeholders indicates that Plot numbers LR no. MN/III/289 and MN/III/ 290 are public land and since 1920 the said plots have been amalgamated and subdivided illegally to prove fictitious ownership by interested parties.

ii. The Managing Director Mombasa Cement Limited ignored all invitations and

summons to appear before the Committee but sent lawyers and representatives who were not able to comprehensively give a chronology of events leading to the acquisition and ownership of the land they are currently do business on;

iii. The representatives and lawyers for Mombasa Cement Limited admitted that they could not understand how the factory acquired the land LR no. MN/III/289 and MN/III/ 290 in which they currently do business;

iv. The Ministry of Lands Housing and Urban Development and the National Land Commission admitted that the land currently in use by Mombasa Cement Limited and which they claim to be owners of LR. No. MN/III/4391 is illegally acquired since it is a subdivision of Plot No. MN/III/3545, which has no CR no.

v. There are no valid documents and no genuine chronology of land transaction entries to show how plot no. MN/III/292/1 and plot no. MN/III/4391 were bought or acquired by Mombasa Cement Company considering that they were as a result of various amalgamations and subdivisions, which had originated from LR no. MN/III/ 289 and MN/III/ 290 to arrive at Plot No. MN/III/3545 which had no grant number and CR no;

vi. The submission from the Chairman, National Land Commission and Mombasa Cement Limited appeared similar and the documents presented were also similar.

vii. Contrary to the Fourth Schedule to the National Lands Commission Act 2012, The Chairman National Land fraudulently and illegally wrote a letter confirming that Mombasa Cement Limited is the legal owner of the land LR no. MN/III/4391 without the authority of the National Land Commission meeting thereby jeopardizing the work, integrity and the dignity of the National Land Commission; further when asked which documents he relied on coming up with the decision he claimed that he was not able to access the said documents from the Ministry of Lands, Housing and urban Development (The Chairman, National Land Commission was invited six (6) times on the matter and only appeared before the Committee three (3) times and in the three occasions he sought more time at least twice to search for more documents;.

viii. The Vice Chairperson of the National Land Commission while in the middle of investigation regarding the illegal acquisition of the land by Mombasa Cement Limited was un-procedurally removed from the task by the Chairman of National Land Commission and the tasks she was undertaking transferred to an officer of National Land Commission (Mr. Cyrus Kiogora Mburugu, Senior Lands Officer) who

was reporting directly to the Chair of National Land Commission on the findings;

ix. Mombasa Cement Limited sued the Departmental Committee on Lands, against conducting the inquiry claiming that the Committee has no powers to oversee the National Land Commission decisions especially after various correspondences from the Chairperson of the Commission;

x. The County Government of Kilifi demolished approximately half of walls erected by Mombasa Cement in the Land which it does not own;

xi. Squatters working in the Sisal plantations for Mombasa Cement Limited claim and allege that the former Counselor and Chief fraudulently and illegally acquired their allotment letters and used them to sell their land to Mombasa Cement Limited and that they were not given proceeds from the sale and those who received the dues only received half or a quarter of the proceeds

1.5.2 RECOMMENDATIONS

The Committee made the following Recommendations: THAT,

1. The Criminal Investigations Department and the Ethics and Anti-Corruption Commission:
    i. Conducts a forensic audit of the documents in possession of Mombasa Cement Limited to establish individuals involved in their fraudulent preparation and prosecute with immediate effect those found culpable;
    ii. Investigates Dr. Mohammed Swazuri and Mr. Cyrus Kiogora Mburugu to determine abuse of office in their personal conduct on the matter and prosecute them if found culpable pursuant to the 4th Schedule of the NLC Act 2012;
    iii. Investigates the Managing Director for Mombasa Cement Limited to establish how he took possession of the land and how he acquired illegal documents purporting to be the owner of LR No. MN/III/290, LR No. MN/III/289 and LR No. MN/III/3545;
    iv. Investigates the Mr. Charles Munga Janji, a former Councilor and the former Chief of Bambani on how he acquired allotment letters belonging to squatters in Bambani Settlement Scheme and sold the same to the Managing Director, Mombasa Cement Limited, and also investigates the Managing Directors collaboration in the saga.

2. The Ministry of Lands, Housing and Urban Development immediately takes Possession of the public Land in use by Mombasa Cement Limited, LR no. MN/III/290, LR No. MN/III/ 289 and LR No. MN/III/3545 to be administered by the National Lands Commission.
3. The National Lands Commission and the Ministry of Lands, Housing and Urban Development in accordance to Section 134 (5) of the Land Act 2012 immediately reserve the said land for settlement of the affected Community in the area.

1.6 ADOPTION OF THE REPORT

The Members of the Departmental Committee on Lands have pursuant to Standing order 199 adopted this report on the Mombasa Cement Limited Land in Mombasa as affirmed by the attached Annex (see appendix 17).

1.7 ACKNOWLEDGEMENT

The Committee wishes to sincerely thank the Offices of the Speaker and the Clerk of the National Assembly for the support extended to it in the execution of its mandate.

I take this opportunity to thank all Members of the Committee for their useful contributions towards the preparation and production of this report. The Committee wishes to record its appreciation for the services rendered by the staff of the National Assembly attached to the Committee. Their efforts made the work of the Committee and the production of this report possible.

The Committee is also grateful to all the witnesses who made submissions and presentations before the Committee during the fact finding visit. Their contributions enabled the Committee to gather information into the issues under investigations and possible solutions.

Finally, it is now my pleasant duty, on behalf of the Departmental Committee on Lands, to present this report pursuant to the provisions of Standing Order 199,(6).

SIGNED ..... **DATE** ....24/11/2015....

(HON. ALEX M. MWIRU, MP)

CHAIRPERSON

2.0 BACKGROUND

1.0.1 The Hon. Gideon Mung'aro, M.P, a Member of the Departmental Committee on Lands and having received various complaints related to land in his Constituency wrote to the Committee in various dates in 2014 inviting the Committee to visit his Constituency with a view to interrogate the Land matters (Attached are various Letters of invitation-(***See Appendix 1and 2***);

1.0.2 During its visit the Departmental Committee on Lands visited various areas which had outstanding Land issues in Kilifi North the areas included but not limited to Mtaani, Kisumu Ndogo, Kibaoni Extension GTZ, plot nos. Block 4236/14, 5023, Plot no. 11 plot no. L.R NO. MN/III/289, MN/III/290, L.R NO. MN/III/3545 MN/III/291; among others;

1.0.3 Vide a letter to the Governor Kilifi County ref. NLC/Chairman/Vol /VIII/73 dated 8th January 2015 the Chairman of the Commission informs the Governor that the Plots L.R. Nos. MN/III/291/2 and MN/III/4391 belong to Mombasa Cement. In its oversight role to the Commission the Committee resolved to query how the Chairman arrived at this conclusion in view of the following facts as hereunder: -(***See Appendix 13***);

a) There is evidence to show that Mombasa Cement is occupying and actively using Plot No.LR MN/III/290, which is public land;

b) There is evidence and records show that plot no.LR.MN/III/4391 is the same as MN/III/290 currently held and being used for commercial purposes by Mombasa Cement Limited;

c) There is evidence the Mombasa Cement Limited encroached on L.R No. MN/III/289 and LR no. MN/III/290, and there is controversy on how a subdivision of MN/III/291 was done to create MN/III/291/2 which increased the acreage of MN/III/291 and overlapped into MN/III/289 and MN/III/290.There is a conspiracy on how plot no. MN/III/290 and MN/III/289/R (previously crown land) were consolidated to create LR no. MN/III/3545, which was subsequently, subdivided into three (3) portions namely MN/III/4391, MN/III/4392 and MN/III/4393 and later in March 2005, MN/III/4391 was transferred to Mombasa Cement Limited and what happened to MN/III/4392 and 4393 and who owns the latter land, how plot no. MN/III/290 was converted into L.R No. 4391/MN/III and transferred to Mombasa Cement Limited. The acreage held by Mombasa Cement Limited is approximately 1,129 acres (LR 4391);(***See Appendix 4 and 5)***

d) There is no clear procedure and no records show how a subdivision of plot no. MN/III/289 was done to create MN/III/289/1 and MN/III/289/R, and how the amalgamation of plots no MN/III/289 and plot no MN/III/290 to create plot no. MN/III/3545 was done, and how a consolidation of MN/III/290 with plot MN/III/289/1 to create MN/III/3545 was done;

e) The CR No and the Grant No. for the MN/III/3545 are missing.

2.1 MEETINGS DURING THE FACT FINDING VISIT

The Committee toured the land on 6th February 2015 and received submissions from Mr. Charles Munga Janji – Chairman Bambani Kilio Group and Mr. Wycliffe Tembo – Vice Chair Bambani Kilio Group, Mohamed Athman and Thomas Hinzani – Members of Bambani Kilio Group representing the affected residents made the following submission:

2.1.1 Residents have lived in plot no. MN/III/289 and MN/III/290 prior to the colonial period and planted coconut trees which are still in existence;

2.1.2 The history of the problem dates back to 1949 when the colonial government forcefully evicted indigenous people from their settlements land and allocated the same land to Vipingo Sisal Estate;

2.1.3 Vipingo Estate paid rates for 3 years and stopped after the allocation leaving the land vacant and unutilized;

2.1.4 On 23rd March 1993, the then area councilor, who was also the chairman of Kilifi town planning Mr. Charles Janji and other members of the Ministry of Lands revealed plot 289 and 290 were government land (G/L) and vacant;

2.1.5 Mr. Charles Janji formed a local interim committee who carried out consultations with the Provincial Commissioner, District Commissioner, Commissioner of Lands, the Deputy Lands Commissioner Mr.Chesaina and the former President Daniel. Arap Moi and consent was given to subdivide plot no.289 and 290 to members of the Community in small portions/ plots, and the committee formed by Mr. Janji was involved in identifying beneficiaries;

2.1.6 The beneficiaries were each given an allotment letters and the letters were distributed publicly by the then Minister for Lands, Jeremiah Nyaga, M.P;

2.1.7 In 1995, Vipingo Estate raised a complained at Kijipwa police Station claiming that the area residents had invaded there land and unlawfully cultivated the land. The case was later dismissed in 1996;

2.1.8 After the case was dismissed, Vipingo Estate Limited Purportedly sold the land plot no 289 and 290 to Mombasa Cement Limited who have since constructed a cement Manufacturing factory; The former Chief and Councilor(Janji) fraudulently sourced for the allotment letters for the settlement scheme and sold the same to Mombasa Cement Company Limited;

2.1.9 Bambani Kilio Group complained to the National Land Commission concerning the forceful occupation of their land, destruction of buildings, crops and lives, which commenced investigations on the matter. However the investigations abruptly ceased and the NLC has not given them any report;

2.2 SUBMISSIONS FROM MR. CHARLES MUNGA JANJI

Mr. Charles Munga Janji appeared before the Committee on 24th March 2015, and informed the Committee as follows, that *(see appendix 9):*

2.2.1 Vipingo sisal estate was allocated the land by Colonial government after the residents were forcefully evicted from their land;

2.2.2 Vipingo Estate paid rates for only 3 years and ceased, then left the land vacant and fallow without any economical use;

2.2.3 A team from the community joined him (as councilor then) , conducted a search at the Ministry of Lands and established that plot no. 289 and 290 were government land and were vacant. This team appealed to the former President Moi for allocation of the land and in 1996 were issued with allotment letters;;

2.2.4 The Managing Director for Mombasa Cement Company Limited used the Provincial administration to forcefully compel the residents to sell their genuine allotment letters to them and those who resisted were threatened that the government would take back the land;

2.2.5 It is alleged that Mombasa Cement Company was given authority by the provincial authority to fence off Boyani plots.

2.3 SUBMISSIONS FROM MOMBASA CEMENT COMPANY LIMITED

A. The Committee had invited Mombasa Cement Company Directors seven times but they showed up only twice to give evidence on the matter;

While appearing before the Committee on 28th March, 2015, Mr. Ondego Timothy Got -Associate and Advocate, Mr. Heniart-Dirteevriai Desa - Civil

Manager, Mr. Kinuthia Bere - Manager Electric, Mr. Onyony Cyprian Ochieng – Advocate Informed the Committee as understated *(See Appendix 18)*:

2.3.1 From records in their possession, the original plot numbers where Mombasa Cement Factory is located was L.R. NO. MN/III/289 and MN/III/ 290;

2.3.2 The original parcel No. MN/III/289 was sub-divided into two (2) portion in 1920's and a portion of 422 acres was allocated by the crown Government to Khamis Bin Rashid Bin Sood which was later sold to Claud Pierp Robertson – Dunn and Yusufali Gulamhusein Datoo and the land was later surrendered to Government on 22nd September 1971;

2.3.3 LR MN/III/289R, which had remained as Government land, together with L.R No. MN/III/290 were in 1949, allocated to Vipingo Estate Limited, subject to certain conditions and in 1951 upon complying with the allocations conditions, they were issued with letters of allotment;

2.3.4 Later an amalgamation was done for LR No.MN/III/290 and LR No.MN/III/289, the new Number changed to LR No. MN/III3545, which was later was sub-divided into three(3) portions namely LR.No MN/III/4391, LR.No MN/III/4392 and LR.No MN/III/4393;

2.3.5 Parcel Number LR NO. MN/III/4391 was on 9th March 2005 transferred by Vipingo estate Limited to Mombasa Cement Limited;

2.3.6 The transfer to Mombasa Cement Limited had met all the requirement i.e Commissioner of Land Consent, land rent clearance certificate up to year 2005, valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under day book number 64 of 9th March 2005;

2.3.7 Under section 2 of the Land Control Act vide Kenya Gazette Supplement Number 5 of 3rd March 1995, the President of the Republic of Kenya then exempted Vipingo Estate Limited land from the provision of Land Control Board Act;

2.3.8 If there was a transfer/subdivision by Vipingo Estate without consent of Land Control Board it was appropriate as long as all the legal fees to the Government were paid;

B. While appearing before the Committee on 18th June, 2015, Mr. Akram Mohamed, and Group Human Resources Manager accompanied by Mr. Rushein Dewash, Human Resources Manager, Mr. Cyprian Onyony, Lawyer for

Mombasa Cement and Mr. Kinuthia Bere, Projects electrical Manager, while testifying under oath, informed the Committee as follows:

2.3.9 The managing Director was incapacitated after undergoing a major operation in India and was therefore unable to attend the sitting thereby sending representatives;

2.3.10 The property held by Mombasa Cement was part of a bigger parcel of land originally belonging to Vipingo Estates Limited, registered as LR no. LR.No MN/III/3545 measuring 809.0 ha;

2.3.11 They could not trace the CR and grant no for LR no. LR.No MN/III/3545, and it was true that lack o the said numbers rendered the said number fictitious;

2.3.12 LR No. MN/III/ 3545 was subdivided resulting to MN/III/3545/2/2 and MN/III/3916;

2.3.13 Within LR 3545/2/2, there was a piece that had immature sisal and therefore Mombasa Cement requested for a subdivision to allow them to purchase the parcel with mature sisal;

2.3.14 LR No. MN/III/3545/2/2 was thereafter subdivided to give rise to LR No. MN/III/4391 measuring 499.02 ha and LR No. MN/III/4392, LR No. MN/III/4392 was consolidated by Vipingo Estates with MN/III/3544/2 to form LR No. MN/III/4393 which remained with Vipingo Estates;

2.3.15 Vipingo Estates sold part of the Land (LR No.MN/III/4391) to Mombasa Cement in the year 2004.This part of the land had mature sisal plants. Mombasa Cement did not buy Plot Number 4392 because it had growing sisal on it

2.3.16 LR No.3565/2 was a transfer

2.3.17 The acreage of the land currently held by Mombasa Cement is 1,663 acres. A survey done by a surveyor by the Company and other surveyors assigned by the Court in Malindi has reconfirmed the boundaries.

2.4 SUBMISSIONS FROM THE MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

While appearing before the Committee on 14th July 2015, and 2nd September 2015, Dr. Fred Matiang'i, Cabinet Secretary Ministry of Lands, and Housing and Urban Development accompanied by Ms. Mariam El. Maawy, Permanent Secretary, Mr. Peter Kahuho, Ag. Secretary Lands, Mr. Martin Oloo, Legal Advisor to the Cabinet Secretary, Mr. Augustine Masinde, Director physical Planning, Mr.Cesare N. Mbaria, Director of Surveys,

Ms. Terry Gathagu, Head of Legal Services, on Mr. Barasa Wohonjo, Parliamentary Liason Officer, Mr. Francis Orioki, Mr. Steve Mokaya, Mr. Paul Ndung'u, Mr. Phillip Abong'o and Mr. Jacob Owino and Mr. Paul Mwangi, informed the Committee as follows: THAT;*(See appendix 19*)

2.4.1 LR MN/III/291 has a history dating back to the colonial times. The land has had a history of successions as result of grants until it was sold to the current owners. It was first registered to Nyra Kathleen Home Davis, wife of Major Hedley Home Davis on 24th September 1923.Upon the demise of Kathleen on 18th July 1925, letters of administration were registered against the title in favour of Edward Pryce Delaury as a representative of Nyra Kathleen Home Davis Deceased on 11th December 1927.On the same date, a transfer was registered to Major Home Davis and Alfred George Stevens as tenants in Common in equal shares;

2.4.2 Transfers and Charges on the Land:

a) On 4th September 1944, a grant of probate was registered in favour of Yvonne Bagkill Home Davis as executor of the will to Hedley Homes (deceased);

b) On the 4th November 1944, a transfer was registered to Yvonne Bagkill Rusell in respect to the undivided share of Hedley Homes Davis, deceased. On the 15th of May 1962, letters of administration were registered to the public trustee of the colony and protectorate of Kenya as a representative in respect to the one undivided share of Alfred George Stevens deceased;

c) On the 10th June 1952, a caveat was registered against the title of LR MN/III/291 by East African Power Lighting Company claiming easement over the above;

d) On 29th September, 1964 a transfer was registered to Vipingo Estates Limited for a sum of Kshs.98, 900 on the 28th May 1987;

e) The property was charged to Standard Chartered bank Kenya Limited for Ksh.9, 000,000, on the 28th May 1987;

f) On the 21st August 1987,a charge was registered to a foreign bank known as Deg-Dentsohe Finan21 Erungsgeseunsenaft fuer/Beteoligongen in Intwink Luns/Andei embh for US $ 2,000,000/=;

g) A certificate of Charge of name was registered on the 24th August 1992 and charged to the bank named above, to Deutsche investitions and Int Wicklungs Gesulssafu mbh;

h) A further charge was registered on the same day to Standard Chartered bank

Kenya Limited for Kshs 11,000,000/=;

i) On 12th July 1995, a transfer was registered in favour of Rea Vipingo Plantations limited;

j) On the same date, a caveat dated 3rd May was placed against the title Vipingo Estates Limited claiming transferee interest;

k) A partial discharge dated August 1997 was registered to discharge entry no 8 and 11 discharging part of the loan owed to standard Chartered;

l) On the 4th October 2001, a notice of withdrawal of caveat was registered to remove the restriction placed by Vipingo Estate Limited;

m) On 4th October 2001,a transfer was registered to Vipingo Estates Limited of LR no.5025/93/96/98/667(org) LR 7334/4 and LR 8724/5 and subdivision number.291/2 vide new certificates of titles Coastal Registry CR 34869;

n) A grant of easement was registered in favour of Vipingo Estate Limited on the 5th April 2004.(It was noted that this was not the land the Committee was inquiring about).

2.4.3 LR. No. MN/III/289 is located in Takaungu area of Kilifi County and fronts the Indian Ocean to the East. It was initially Government land and was in 1920 subdivided into two portions namely LR NO MN/III/289/1 measuring 422 acres and LR NO MN/III/289 (R) were conducted;

2.4.4 The colonial Government allocated LR NO. MN/III/289/1 to Khamis Bin Rashid Bin Sood who later sold it to Claud Pier Robertson-Dunn and Yusufali Gulamhusein Datoo. The land later reverted to the Government in 1971;

2.4.5 LR No MN/III/289 (R) together with LR No. MN/III/290 was allocated to Vipingo Estate Limited in 1951;

2.4.6 Subdivision of MN/III/289 to create MN/289/1 and 289/R was undertaken in 1920's as depicted by a copy of Deed Plan No. 22035 of 26/5/1924.The procedure used then in subdivision of land by the Government cannot be established because there is no information on record;

2.4.7 The Amalgamation of MN/III/289 and MN/III/290 to create MN/III/3545 was done in August, 1951 as per the Survey plan No. F/R 328/100, which quotes approval letter No.36735/176 from the Commissioner of Land as authority for amalgamation. The genesis of this authority was a letter of allotment for agricultural land in favour of Vipingo Estate Ltd. The Director of Survey re-surveyed the amalgamated land on

26th August 1997 during the normal re-survey exercise. (Copy of letter of allotment ref.36735/176 of 28/9/1951 and survey plan FR NO.328/100 was provided;

2.4.8 According to available records, MN/III/3545 was the new survey number allocated for MN/III/290 after the re-survey. Survey plan F/R Number 289/39 of 1st October 1999 depicts that MN/III/289/1 falls outside MN/III/3545. Therefore, there is no formal amalgamation of MN/III/290 and MN/III/289/1 according to available land records;

2.4.9 LR No.MN/III/3545 has no CR. or Grant Number since the same was subdivided before registration;

2.4.10 MN/III/3545 is reflected on Survey plan No. F/R 328/ 100 and Deed Plan Number 214687 issued on 9th September 1979. The land depicted on the deed plan was subdivided without being registered in the Land Registry as MN/III/3545;

2.4.11 LR NO. MN/III/3545 was initially subdivided vide survey plan F/R NO 289/39 of 1/10/1999 into four portions namely MN/III/3545/1-4.One portion MN/III/3545/2 Mombasa was further subdivided into two portions, MN/III/4391 and MN/III/4392 as depicted on the Deed Plan No. 254238 of 9th July, 2004 (Copy attached). MN/III/3544 (same as MN/III/289) was subdivided into two portions MN 3544/1&2 vide survey plan F/R 289/39. MN/III/3544/2 and consolidated with MN/III/4392 and issued with number MN/III/4393 vide survey plan number F/R 434/109 of 6th January 2004;

2.4.12 In conclusion LR MN/III/3545 was not registered and no title was issued. Therefore, there are no CR or Grant Number. Instead, the same was subdivided into LR NO. MN/III/4391 and part of MN/III/4393. The CR and Grant Numbers are as, MN/III/4391- Coast Registry Number. (CR) is 38221 registered at Mombasa Registry on 1st September, 2004 under the name of Vipingo Estate Ltd and later transferred to Mombasa Cement Ltd on 9th March 2005. MN/III/4393-Coast Registry (CR NO 382223 registered at Mombasa Registry on 1st September, 2004 to Vipingo Estates Ltd

2.4.13 Since LR No. LR.No MN/III/3545 is the mother title having amalgamated LR.No MN/III/289 and LR No. LR.No MN/III/290 and was not registered without a CR no. And grant no, the resulting subdivision of LR.No MN/III/3545 is therefore illegal and the resultant LR nos, CR and grant numbers fictitious;

(Copy of survey plan FR NO.328/100 and Deed plan No 214687 for LR MN/III/3545

issued on 9/9/1997 were presented as requested.)

2.5 SUBMISSIONS FROM THE NATIONAL LAND COMMISSION

A. Ms. Abigail Mbagaya appeared before the Committee on 9th April 2015 in her capacity as the officer who was in charge of the Investigation on the ownership of the Land held by Mombasa Cement Company informed the Committee as follows: That: (*See Appendix 20)*

2.5.1 When the National Land Commission was formed, each commissioner was allocated several counties to convene and act as a contact person. She was the convener for Kilifi, Nakuru, Kisumu, Kakamega, Busia, Isiolo and Elgeyo Marakwet Counties and it's on that basis that she took over the Mombasa Cement investigation;

2.5.2 Investigations begun after a group calling itself Bambani Kilio approached the Commission Complaining that their land had been taken by Mombasa Cement;*(see appendix 5)*

2.5.3 She met with the Kilifi County Government officials, Bambani Kilio group leadership and other interested groups and relevant documents presented. They also held several meetings on the ground with local leaders and visited the site where Mombasa Cement is Constructed;

2.5.4 Mombasa Cement Company on being asked for documents to prove ownership only presented a sale agreement and a copy of title deed showing they bought the land from Rea Vipingo Limited;

2.5.5 The area had a settlement scheme which had been allocated and members of Bambani Kilio group produced allotment letters;

2.5.6 The acreage held by Mombasa cement is approximately 1,129 acres (LR 4391);

2.5.7 LR No. MN/III/289 and MN/III/290 were amalgamated to give rise to a new number;

2.5.8 Documents had been received from Mombasa Cement and from Bambani Kilio group regarding the land;

2.5.9 While still investigating, she was assisted by a forensic investigator Mr. Antipus Nyanjwa. They were however unable to get documents from Mombasa cement lawyers as the lawyers claimed they do not keep documents over a certain period of time;

2.5.10 Another officer, Mr. Cyrus Burugu was however appointed by the National Land Commission Chairman to take over the investigation. There was no official communication of the decision nor was there any handing over of the case to the new officer. The forensic investigator also left the investigation when Mr. Burugu was appointed;

2.5.11 Ideally, under proper governance structures, as the Commissioner in charge of Kilifi County, an officer could not replace her instead he could have come to reinforce her efforts and as the officer handling the investigation, she ought to have been informed when a new officer was assigned and proper handing over done;

2.5.12 The Commission has never formally in its meeting deliberated on the issue of Mombasa Cement Land and there has never been any official position of the Commission on the said company;

2.5.13 She wrote to the Kilifi County Surveyor to confirm the boundaries of the land owned by Mombasa Cement and the County Surveyor responded saying the Boundaries were intact;

2.5.14 She never completed her investigation because the authority of the Chairman, National Land Commission, stepped her down and relived her those duties.

B. **Dr. Muhammad Swazuri, in his capacity as the Chairman, National Lands Commission accompanied by Mr. Cyrus Kiogora Mburugu, Senior Lands Officer informed the Committee as follows: That:** ***(See appendix 20)***

2.5.15 LR no. MN/III/289 before allocation to Vipingo estate in 1949 was a huge chunk of land, which was subdivided into two portions in the 1920's, and a portion of 422 acres, new no. 307(289/1) was allocated by the crown Government to Khamis bin Rashid bin Sood who later sold the same to Claud Pierp Robertson-Dunn and Yusufali Gulamhusein Datoo. They later surrendered the said land to government on 22nd September 1971;

2.5.16 LR No. MN/III/289 R (remainder) together with LR No.MN/III/290 remained as unalienated Government land until 1949 when it was allocated to Vipingo Estate ltd subject to certain conditions and in 1951 upon complying with the conditions, a letter of allotment was issued;

2.5.17 Upon amalgamation of MN/III/289R and 290,a the parcel number changed to

MN/III/3545;

2.5.18 Plot number LR. No MN/III/3545 was later subdivided into three parcels namely MN/III/4391, MN/III/4392 and MN/III/4393;

2.5.19 Vipingo Estate Limited on March 9th 2005 transferred MN/III/4391 to Mombasa Cement Limited. The transfer to Mombasa Cement Limited had met all the requirements i.e. Commissioner of Land Consent, Land Rent release clearance certificate up to year 2005,valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under daybook number 64 of 9th March 2005;

2.5.20 The Commission has no records for parcel no. MN/III/292/2 but from the Top cadastral maps, the land has never been part of Vipingo estate limited but is depicted as government land;

2.5.21 Vide gazette notice no.89 of 3rd march 1985,all parcels of land in Vipingo area owned by Vipingo Estate Ltd were excepted from the Provisional Cap 302 hence at the time of transfer of this land, Land Control Board Consent was not necessary;

2.5.22 The total acreage held by Mombasa Cement is approximately 499 ha (1223 acres);

2.5.23 Volume one of the file relating to the land could not be traced from the registry and the report presented relied upon information contained Volume two.

3.0 COMMITTEE OBSERVATIONS

The Committee made the following observations: - That,

i. Documentation submitted to the Committee by various stakeholders indicates that Plot numbers LR no. MN/III/289 and MN/III/ 290 are public land and since 1920 the said plots have been amalgamated and subdivided illegally to prove fictitious ownership by interested parties.

ii. The Managing Director Mombasa Cement Limited ignored all invitations and summons to appear before the Committee but sent lawyers and representatives who were not able to comprehensively give a chronology of events leading to the acquisition and ownership of the land they are currently do business on;

iii. The representatives and lawyers for Mombasa Cement Limited admitted that they could not understand how the factory acquired the land LR no. MN/III/289 and MN/III/ 290 in which they currently do business;

iv. The Ministry of Lands Housing and Urban Development and the National Land

Commission admitted that the land currently in use by Mombasa Cement Limited and which they claim to be owners of LR. No. MN/III/4391 is illegally acquired since it is a subdivision of Plot No. MN/III/3545, which has no CR no.

v. There are no valid documents and no genuine chronology of land transaction entries to show how plot no. MN/III/292/1 and plot no. MN/III/4391 were bought or acquired by Mombasa Cement Company considering that they were as a result of various amalgamations and subdivisions, which had originated from LR no. MN/III/ 289 and MN/III/ 290 to arrive at Plot No. MN/III/3545 which had no grant number and CR no;

vi. The submission from the Chairman, National Land Commission and Mombasa Cement Limited appeared similar and the documents presented were also similar.

vii. Contrary to the Fourth Schedule to the National Lands Commission Act 2012, The Chairman National Land fraudulently and illegally wrote a letter confirming that Mombasa Cement Limited is the legal owner of the land LR no. MN/III/4391 without the authority of the National Land Commission meeting thereby jeopardizing the work, integrity and the dignity of the National Land Commission; further when asked which documents he relied on coming up with the decision he claimed that he was not able to access the said documents from the Ministry of Lands, Housing and urban Development (The Chairman, National Land Commission was invited six (6) times on the matter and only appeared before the Committee three (3) times and in the three occasions he sought more time at least twice to search for more documents;.

viii. The Vice Chairperson of the National Land Commission while in the middle of investigation regarding the illegal acquisition of the land by Mombasa Cement Limited was un-procedurally removed from the task by the Chairman of National Land Commission and the tasks she was undertaking transferred to an officer of National Land Commission (Mr. Cyrus Kiogora Mburugu, Senior Lands Officer) who was reporting directly to the Chair of National Land Commission on the findings;

ix. Mombasa Cement Limited sued the Departmental Committee on Lands, against conducting the inquiry claiming that the Committee has no powers to oversee the National Land Commission decisions especially after various correspondences from the Chairperson of the Commission;

x. The County government of Kilifi demolished approximately half of walls erected by Mombasa Cement in the Land which it does not own;

xi. Squatters working in the Sisal plantations for Mombasa Cement Limited claim and allege that the former Counselor and Chief fraudulently and illegally acquired their allotment letters and used them to sell their land to Mombasa Cement Limited and that they were not given proceeds from the sale and those who received the dues only received half or a quarter of the proceeds.

4.0 COMMITTEE RECOMMENDATIONS

The Committee made the following Recommendations:- That,

1. The Criminal Investigations Department and the Ethics and Anti-Corruption Commission:
    i. Conducts a forensic audit of the documents in possession of Mombasa Cement Limited to establish individuals involved in their fraudulent preparation and prosecute with immediate effect those found culpable;
    ii. Investigates Dr. Mohammed Swazuri and Mr. Cyrus Kiogora Mburugu to determine abuse of office in their personal conduct on the matter and prosecute them if found culpable pursuant to the 4th Schedule of the NLC Act 2012;
    iii. Investigates the Managing Director for Mombasa Cement Limited to establish how he took possession of the land and how he acquired illegal documents purporting to be the owner of LR No. MN/III/290, LR No. MN/III/289 and LR No. MN/III/3545;
    iv. Investigates the Mr. Charles Munga Janji, a former Councilor and the former Chief of Bambani on how he acquired allotment letters belonging to squatters in Bambani Settlement Scheme and sold the same to the Managing Director, Mombasa Cement Limited, and also investigates the Managing Directors collaboration in the saga.
2. The Ministry of Lands, Housing and Urban Development immediately takes Possession of the public Land in use by Mombasa Cement Limited, LR no. MN/III/290, LR No. MN/III/ 289 and LR No. MN/III/3545 to be administered by the National Lands Commission.
3. The National Lands Commission and the Ministry of Lands, Housing and Urban Development in accordance to Section 134 (5) of the Land Act 2012 immediately reserve the said land for settlement of the affected Community in the area.

DEPARTMENTAL COMMITTEE ON LANDS
ADOPTION LIST

REPORT ON MOMBASA CEMENT LIMITED LAND IN MOMBASA.

Date: 19 TH November, 2015 Venue: 7th Floor, Continental House

NO.	NAME	TITLE	SIGNATURE
1.	The Hon. Alex Mwiru, M.P. (Chairperson)	Chman	
2.	The Hon. Moses Ole Sakuda, M.P (Vice Chairperson) (Chairp)	V/Chairman	
3.	The Hon. Onesmas Ngunjiri, M.P.	MP	
4.	The Hon. Mutava Musyimi, M.P.		
5.	The Hon. John Kihagi, M.P.	Member	
6.	The Hon. Francis W. Nderitu, M.P.	Member	
7.	The Hon. Francis Njenga, M.P.	Mr	
8.	The Hon. A. Shariff, M.P.	//	
9.	The Hon. Eusilah Jepkosgei, M.P.	Member	
10.	The Hon. Benard Bett, M.P.		
11.	The Hon. Kipruto Moi, M.P.	Member	
12.	The Hon. Oscar Sudi, M.P.		
13.	The Hon. Hellen Chepkwony, M.P.	Member	
14.	The Hon. Sarah Korere, M.P.		
15.	The Hon. Julius Ndegwa, M.P.	Member	
16.	The Hon. Benson Mbai, M.P.	Member	
17.	The Hon. Kanini Kega, M.P.		
18.	The Hon. Esther Murugi, M.P.	Member	
19.	The Hon. Gideon M. Mung'aro, M.P.	Member	
20.	The Hon. Hezron Awiti Bollo, M.P.	Member	
21.	The Hon. Suleiman Dori Ramadhani, M.P.		
22.	The Hon. George Oner Ogalo, M.P.	Member	
23.	The Hon. Lekidime Lempurkel Mathew, M.P.		
24.	The Hon. Shakila Abdallah, M.P.		
25.	The Hon. Paul Otuoma, M.P.	MP	
26.	The Hon. Thomas Mwadeghu, M.P.	Member	
27.	The Hon. Magwanga Joseph Oyugi, M.P.	member	
28.	The Hon. Aburi Lawrence Mpuru, M.P.		
29.	The Hon. King'ola Patrick Makau, M.P.	Member	

EXTRACTS FROM THE MINUTES OF THE 219TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 19TH NOVEMBER 2015 IN COMMITTEE ROOM ON 7TH FLOOR, CONTINENTAL HOUSE AT 11.00 AM

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice - Chairperson (Chairing)
3. The Hon. Onesmus Ngunjiri, M.P.
4. The Hon. John Kihagi, M.P.
5. The Hon. Francis W. Nderitu, M.P
6. The Hon. Francis Njenga Kigo, M.P.
7. The Hon. A. Shariff, M.P.
8. The Hon. Eusilah Ngeny, M.P.
9. The Hon. Bernard Bett, M.P.
10. The Hon. Kipruto Moi, M.P.
11. The Hon. Hellen Chepkwony, M.P.
12. The Hon. Julius Ndegwa, M.P.
13. The Hon. Benson Mbai, M.P.
14. The Hon. Esther Murugi, M.P.
15. The Hon. Gideon Mung'aro, M.P.
16. The Hon. Hezron Awiti Bollo, M.P.
17. The Hon. George Oner, M.P.
18. The Hon. Dr. Paul Otuoma, M.P.
19. The Hon. Thomas Mwadeghu, M.P.
20. The Hon. Joseph Oyugi Magwanga, M.P.
21. The Hon. Patrick Makau, M.P

ABSENT WITH APOLOGIES:

1. The Hon. Sarah Korere, M.P.
2. The Hon. Mpuru Aburi, M.P.
3. The Hon. Suleiman Dori, M.P

ABSENT WITHOUT APOLOGIES:

1. The Hon. Shakila Abdallah, M.P.
2. The Hon. Mutava Musyimi, M.P.
3. The Hon. Oscar Sudi, M.P
4. The Hon. Mathew L. Lempurkel, M.P
5. The Hon. Kanini Kega, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono - Clerk Assistant I
2. Ms. Ruth Mwihaki - Clerk Assistant III
3. Mr. Emmanuel Muyodi - Clerk Assistant III

MINUTE NO. DCL/LN/2015/791 PRELIMINARIES

The Chairperson called the meeting to order at 11.10 am, followed by a word of prayer.

MINUTE NO. DCL/LN/2015/792 AGENDA ADOPTION

The agenda of the meeting was adopted as hereunder after being proposed by the Hon. Benson Mbai, M.P. and seconded by the Hon. Hellen Chepkwony, M.P.

AGENDA

1. Prayers
2. Communication from the Chair
3. Confirmation of Minutes
4. Matters Arising
5. Bills
6. Petitions
7. Papers
8. Statements
9. **Substantive Agenda:- Consideration and Adoption of the following Reports:**
   a) **Report on the Petitions by residents of Chuka Igambangombe Constituency on alleged grabbing of public Land Belonging to the Chuka Township Primary School;**
   b) **Report on State House Crescent Land**
   c) **Report o Nyali Constituency Land Issues and**
   d) **Report on Mombasa Cement Land Limited in Mombasa**
10. Any Other Business
11. Date of the Next Sitting

MINUTE NO. DCL/LN/2015/793 CONSIDERATION AND ADOPTION OF THE REPORT ON MOMBASA CEMENT LAND

The Committee Considered and adopted the report after being proposed by the Hon. Joseph Oyugi Magwanga, M.P. and seconded by Hon.Onesmus Ngunjiri, M.P. as follows :

The Committee made the following observations:

i. Documentation submitted to the Committee by various stakeholders indicates that Plot numbers LR no. MN/III/289 and MN/III/ 290 are public land and since 1920 the said plots have been amalgamated and subdivided illegally to prove fictitious ownership by interested parties.

ii. The Managing Director Mombasa Cement Limited ignored all invitations and summons to appear before the Committee but sent lawyers and representatives who were not able to comprehensively give a chronology of events leading to the acquisition and ownership of the land they are currently do business on;

iii. The representatives and lawyers for Mombasa Cement Limited admitted that they could not understand how the factory acquired the land LR no. MN/III/289 and MN/III/ 290 in which they currently do business;

iv. The Ministry of Lands Housing and Urban Development and the National Land Commission admitted that the land currently in use by Mombasa Cement Limited and which they claim to be owners of LR. No. MN/III/4391 is illegally acquired since it is a subdivision of Plot No. MN/III/3545, which has no CR no.

v. There are no valid documents and no genuine chronology of land transaction entries to show how plot no. MN/III/292/1 and plot no. MN/III/4391 were bought or acquired by Mombasa Cement Company considering that they were as a result of various amalgamations and subdivisions, which had originated from LR no. MN/III/ 289 and MN/III/ 290 to arrive at Plot No. MN/III/3545 which had no grant number and CR no.

vi. The submission from the Chairman, National Land Commission and Mombasa Cement Limited appeared similar and the documents presented were also similar.

vii. Contrary to the Fourth Schedule to the National Lands Commission Act 2012, The Chairman National Land fraudulently and illegally wrote a letter confirming that Mombasa Cement Limited is the legal owner of the land LR no. MN/III/4391 without the authority of the National Land Commission meeting thereby jeopardizing the work, integrity and the dignity of the National Land Commission; further when asked which documents he relied on coming up with the decision he claimed that he was not able to access the said documents from the Ministry of Lands, Housing and Urban Development (The Chairman, National Land Commission was invited six (6) times on the matter and only appeared before the Committee three (3) times and in the three occasions he sought more time at least twice to search for more documents;.

viii. The Vice Chairperson of the National Land Commission while in the middle of investigation regarding the illegal acquisition of the land by Mombasa Cement Limited was un-procedurally removed from the task by the Chairman of National Land Commission and the tasks she was undertaking transferred to an officer of National Land Commission (Mr. Cyrus Kiogora Mburugu, Senior Lands Officer) who was reporting directly to the Chair of National Land Commission on the findings;

ix. Mombasa Cement Limited sued the Departmental Committee on Lands, against conducting the inquiry claiming that the Committee has no powers to oversee the National Land Commission decisions especially after various correspondences from the Chairperson of the Commission;

x. The County Government of Kilifi demolished approximately half of walls erected by Mombasa Cement in the Land which it does not own;

xi. Squatters working in the Sisal plantations for Mombasa Cement Limited claim and allege that the former Counselor and Chief fraudulently and illegally acquired their allotment letters and used them to sell their land to Mombasa Cement Limited and that they were not given proceeds from

the sale and those who received the dues only received half or a quarter of the proceeds

The Committee made the following recommendations:

1. The Criminal Investigations Department and the Ethics and Anti-Corruption Commission:
   a. Conducts a forensic audit of the documents in possession of Mombasa Cement Limited to establish individuals involved in their fraudulent preparation and prosecute with immediate effect those found culpable;
   b. Investigates Dr. Mohammed Swazuri and Mr. Cyrus Kiogora Mburugu to determine abuse of office in their personal conduct on the matter and prosecute them if found culpable;
   c. Investigates the Managing Director for Mombasa Cement Limited to establish how he took possession of the land and how he acquired illegal documents purporting to be the owner of LR No. MN/III/290, LR No. MN/III/289 and LR No. MN/III/3445;
   d. Investigates Mr. Charles Munga Janji, a former Councilor and the former Chief of Bambani on how he acquired allotment letters belonging to squatters in Bambani Settlement Scheme and sold the same to the Managing Director, Mombasa Cement Limited, and also investigates the Managing Directors collaboration in the saga.
2. The Ministry of Lands, Housing and Urban Development immediately takes Possession of the public Land in use by Mombasa Cement Limited, LR no. MN/III/290, LR No. MN/III/ 289 and LR No. MN/III/3545 to be administered by the National Lands Commission.
3. The National Lands Commission and the Ministry of Lands, Housing and Urban Development in accordance to Section 134 (5) of the Land Act 2012 immediately reserve the for settlement of the affected Community in the area.

MINUTE NO. DCL/LN/2015/794 ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being 12.55 p.m. the meeting was adjourned.

SIGNED ..... (CHAIRPERSON)

DATE 19/11/2015

EXTRACTS OF THE MINUTES OF THE 114TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON FRIDAY 6TH FEBRUARY 2015, AT MOMBASA CEMENT LAND AT 3.30 PM

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Kipruto Moi, M.P.
3. The Hon. Hellen Chepkwony, M.P.
4. The Hon. Benson Mbai, M.P.
5. The Hon. Patrick Makau, M.P.
6. The Hon. Francis Kigo Njenga, M.P.
7. The Hon. Esther Murugi, M.P.
8. The Hon. Thomas Mwadeghu, M.P.
9. The Hon. Dr. Paul Otuoma, M.P.
10. The Hon. Onesmus Ngunjiri, M.P.
11. The Hon. John Kihagi, M.P.
12. The Hon. Athman Shariff, M.P.
13. The Hon. Gideon Mung'aro, M.P.
14. The Hon. Sarah Korere, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
2. The Hon. Mutava Musyimi, M.P.
3. The Hon. Bernard Bett, M.P.
4. The Hon. Joseph Oyugi Magwanga, M.P.
5. The Hon. Mpuru Aburi, M.P.
6. The Hon. Kanini Kega, M.P.
7. The Hon. Mathew L. Lempurkel, M.P.
8. The Hon. Francis W. Nderitu, M.P.
9. The Hon. George Oner, M.P.
10. The Hon. Shakila Abdallah, M.P.
11. The Hon. Julius Ndegwa, M.P.
12. The Hon. Suleiman Dori, M.P.
13. The Hon. Eusilah Ngeny, M.P.
14. The Hon. Hezron Awiti Bollo, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono — Clerk Assistant I

2.	Mr. Muyodi Emmanuel	Clerk Assistant III
3.	Ruth Mwihaki	Clerk Assistant III
4.	Mr. Noah Too	Research and Policy Analyst I
5.	Mr. Lynette Atieno	Legal Counsel II
6.	Mr. Maina Macharia	Media Relation Officer
7.	Mr. Zainab Wario	Sergeant-at-Arm
8.	Mrs. Rehema Chepkurui	Audio Officer

MINUTE NO. DCL/LN/2015/326 PRELIMINARIES

The Chairman called the meeting to order at 3.00 p.m. with a word of prayer.

MINUTE NO. DCK/LN/2015/327 SUBMISSION FROM BOYANI SETTLEMENT SCHEME RESIDENTS

While appearing before the Committee Mr. Charles Munga Janji – Chairman Bambani Kilio Group and Mr. Wycliffe Tembo – Vice Chair Bambani Kilio Group, Mohamed Athman and Thomas Mlinzani – Members Bambani Kilio Group representing the affected residents informed the Committee as follows:

In regard to the land Held by Mombasa Cement:

1. Residents have lived in plot no. MN/III/289 and MN/III/290 prior to the colonial period and planted coconut trees which are still in existence;
2. The history of the problem dates back to 1949 when the colonial government forcefully evicted indigenous people from their settlements land and allocated the same land to Vipingo Sisal Estate;
3. Vipingo Estate paid rates for 3 years and stopped after the allocation leaving the land vacant and unutilized;
4. On 23rd March 1993, the then area councilor, who was also the chairman of Kilifi town planning Mr. Charles Janji and other members of the Ministry of Lands revealed plot 289 and 290 were government land (G/L) and vacant;
5. Mr. Charles Janji formed a local interim committee who carried out consultations with the Provincial Commissioner, District Commissioner, Commissioner of Lands, the Deputy Lands Commissioner Mr.Chesaina and the former President Daniel. Arap Moi and consent was given to subdivide plot no.289 and 290 to members of the Community in small portions/ plots , and the committee formed by Mr. Janji was involved in identifying beneficiaries;
6. The beneficiaries were each given an allotment letters and the letters were distributed publicly by the then Minister for Lands, Jeremiah Nyaga, M.P;
7. In 1995, Vipingo Estate raised a complained at Kijipwa police Station claiming that the area residents had invaded their land and unlawfully cultivated the land. The case was later dismissed in 1996;
8. After the case was dismissed, Vipingo Estate Limited Purportedly sold the land plot no 289 and 290 to Mombasa Cement Limited who have since constructed a cement

Manufacturing factory; The former Chief and Councilor(Janji) fraudulently sourced for the allotment letters for the settlement scheme and sold the same to Mombasa Cement Company Limited;

9. Bambani Kilio Group complained to the National Land Commission concerning the forceful occupation of their land, destruction of buildings, crops and lives, which commenced investigations on the matter. However the investigations abruptly ceased and the NLC has not given them any report;

The Committee observed:

That Part of the perimeter wall build around Mombasa Cement land had been demolished.

TheCommittee Resolved:

1. The Ministry of Lands, the National Land Commission and Mombasa Cement Company limited beinvited to shed more light on this matter.

MINUTE NO. DCK/LN/2015/328 **ADJOURNMENT**

There being no any other business, and the time being 5:10 pm; Thechairman adjourned the meeting

SIGNED .....

CHAIRMAN.

DATE .....24/11/2015.....

EXTRACTS FROM THE MINUTES OF THE 138TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY, 24TH MARCH, 2015 IN THE BOARD ROOM, 4TH FLOOR, PROTECTION HOUSE, AT 10.00 A.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
3. The Hon. Kipruto Moi, M.P.
4. The Hon. Benson Mbai, M.P.
5. The Hon. Shakila Abdallah, M.P.
6. The Hon. Julius Ndegwa, M.P.
7. The Hon. Suleiman Dori, M.P.
8. The Hon. Patrick Makau, M.P.
9. The Hon. Francis Kigo Njenga, M.P.
10. The Hon. Esther Murugi, M.P.
11. The Hon. Thomas Mwadeghu, M.P.
12. The Hon. Dr. Paul Otuoma, M.P.
13. The Hon. Athman Shariff, M.P.
14. The Hon. Kanini Kega, M.P.
15. The Hon. Gideon Mung'aro, M.P.
16. The Hon. Sarah Korere, M.P.
17. The Hon. Mathew L. Lempurkel, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Onesmus Ngunjiri, M.P.
2. The Hon. John Kihagi, M.P.
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. Bernard Bett, M.P.
5. The Hon. Joseph Oyugi Magwanga, M.P.
6. The Hon. Mpuru Aburi, M.P.
7. The Hon. Francis W. Nderitu, M.P.
8. The Hon. Hellen Chepkwony, M.P.
9. The Hon. George Oner, M.P.
10. The Hon. Eusilah Ngeny, M.P.
11. The Hon. Hezron Awiti Bollo, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1.	Mr. James Ginono	Clerk Assistant I
2.	Mr. Muyodi Emmanuel	Clerk Assistant III
3.	Mr. Noah Too	Research and Policy Analyst I
4.	Christine Odhiambo	Legal Counsel II
5.	Ahmed Yakub	Media Relation Officer
6.	Richard Sang	Serjeant-at-Arm

IN ATTENDANCE
KILIFI AIRCHATTERS

1. Dr. Timothy Mtana Lewa	Chairman – Kilifi AirChatters

IN ATTENDANCE
KILIFI PLANTATIONS

1. Mr. Christopher Wilson	Chairman-Kilifi Plantation

IN ATTENDANCE
BAMBANI KILIO GROUP

1.	Mr. Charles Munga Janji	Chairman Bambani Kilio Group
2.	Mr. Wycliffe Tembo	Vice Chair Bambani Kilio Group

IN ATTENDANCE
PWANI UNIVERSITY

1.	Prof. Mohamed S. Rajab	Vice Chancellor
2.	Prof. Muniru Khamis Tsanuao	Deputy Vice Chancellor (Research and Extension)

MINUTE NO. DCL/LN/2015/438 PRELIMINARIES

The Chairman called the meeting to order at 10.10 a. m with a word of prayer.

MINUTE NO. DCL/LN/2015/439 SUBMISSION FROM MR. CHARLES MUNGA JANJI

While appearing before the Committee Mr. Charles Munga Janji – Chairman Bambani Kilio Group and Mr. Wycliffe Tembo – Vice Chair Bambani Kilio Group informed the Committee as understated:

1. Vipingo sisal estate was allocated the land by Colonial government after the residents were forcefully evicted from their land;
2. Vipingo Estate paid rates for only 3 years and ceased, then left the land vacant and fallow without any economical use;
3. A team from the community joined him (as councilor then) , conducted a search at the Ministry of Lands and established that plot no. 289 and 290 were government land and were vacant. This team appealed to the former President Moi for allocation of the land and in 1996 were issued with allotment letters;;

4. The Managing Director for Mombasa Cement Company Limited used the Provincial administration to forcefully compel the residents to sell their genuine allotment letters to them and those who resisted were threatened that the government would take back the land;
5. It is alleged that Mombasa Cement Company was given authority by the provincial authority to fence off Boyani plots.

The Committee resolved as follows:

The following to be invited to appear before the Committee to shed more light on the above mentioned issues:

i. The Cabinet Secretary Ministry of Lands, Housing and Urban Development;
ii. The National Land Commission.

MINUTE NO. DCL/LN/2015/443 ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being 2:45 pm; The Meeting was adjourned until 27th March 2015.

SIGNED .....

(CHAIRPERSON)

DATE 10/11/2015

EXTRACTS FROM THE MINUTES OF THE 138TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY, 24TH MARCH, 2015 IN THE BOARD ROOM, 4TH FLOOR, PROTECTION HOUSE, AT 10.00 A.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
3. The Hon. Kipruto Moi, M.P.
4. The Hon. Benson Mbai, M.P.
5. The Hon. Shakila Abdallah, M.P.
6. The Hon. Julius Ndegwa, M.P.
7. The Hon. Suleiman Dori, M.P.
8. The Hon. Patrick Makau, M.P.
9. The Hon. Francis Kigo Njenga, M.P.
10. The Hon. Esther Murugi, M.P.
11. The Hon. Thomas Mwadeghu, M.P.
12. The Hon. Dr. Paul Otuoma, M.P.
13. The Hon. Athman Shariff, M.P.
14. The Hon. Kanini Kega, M.P.
15. The Hon. Gideon Mung'aro, M.P.
16. The Hon. Sarah Korere, M.P.
17. The Hon. Mathew L. Lempurkel, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Onesmus Ngunjiri, M.P.
2. The Hon. John Kihagi, M.P.
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. Bernard Bett, M.P.
5. The Hon. Joseph Oyugi Magwanga, M.P.
6. The Hon. Mpuru Aburi, M.P.
7. The Hon. Francis W. Nderitu, M.P.
8. The Hon. Hellen Chepkwony, M.P.
9. The Hon. George Oner, M.P.
10. The Hon. Eusilah Ngeny, M.P.
11. The Hon. Hezron Awiti Bollo, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono	Clerk Assistant I
2. Mr. Muyodi Emmanuel	Clerk Assistant III
3. Mr. Noah Too	Research and Policy Analyst I
4. Christine Odhiambo	Legal Counsel II .
5. Ahmed Yakub	Media Relation Officer
6. Richard Sang	Serjeant-at-Arm

IN ATTENDANCE
KILIFI AIRCHATTERS

1. Dr. Timothy Mtana Lewa	Chairman – Kilifi AirChatters

IN ATTENDANCE
KILIFI PLANTATIONS

1. Mr. Christopher Wilson	Chairman-Kilifi Plantation

IN ATTENDANCE
BAMBANI KILIO GROUP

1. Mr. Charles Munga Janji	Chairman Bambani Kilio Group
2. Mr. Wycliffe Tembo	Vice Chair Bambani Kilio Group

IN ATTENDANCE
PWANI UNIVERSITY

1. Prof. Mohamed S. Rajab	Vice Chancellor
2. Prof. Muniru Khamis Tsanuao	Deputy Vice Chancellor (Research and Extension)

MINUTE NO. DCL/LN/2015/438 **PRELIMINARIES**

The Chairman called the meeting to order at 10.10 a. m with a word of prayer.

MINUTE NO. DCL/LN/2015/439 **SUBMISSION FROM MR. CHARLES MUNGA JANJI**

While appearing before the Committee Mr. Charles Munga Janji – Chairman Bambani Kilio Group and Mr. Wycliffe Tembo – Vice Chair Bambani Kilio Group informed the Committee as understated:

1. Vipingo sisal estate was allocated the land by Colonial government after the residents were forcefully evicted from their land;
2. Vipingo Estate paid rates for only 3 years and ceased, then left the land vacant and fallow without any economical use;
3. A team from the community joined him (as councilor then) , conducted a search at the Ministry of Lands and established that plot no. 289 and 290 were government land and were vacant. This team appealed to the former President Moi for allocation of the land and in 1996 were issued with allotment letters;;

4. The Managing Director for Mombasa Cement Company Limited used the Provincial administration to forcefully compel the residents to sell their genuine allotment letters to them and those who resisted were threatened that the government would take back the land;
5. It is alleged that Mombasa Cement Company was given authority by the provincial authority to fence off Boyani plots.

The Committee resolved as follows:

The following to be invited to appear before the Committee to shed more light on the above mentioned issues:

i. The Cabinet Secretary Ministry of Lands, Housing and Urban Development;
ii. The National Land Commission.

MINUTE NO. DCL/LN/2015/443 ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being 2:45 pm; The Meeting was adjourned until 27th March 2015.

SIGNED .....

(CHAIRPERSON)

DATE 2/9/2015

MINUTES OF THE 140TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON SATURDAY, 28TH MARCH, 2015 IN THE CONFERENCE ROOM, SERENA BEACH RESORT AND SPA, AT 10.00 A.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
3. The Hon. Benson Mbai, M.P.
4. The Hon. Oscar Sudi, M.P
5. The Hon. Julius Ndegwa, M.P.
6. The Hon. Suleiman Dori, M.P.
7. The Hon. Patrick Makau, M.P.
8. The Hon. Francis Kigo Njenga, M.P.
9. The Hon. Thomas Mwadeghu, M.P.
10. The Hon. Dr. Paul Otuoma, M.P.
11. The Hon. Athman Shariff, M.P.
12. The Hon. Kanini Kega, M.P.
13. The Hon. Gideon Mung'aro, M.P.
14. The Hon. Hellen Chepkwony, M.P.
15. The Hon. George Oner, M.P.
16. The Hon. Hezron Awiti Bollo, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Onesmus Ngunjiri, M.P.
2. The Hon. John Kihagi, M.P.
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. Bernard Bett, M.P.
5. The Hon. Joseph Oyugi Magwanga, M.P.
6. The Hon. Mpuru Aburi, M.P.
7. The Hon. Francis W. Nderitu, M.P.
8. The Hon. Eusilah Ngeny, M.P.
9. The Hon. Kipruto Moi, M.P
10. The Hon. Shakila Abdallah, M.P
11. The Hon. Esther Murugi, M.P.
12. The Hon. Sarah Korere, M.P.
13. The Hon. Mathew L. Lempurkel, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono	Clerk Assistant I
2. Mr. Muyodi Emmanuel	Clerk Assistant III
3. Mr. Noah Too	Research and Policy Analyst I
4. Christine Odhiambo	Legal Counsel II
5. Ahmed Yakub	Media Relation Officer
6. Ahmed Gorod	Budget Policy Analyst
7. John Ng'anga	Audio officer

IN ATTENDANCE

MOMBASA CEMENT COMPANY

1. Mr. Ondego Timothy Got	Associate and Advocate
2. Mr. Heniart-Dirteevriai Desa	Civil Manager
3. Mr. Kinuthia Bere	Manager Electric
4. Mr. Onyony Cyprian Ochieng	Advocate

MINUTE NO. DCL/LN/2015/444 **PRELIMINARIES**

The Chairman called the meeting to order at 10.10 a. m with a word of prayer.

MINUTE NO. DCL/LN/2015/445 **SUBMISSION FROM MOMBASA CEMENT COMPANY**

While appearing before the Committee Mr. Ondego Timothy Got -Associate and Advocate, Mr. Heniart-Dirteevriai Desa - Civil Manager, Mr. Kinuthia Bere - Manager Electric, Mr. Onyony Cyprian Ochieng – Propertier_–Informed the Committee as understated:

1. The history of land parcel MN/III/4319 is a long and complex as it resulted from several – sub-divisions and consolidation of various parcels of land.
2. From the records, the very original plot numbers of this parcel among others was L.R. NO. MN/III/289 and 290.
3. The original parcel No. MN/III/289 was sub-divided into two (2) portion in 1920's and a portion of 422 acres was allocated by the crown Government to Khamis Bin Rashid Bin Sood whi later sold to Claud Pierp Robertson – Dunn and Yusufali Gulamhusein Datoo and the land was later surrendered to Government on 22nd September 1971.
4. The Reminder of MN/III/289 which had remained as Government land, together with L.R No. MN/III/290 in 1949, it was allocated to Vipingo Estate Limited, subject to certain conditions and in 1951 upon complying with the allocations conditions, they were issued with letter of allotment.
5. When an amalgamation was done for MN/III/290 and the remainder of 289R, the Parcel Number changed to MN/III3545, later was sub-divided into three(3) portions to become MN/III/4391,4392 and 4393.
6. Parcel Number MN/III/4391 on 9th March 2005, it was transferred by Vipingo estate Limited to Mombasa Cement Limited.

7. The transfer to Mombasa Cement Limited had met all the requirement i.e Commissioner of Land Consennt, land rent clearance certificate up to year 2005, valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under day book number 64 of 9th March 2005.
8. Under section 2 of the Land Control Act vide Kenya Gazette Supplement Number 5 Of 3rd March 1995, the President of the Republic of Kenya then exempted Vipingo Estate Limited land from the provision of Land Control Board Act.
9. If there was a transfer/subdivision by Vipingo Estate without consent of Land Control Board it was appropriate as long as all the legal fees to the Government were paid.

The Committee thereafter made the following observations:-

1. That Mombasa Cement did not have a comprehensive information sought by the Committee regarding the ownership of the land it is operating on;
2. Consequently the Committee resolved to invite the Managing Director of Mombasa Cement Company to personally appear before it in a follow-up meeting on Thursday 9th April, 2015 to respond to outstanding land issues involving the Company with a view to providing information on the following issues among others:
   a) Searches done on the Land during the last 10 years;
   b) The total acreage of land owned by the Company in Kilifi County and proof of ownership;
   c) A comprehensive chronology of events with supporting documents regarding the ownership of the land that the Company is currently doing business in;
   d) Minutes of the Land Control Board which allocated the Company the land it is operating on;
   e) Provide records and documents relating to land parcels associated with Mombasa Cement Limited in Kilifi County;
   f) Provide Cadastral map of the land owned by Mombasa Cement Company in Kilifi.

MINUTE NO. DCL/LN/2015/446 **ADJOURNMENT**

There being no any other business, and the time being 12:15 pm; The Meeting was adjourned.

SIGNED .....

(CHAIRPERSON)

DATE .....2/9/2015.....

MINUTES OF THE 142ND SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON SATURDAY, 28TH MARCH, 2015 IN THE CONFERENCE ROOM, SERENA BEACH RESORT AND SPA, AT 10.00 A.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
3. The Hon. Benson Mbai, M.P.
4. The Hon. Oscar Sudi, M.P
5. The Hon. Julius Ndegwa, M.P.
6. The Hon. Suleiman Dori, M.P.
7. The Hon. Patrick Makau, M.P.
8. The Hon. Francis Kigo Njenga, M.P.
9. The Hon. Thomas Mwadeghu, M.P.
10. The Hon. Dr. Paul Otuoma, M.P.
11. The Hon. Athman Shariff, M.P.
12. The Hon. Kanini Kega, M.P.
13. The Hon. Gideon Mung'aro, M.P.
14. The Hon. Hellen Chepkwony, M.P.
15. The Hon. George Oner, M.P.
16. The Hon. Hezron Awiti Bollo, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Onesmus Ngunjiri, M.P.
2. The Hon. John Kihagi, M.P.
3. The Hon. Mutava Musyimi, M.P.
4. The Hon. Bernard Bett, M.P.
5. The Hon. Joseph Oyugi Magwanga, M.P.
6. The Hon. Mpuru Aburi, M.P.
7. The Hon. Francis W. Nderitu, M.P.
8. The Hon. Eusilah Ngeny, M.P.
9. The Hon. Kipruto Moi, M.P
10. The Hon. Shakila Abdallah, M.P
11. The Hon. Esther Murugi, M.P.
12. The Hon. Sarah Korere, M.P.
13. The Hon. Mathew L. Lempurkel, M.P.

IN ATTENDANCE

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono	Clerk Assistant I
2. Mr. Muyodi Emmanuel	Clerk Assistant III
3. Mr. Noah Too	Research and Policy Analyst I

4.	Christine Odhiambo	Legal Counsel II
5.	Ahmed Yakub	Media Relation Officer
6.	Ahmed Gorod	Policy Analyst
7.	John Ng'anga	Audio officer

IN ATTENDANCE

MOMBASA CEMENT COMPANY

1.	Mr. Ondego Timothy Got	Associate and Advocate
2.	Mr. Heniart-Dirteevriai Desa	Civil Manager
3.	Mr. Kinuthia Bere	Manager Electric
4.	Mr. Onyony Cyprian Ochieng	Advocate

MINUTE NO. DCL/LN/2015/453 **PRELIMINARIES**

The Chairman called the meeting to order at 10.10 a. m with a word of prayer.

MINUTE NO. DCL/LN/2015/454 **SUBMISSION FROM MOMBASA CEMENT COMPANY**

While appearing before the Committee Mr. Ondego Timothy Got -Associate and Advocate, Mr. Heniart-Dirteevriai Desa - Civil Manager, Mr. Kinuthia Bere - Manager Electric, Mr. Onyony Cyprian Ochieng – Advocate –Informed the Committee as understated:

1. The history of land parcel MN/III/4319 is a long and complex as it resulted from several – sub-divisions and consolidation of various parcels of land.
2. From the records, the very original plot numbers of this parcel among others was L.R. NO. MN/III/289 and 290.
3. The original parcel No. MN/III/289 was sub-divided into two (2) portion in 1920's and a portion of 422 acres was allocated by the crown Government to Khamis Bin Rashid Bin Sood which was later sold to Claud Pierp Robertson – Dunn and Yusufali Gulamhusein Datoo and the land was later surrendered to Government on 22nd September 1971.
4. The Reminder of MN/III/289 which had remained as Government land, together with L.R No. MN/III/290 in 1949, it was allocated to Vipingo Estate Limited, subject to certain conditions and in 1951 upon complying with the allocations conditions, they were issued with letter of allotment.
5. When an amalgamation was done for MN/III/290 and the remainder of 289R, the Parcel Number changed to MN/III3545, later was sub-divided into three(3) portions to become MN/III/4391,4392 and 4393.
6. Parcel Number MN/III/4391 on 9th March 2005; it was transferred by Vipingo estate Limited to Mombasa Cement Limited.
7. The transfer to Mombasa Cement Limited had met all the requirement i.e. Commissioner of Land Consent, land rent clearance certificate up to year 2005,

valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under day book number 64 of 9th March 2005.

8. Under section 2 of the Land Control Act vide Kenya Gazette Supplement Number 5 0f 3rd March 1995; the President of the Republic of Kenya then exempted Vipingo Estate Limited land from the provision of Land Control Board Act.
9. If there was a transfer/subdivision by Vipingo Estate without consent of Land Control Board it was appropriate as long as all the legal fees to the Government were paid.

The Committee thereafter made the following observations:-

1. That Mombasa Cement did not have a comprehensive information sought by the Committee regarding the ownership of the land it is operating on;
2. Consequently the Committee resolved to invite the Managing Director of Mombasa Cement Company to personally appear before it in a follow-up meeting on Thursday 9th April, 2015 to respond to outstanding land issues involving the Company with a view to providing information on the following issues among others:
   a) Searches done on the Land during the last 10 years;
   b) The total acreage of land owned by the Company in Kilifi County and proof of ownership;
   c) A comprehensive chronology of events with supporting documents regarding the ownership of the land that the Company is currently doing business in;
   d) Minutes of the Land Control Board which allocated the Company the land it is operating on;
   e) Provide records and documents relating to land parcels associated with Mombasa Cement Limited in Kilifi County;
   f) Provide Cadastral map of the land owned by Mombasa Cement Company in Kilifi.

MINUTE NO. DCL/LN/2015/455 **ADJOURNMENT**

There being no any other business, and the time being 12:15 pm; The Meeting was adjourned.

SIGNED 2015

(CHAIRPERSON)

DATE 28th/4/2015

MINUTES OF THE 144TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY, 9TH APRIL, 2015 IN THE BOARDROOM ON FOURTH FLOOR PROTECTION HOUSE, AT 12.00 NOON

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Onesmus Ngunjiri, M.P.
3. The Hon. Kipruto Moi, M.P.
4. The Hon. George Oner, M.P.
5. The Hon. Joseph Oyugi Magwanga, M.P.
6. The Hon. Hellen Chepkwony, M.P.
7. The Hon. Benson Mbai, M.P.
8. The Hon. Eusilah Ngeny, M.P.
9. The Hon. Bernard Bett, M.P.
10. The Hon. Gideon Mung'aro, M.P.
11. The Hon. Mathew L. Lempurkel, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
2. The Hon. Francis W. Nderitu, M.P.
3. The Hon. Francis Kigo Njenga, M.P.
4. The Hon. Esther Murugi, M.P.
5. The Hon. John Kihagi, M.P.
6. The Hon. A. Shariff, M.P.
7. The Hon. Sarah Korere, M.P.
8. The Hon. Shakila Abdallah, M.P.
9. The Hon. Dr. Paul Otuoma, M.P.
10. The Hon. Mpuru Aburi, M.P.
11. The Hon. Hezron Awiti Bollo, M.P.
12. The Hon. Julius Ndegwa, M.P.
13. The Hon. Mutava Musyimi, M.P.
14. The Hon. Thomas Mwadeghu, M.P.
15. The Hon. Kanini Kega, M.P.
16. The Hon. Suleiman Dori, M.P.
17. The Hon. Patrick Makau, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

NATIONAL LAND COMMISSION

1. Ms. Abigail Mbagaya –Vice Chair Person

KENYA NATIONAL ASSEMBLY

1.	Mr. James Ginono	Clerk Assistant I
2.	Ms. Ruth Mwihaki	Clerk Assistant III
3.	Mr. Muyodi Emmanuel	Clerk Assistant III
4.	Ms. Christine Odhiambo	Legal Counsel II
5.	Mr. Noah Too	Research and Policy Analyst I
6.	Mr. Ahmed Yakub	Media Officer

MINUTE NO. DCL/LN/2015/463 PRELIMINARIES

The Chairman called the meeting to order at 10.25 a. m with a word of prayer.

MINUTE NO. DCL/LN/2015/464 ADOPTION OF THE AGENDA

The agenda was adopted after being proposed by the Hon Gideon Mung'aro, M.P and seconded by the Hon. George Oner, M.P.

MINUTE NO. DCL/LN/2015/465 SUBMISSIONS FROM MS. ABIGAIL MBAGAYA

Ms. Abigail Mbagaya appeared before the committee in her capacity as the officer who was in charge of the Investigation on the ownership of the Land held by Mombasa Cement Company.

The Committee was informed as follows: That:

1. When the National Land Commission was formed, each commissioner was given several counties to convene and act as a contact person. She was the convener for Kilifi, Nakuru, Kisumu, Kakamega, Busia , Isiolo and Elgeyo Marakwet Counties and it's on that basis that she took over the Mombasa Cement investigation;
2. Investigations begun after a group calling itself Bambani Kilio approached the Commission Complaining that their land had been taken by Mombasa Cement;
3. She met with the Kilifi County Government officials, Bambani Kilio group leadership and other interested groups and relevant documents presented. They also held several meetings on the ground with local leaders and visited the site where Mombasa Cement is Constructed;
4. Mombasa Cement Company on being asked for documents to prove ownership only presented a sale agreement and a copy of title deed showing they bought the land from Rea Vipingo;
5. The area had a settlement scheme which had been allocated and members of Bambani Kilio group produced allotment letters;
6. The acreage held by Mombasa cement is approximately 1129 acres(LR 4391);
7. LR 289 and 290 were amalgamated to give rise to a new number;

8. Documents had been received from Mombasa Cement and from Bambani Kilio group regarding the land;
9. While still investigating, she was assisted by a forensic investigator Mr. Antipus Nyanjwa. They were however unable to get documents from Mombasa cement lawyers as the lawyers claimed they do not keep documents over a certain period of time;
10. Another officer, Mr. Burugu was however appointed by the National Land Commission Chairman to take over the investigation. There was no official communication of the decision nor was there any handing over of the case to the new officer. The forensic investigator also left the investigation when Mr. Burugu came in;
11. Ideally, under proper governance structures, as the officer handling the investigation she ought to have been informed when a new officer was assigned and proper handing over done;
12. No Commission meeting or Commission Committee has met over the Mombasa Cement matter at the NLC.
13. She wrote to the Kilifi County Surveyor to confirm the boundaries of the land owned by Mombasa Cement and the County Surveyor responded saying the Boundaries were intact.

Committee Resolution:

The Committee Resolved that the sale agreement, Copy of title deed presented by Mombasa Cement, all documents presented by Mombasa Cement and Bambani Kilio group and the letter from the County Surveyor be presented to the Committee.

MINUTE NO. DCL/LN/2015/466 **ADJOURNMENT & DATE OF THE NEXT SITTING**

And the time being Fifty five Minutes past one O'clock, the Chairperson adjourned the Sitting to 9th April 2015 at 2.00 pm.

SIGNED .....

(CHAIRPERSON)

DATE: .....28/4/2015.....

MINUTES OF THE 145TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY, 9TH APRIL, 2015 IN THE BOARDROOM ON FOURTH FLOOR PROTECTION HOUSE, AT 2.00 P.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - **Chairperson**
2. The Hon. Moses Ole Sakuda, M.P. - **Vice Chairperson**
3. The Hon. Onesmus Ngunjiri, M.P.
4. The Hon. Kipruto Moi, M.P.
5. The Hon. George Oner, M.P.
6. The Hon. Joseph Oyugi Magwanga, M.P.
7. The Hon. Hellen Chepkwony, M.P.
8. The Hon. Benson Mbai, M.P.
9. The Hon. Eusilah Ngeny, M.P.
10. The Hon. Thomas Mwadeghu, M.P.
11. The Hon. Bernard Bett, M.P.
12. The Hon. Gideon Mung'aro, M.P.
13. The Hon. Mathew L. Lempurkel, M.P.

ABSENT WITH APOLOGIES

1. The Hon. Francis W. Nderitu, M.P.
2. The Hon. Francis Kigo Njenga, M.P.
3. The Hon. Esther Murugi, M.P.
4. The Hon. John Kihagi, M.P.
5. The Hon. A. Shariff, M.P.
6. The Hon. Sarah Korere, M.P.
7. The Hon. Shakila Abdallah, M.P.
8. The Hon. Dr. Paul Otuoma, M.P.
9. The Hon. Mpuru Aburi, M.P.
10. The Hon. Hezron Awiti Bollo, M.P.
11. The Hon. Julius Ndegwa, M.P.
12. The Hon. Mutava Musyimi, M.P.
13. The Hon. Kanini Kega, M.P.
14. The Hon. Suleiman Dori, M.P.
15. The Hon. Patrick Makau, M.P.

ABSENT WITHOUT APOLOGY

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE

NATIONAL LAND COMMISSION

1. Dr. Muhammad Swazuri –Chairman

2. Mr. Cyrus Kiogora Mburugu – Senior lands officer

KENYA NATIONAL ASSEMBLY

3.	Mr. James Ginono	Clerk Assistant I
4.	Ms. Ruth Mwihaki	Clerk Assistant III
5.	Mr. Muyodi Emmanuel	Clerk Assistant III
6.	Ms. Christine Odhiambo	Legal Counsel II
7.	Mr. Noah Too	Research and Policy Analyst I
8.	Mr. Ahmed Yakub	Media Officer

MINUTE NO. DCL/LN/2015/468 **PRELIMINARIES**

The Chairman called the meeting to order at 10.25 a. m with a word of prayer.

MINUTE NO. DCL/LN/2015/469 **SUBMISSIONS FROM DR.MUHAMMAD SWAZURI**

Dr. Muhammad Swazuri,Chairman,National Lands Commission accompanied by Mr. Cyrus Kiogora Mburugu,Senior Lands Officer appeared before the committee to provide information in relation to the ownership of the Land held by Mombasa Cement.

The Committee was informed as follows:

1. LR no.MN/III/289 before allocation to Vipingo estate in 1949 was a huge chunk of land, which was subdivided into two portions in the 1920's, and a portion of 422 acres, new no. 307(289/1) was allocated by the crown Government to Khamis bin Rashid bin Sood who later sold the same to Claud Pierp Robertson-Dunn and Yusufali Gulamhusein Datoo. They later surrendered the said land to government on 22nd September 1971;
2. LR No. MN/III/289 R (remainder) together with LR No.MN/III/290 remained as unalienated Government land until 1949 when it was allocated to Vipingo Estate ltd subject to certain conditions and in 1951 upon complying with the conditions, a letter of allotment was issued;
3. Upon amalgamation of MN/III/289R and 290,a the parcel number changed to MN/III/3545;
4. MN/III/3545 was later subdivided to give rise to three parcels respectively with new survey numbers as MN/III/4391, MN/III/4392 and MN/III/4393;
5. MN/III/4391 was on March 9th 2005 transferred by Vipingo Estate Limited to Mombasa Cement Limited. The transfer to Mombasa Cement Limited had met all the requirements i.e Commissioner of Land Consent, Land Rent release clearance certificate up to year 2005,valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under daybook number 64 of 9th March 2005;

6. The Commission has no records for parcel no. MN/III/292/2 but from the Top cadastral maps, the land has never been part of Vipingo estate limited but is depicted as government land;
7. Vide gazette notice no.89 of 3rd march 1985,all parcels of land in Vipingo area owned by Vipingo Estate Ltd were excepted from the Provisional Cap 302 hence at the time of transfer of this land, Land Control Board Consent was not necessary.

The Committee was further informed as follows:

1. The total acreage held by Mombasa Cement is approximately 499 ha(1223 acres);
2. That Volume one of the file relating to the land could not be traced from the registry and the report presented relied upon information contained Volume two;

The Committee Observed:

1. That title deed for MN/III/3545 was not availed to the Committee and neither was the outline for its creation available in the maps provided. Without the full Outline for MN/III/3545, the Committee was unable to investigate the creation of new LR no's arising thereof;
2. That from the evidence presented, the amalgamations show the acreage is different;

The Committee Resolved as follows:

1. The National Lands Commission to provide the following information:
   a) Survey plan Deed plan for MN/III/3545;
   b) Actual survey plan and title deed for LR 289/R and 290;
2. The NLC sends a registered government surveyor on the ground to establish the actual acreage held by Mombasa Cement including the fenced area and the earlier fenced area that was demolished;
3. The NLC to present a topocadastral map presenting an outlay of neighboring lands as it currently is and to indicate the files for each parcel(amalgamated and original no)
4. That Mombasa Cement Company Limited stops any development on the land until the investigations are concluded;
5. The NLC reports back to the Committee in 3 weeks.

MINUTE NO. DCL/LN/2015/470 **ADJOURNMENT & DATE OF THE NEXT SITTING**

And the time being six Minutes past Three O'clock, the Chairperson adjourned the Sitting to the next date on notice.

SIGNED .....

(CHAIRPERSON)

DATE: 28/4/2015

MINUTES OF THE 148TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 30TH APRIL 2015, AT PROTECTION HOUSE, 12TH FLOOR AT 10.00 AM

PRESENT:

1. The Hon. John Kihagi, M.P. - Chairing
2. The Hon. Francis W. Nderitu, M.P.
3. The Hon. Francis Njenga Kigo, M.P.
4. The Hon. Patrick Makau, M.P.
5. The Hon. A. Shariff, M.P.
6. The Hon. Kipruto Moi, M.P.
7. The Hon. Hellen Chepkwony, M.P.
8. The Hon. Benson Mbai, M.P.
9. The Hon. Kanini Kega, M.P.
10. The Hon. Sarah Korere, M.P.
11. The Hon. Gideon Mung'aro, M.P.
12. The Hon. Suleiman Dori, M.P.
13. The Hon. Mathew L. Lempurkel, M.P.
14. The Hon. Joseph Oyugi Magwanga, M.P.
15. The Hon. Onesmus Ngunjiri, M.P.
16. The Hon. George Oner, M.P.
17. The Hon. Thomas Mwadeghu, M.P.
18. The Hon. Eusilah Ngeny, M.P.

ABSENT WITH APOLOGIES:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
3. The Hon. Bernard Bett, M.P.
4. The Hon. Julius Ndegwa, M.P.
5. The Hon. Hezron Awiti Bollo, M.P.
6. The Hon. Dr. Paul Otuoma, M.P.
7. The Hon. Mutava Musyimi, M.P.
8. The Hon. Mpuru Aburi, M.P.
9. The Hon. Esther Murugi, M.P.
10. The Hon. Shakila Abdallah, M.P.

ABSENT WITHOUT APOLOGY:

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE:

NATIONAL LAND COMMISSION

1. Mr. Mohamed Swazuri - Chairman
2. Mr. Mburugu - Land Administrator

ONYONY &ASSOCIATES ADVOCATES

1. Cyprian Onyony - Advocate

KENYA NATIONAL ASSEMBLY

1. Mr. James Ginono - Clerk Assistant I
2. Ms. Christine Odhiambo - Legal Counsel II
3. Mr. Noah Arap Too - Research and Policy Analyst I

MINUTE NO. DCK/LN/2015/486 PRELIMINARIES

The Chairman called the meeting to order at 10.55 a.m with a word of prayer.

MINUTE NO. DCK/LN/2015/487 MEETING WITH THE CHAIRMAN, NATIONAL LAND COMMISSION

The Committee met the Chairman of the National Land Commission, Mr. Mohamed Swazuri, over the issue of the Mombasa Cement land.

The Chairman of the National Land Commission attended the meeting together with the Land Administrator, Mr. Mburugu, who took the Committee through a report on the said land.

From the report, the Committee observed the following:

(i) There was no letter of allotment to show that the land was allocated in the year 1949;
(ii) The title to the land had been processed much later, in the year 1997;
(iii) The document MC1 annexed to the report was not signed and therefore was not valid;
(iv) Document MC3 was incomplete as it had no grant number;
(v) The date on the letter forwarding the grant for LR no. 3544 was not clear;

(vi) Document MC3a was also not clear as to how the amalgamation and consolidation of title 38221 took place, and therefore this needed further information;

(vii) The Committee requested for all relevant approvals from the Commissioner of Lands for the amalgamations and subdivisions, together with their plans; and

(viii) The Committee requested for an official letter from the Survey of Kenya confirming that there was no development plan for the said land.

MINUTE NO. DCK/LN/2015/ 489 **ATTENDANCE BY THE MANAGING DIRECTOR MOMBASA CEMENT**

Mr. Cyprian Onyony, Advocate appeared before the Committee on behalf of the Managing Director of Mombasa Cement.

He explained that the MD was unable to appear before the Committee as he was unwell and had gone to India to seek medical treatment. He therefore requested for a deferment of the matter until when he would return to Kenya.

The Chair allowed the deferment and directed that the MD appear on Tuesday, 5th May, 2015 at 9.00 am.

MINUTE NO. DCK/LN/2015/ 490 **ADJOURNMENT**

And the time being five minutes past one O'clock, the Chair adjourned the meeting to Tuesday, 5th May, 2015 at 10.00 am.

SIGNED .....

(CHAIRPERSON)

DATE 24/11/2015

MINUTES OF THE 163RD SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON THURSDAY 18TH JUNE 2015, AT THE BOARDROOM ON 4TH FLOOR, PROTECTION HOUSE AT 10.00 AM

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Onesmus Ngunjiri, M.P.
3. The Hon. John Kihagi, M.P.
4. The Hon. A. Shariff, M.P.
5. The Hon. Eusilah Ngeny, M.P.
6. The Hon. Bernard Bett, M.P.
7. The Hon. Kipruto Moi, M.P.
8. The Hon. Hellen Chepkwony, M.P.
9. The Hon. Sarah Korere, M.P.
10. The Hon. Julius Ndegwa, M.P.
11. The Hon. Benson Mbai, M.P.
12. The Hon. Kanini Kega, M.P.
13. The Hon. Esther Murugi, M.P.
14. The Hon. Suleiman Dori, M.P.
15. The Hon. George Oner, M.P.
16. The Hon. Mathew L. Lempurkel, M.P.
17. The Hon. Thomas Mwadeghu, M.P.
18. The Hon. Joseph Oyugi Magwanga, M.P.
19. The Hon. Mpuru Aburi, M.P.
20. The Hon. Patrick Makau, M.P.

ABSENT WITH APOLOGIES:

1. The Hon. Moses Ole Sakuda, M.P. - Vice Chairperson
2. The Hon. Francis W. Nderitu, M.P.
3. The Hon. Francis Njenga Kigo, M.P.
4. The Hon. Dr. Paul Otuoma, M.P.
5. The Hon. Mutava Musyimi, M.P.
6. The Hon. Hezron Awiti Bollo, M.P.
7. The Hon. Gideon Mung'aro, M.P.
8. The Hon. Shakila Abdallah, M.P.

ABSENT WITHOUT APOLOGY:

1. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE:

1. Mr. James Ginono - Clerk Assistant I
2. Ms. Ruth Mwihaki - Clerk Assistant III
3. Mr. Emmanuel Muyodi - Clerk Assistant III
4. Ms. Christine Odhiambo - Legal Counsel II

MINUTE NO. DCK/LN/2015/ 556 PRELIMINARIES

The Chairman called the meeting to order at 10.30 a.m. with a word of prayer.

MINUTE NO. DCK/LN/2015/557 ADOPTION OF AGENDA

The agenda was adopted after being proposed by the Hon. Onesmus Ngunjiri, M.P and seconded by the Hon. Hellen Chepkwony, M.P.

MINUTE NO. DCK/LN/2015/558 SUBMISSIONS FROM THE MANAGING DIRECTOR, MOMBASA CEMENT

Mr. Akram Mohamed, Group Human Resources Manager accompanied by Mr. Rushein Dewash, Human Resources Manager, Mr. Cyprian Onyony, Lawyer for Mombasa Cement and Mr. Kinuthia Bere, Projects electrical Manager appeared before the committee and while testifying under oath, informed the Committee the managing Director was incapacitated after undergoing a major operation in India and was therefore unable to attend the sitting thereby sending representatives.

Mr. Cyprian Onyony thereafter took the committee through various documents pertaining to the ownership of LR No.MN/III/4391.

The Committee noted the following:

1. The property held by Mombasa Cement was part of a bigger parcel of land originally belonging to Vipingo Estates Limited, registered as LR no.3545 measuring 809.0 ha;
2. LR 3545 was subdivided resulting to MN/III/3545/2/2 and MN/III/3916
3. Within LR 3545/2/2, there was a piece that had immature sisal and therefore Mombasa Cement requested for a subdivision to allow them to purchase the parcel with mature sisal;
4. LR 3545/2/2 was thereafter subdivided to give rise to LR. No's 4391 measuring 499.02ha and 4392. MN/4392 was consolidated by Vipingo Estates with MN/III/3544/2 to form MN/III/4393 which remained with Vipingo Estates;
5. Vipingo Estates sold part of the Land (LR No.MN/III/4391) to Mombasa Cement in the year 2004.This part of the land had mature sisal plants. Mombasa Cement did not buy Plot Number 4392 because it had growing sisal on it
6. LR No.3565/2 is a transfer

7. The acreage of the land currently held by Mombasa Cement is 1,663 acres. A survey done by a surveyor by the Company and other surveyors assigned by the Court in Malindi has reconfirmed the boundaries;

The Committee observed:

1. The creation of LR 3545 might have never been registered;
2. A proper investigation of the matter would therefore require an enquiry in to the acquisition of LR 3545 by Vipingo Estates and the subsequent subdivisions to create LR 3545/2/2, LR no 4391, LR no.4392 and the amalgamation that created LR 4393
3. Part Development Plans for the land are not available
4. Mombasa Cement was unable to respond to the Committees concerns given that they acquired the land from Vipingo Estates after the subdivisions were done.
5. The title has various anomalies i.e The Certificate of 3545/2 should have a noting regarding LR 4392 was subdivided

The Committee resolved:

That the Chief Land Registrar, Director of Survey and the Director of physical Planning, Ministry of Lands, and Housing and Urban Development be invited to appear before the Committee to respond to various issues raised regarding the creation of LR 3545 and Subsequent Subdivisions and amalgamations and various anomalies in the title

Further, that the Part Development Plans, Survey plan, deed plans for CR no's 35659/2, 35659/3, and 35658/3/2

MINUTE NO. DCK/LN/2015/559 **ADJOURNMENT**

And the time being fifty seven minutes past 12 O'clock, the Chair adjourned the meeting.

SIGNED .....

(CHAIRPERSON)

DATE .....24/11/2015.....

MINUTES OF THE 177TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON TUESDAY 14TH JULY 2015, AT THE MAIN CHAMBERS, MAIN PARLIAMENT BUILDINGS AT 2.00 PM

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P.
3. The Hon. Onesmus Ngunjiri, M.P.
4. The Hon. John Kihagi, M.P.
5. The Hon. Francis W. Nderitu, M.P
6. The Hon. Bernard Bett, M.P.
7. The Hon. Esther Murugi, M.P.
8. The Hon. Joseph Oyugi Magwanga, M.P.
9. The Hon. Hellen Chepkwony, M.P.
10. The Hon. Patrick Makau, M.P.
11. The Hon. Francis Njenga Kigo, M.P.
12. The Hon. Benson Mbai, M.P.
13. The Hon. Kanini Kega, M.P.
14. The Hon. Gideon Mung'ao, M.P.
15. The Hon. George Oner, M.P.
16. The Hon. Sarah Korere, M.P.
17. The Hon. Thomas Mwadeghu, M.P.
18. The Hon. Mathew L. Lempurkel, M.P

ABSENT WITH APOLOGIES:

1. The Hon. Dr. Paul Otuoma, M.P.
2. The Hon. Kipruto Moi, M.P.
3. The Hon. Eusilah Ngeny, M.P.
4. The Hon. A. Shariff, M.P.
5. The Hon. Mutava Musyimi, M.P.
6. The Hon. Mpuru Aburi, M.P.
7. The Hon. Shakila Abdallah, M.P.
8. The Hon. Suleiman Dori, M.P.
9. The Hon. Hezron Awiti Bollo, M.P.
10. The Hon. Julius Ndegwa, M.P.

ABSENT WITHOUT APOLOGIES:

1. The Hon. Oscar Sudi, M.P

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

1. The Hon. Joseph Manji, M.P. Kajiado North Constituency
2. The Hon. Khatib Mwashetani, M.P Lunga Lunga Constituency

3. Mr. James Ginono - Clerk Assistant I
4. Ruth Mwihaki - Clerk Assistant III
5. Mr. Emmanuel Muyodi - Clerk Assistant III

MINUTE NO. DCL/LN/2015/612 PRELIMINARIES

The Chairman called the meeting to order at 2.46 p. m with a word of prayer. He thereafter requested Members present and the Ministry of Lands Officials present to introduce themselves.

MINUTE NO. DCL/LN/2015/613 SUBMISSIONS FROM THE CABINET SECRETARY, MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPEMT

Dr. Fred Matiang'i, Cabinet Secretary Ministry of Lands, Housing and Urban Development accompanied by Ms. Mariam El. Maawy, Permanent Secretary ,Mr. Peter Kahuho, Ag. Secretary Lands, Mr. Augustine Masinde, Director physical Planning, Mr.Cesare N. Mbaria, Director of Surveys, Ms. Terry Gathagu, Head of Legal Services, Mr. Francis K. Orioki, PLRO- Registry and Mr. Paul Mwangi, SDDLAS informed the Committee as follows:

1. Land Currently in Use by Mombasa Cement Company(LR No 3545,MN/III/290, 289 and 291;

a. LR MN/III/291 has a history dating back to the colonial times. The land has had a history of successions as result of grants until it was sold to the current owners. It was first registered to Nyra Kathleen Home Davis, wife of Major Hedley Home Davis on 24th September 1923.Upon the demise of Kathleen on 18th July 1925,letters of administration were registered against the title in favour of Edward Pryce Delaury as a representative of Nyra Kathleen Home Davis Deceased on 11th December 1927.On the same date, a transfer was registered to Major Home Davis and Alfred George Stevens as tenants in Common in equal shares;
b. On 4th September 1944,a grant of probate was registered in favour of Yvonne Bagkill Home Davis as executor of the will to Hedley Homes(deceased);
c. On the 4th November 1944,a transfer was registered to Yvonne Bagkill Rusell in respect to the undivided share of Hedley Homes Davis, deceased. On the 15th of May 1962,letters of administration were registered to the public trustee of the colony and protectorate of Kenya as a representative in respect to the one undivided share of Alfred George Stevens deceased;
d. On the 10th June 1952,a caveat was registered against the title of LR MN/III/291 by East

African Power Lighting Company claiming easement over the above;

e. On 29th September ,1964 a transfer was registered to Vipingo Estates Limited for a sum of Kshs.98,900 on the 28th May 1987;
f. The property was charged to Standard Chartered bank Kenya Limited for Ksh.9,000,000, on the 28th May 1987;
g. On the 21st August 1987,a charge was registered to a foreign bank known as Deg-Dentsohe Finan 21 Erungsgeseunsenaft fuer/Beteoligongen in Intwink Luns/Andei embh for US $ 2,000,000/=
h. A certificate of Charge of name was registered on the 24th August 1992 and charged to the bank named above, to Deutsche investitions and Int Wicklungs Gesulssafu mbh;
i. A further charge was registered on the same day to Standard Chartered bank Kenya Limited for Kshs 11,000,000/=
j. On 12th July 1995,a transfer was registered in favour of Rea Vipingo Plantations limited;
k. On the same date, a caveat dated 3rd May was placed against the title Vipingo Estates Limited claiming transferee interest;
l. A partial discharge dated August 1997 was registered to discharge entry no 8 and 11 discharging part of the loan owed to standard Chartered;
m. On the 4th October 2001, a notice of withdrawal of caveat was registered to remove the restriction placed by Vipingo Estate Limited;
n. On 4th October 2001,a transfer was registered to Vipingo Estates Limited of LR no.5025/93/96/98/667(org) LR 7334/4 and LR 8724/5 and subdivision number.291/2 vide new certificates of titles Coastal Registry CR 34869;
o. A grant of easement was registered in favour of Vipingo Estate Limited on the 5th April 2004.

The Committee observed that the response did not adequately capture issues raised by the Committee.

The Committee resolved that the Cabinet Secretary submits a comprehensive report in a meeting scheduled for Tuesday 11th August 2015.

MINUTE NO. DCL/LN/2015/615 ADJOURNMENT & DATE OF THE NEXT SITTING

There being no any other business, and the time being forty four Minutes past 5 Oclock, the meeting was adjourned.

SIGNED .....

(CHAIRPERSON)

DATE ..... 29/11/2015 .....

MINUTES OF THE 188TH SITTING OF THE DEPARTMENTAL COMMITTEE (K) ON LANDS HELD ON WEDNESDAY 2ND SEPTEMBER, 2015, PROTECTION HOUSE, FOURTH FLOOR, BOARD ROOM, PARLIAMENT BUILDINGS AT 10.00 A.M

PRESENT:

1. The Hon. Alex Mwiru, M.P. - Chairperson
2. The Hon. Moses Ole Sakuda, M.P. – Vice - Chairperson
3. The Hon. Onesmus Ngunjiri, M.P
4. The Hon. Francis W. Nderitu, M.P
5. The Hon. Bernard Bett, M.P.
6. The Hon. John Kihagi, M.P.
7. The Hon. Patrick Makau, M.P
8. The Hon. A. Shariff, M.P
9. The Hon. Joseph Oyugi Magwanga, M.P.
10. The Hon. Kipruto Moi, M.P.
11. The Hon. Julius Ndegwa, M.P.
12. The Hon. Thomas Mwadeghu, M.P.
13. The Hon. George Oner, M.P.
14. The Hon. Benson Mbai, M.P.
15. The Hon. Dr. Paul Otuoma, M.P.
16. The Hon. Mpuru Aburi, M.P.

ABSENT WITH APOLOGIES:

1. The Hon. Mathew L. Lempurkel, M.P
2. The Hon. Hellen Chepkwony, M.P.
3. The Hon. Shakila Abdallah, M.P.
4. The Hon. Esther Murugi, M.P.
5. The Hon. Francis Njenga Kigo, M.P.
6. The Hon. Sarah Korere, M.P.
7. The Hon. Eusilah Ngeny, M.P.
8. The Hon. Suleiman Dori, M.P.

ABSENT WITHOUT APOLOGIES:

1. The Hon. Gideon Mung'aro, M.P.
2. The Hon. Mutava Musyimi, M.P.
3. The Hon. Hezron Awiti Bollo, M.P.
4. The Hon. Kanini Kega, M.P.
5. The Hon. Oscar Sudi, M.P.

IN ATTENDANCE:

KENYA NATIONAL ASSEMBLY

1.Mr. James Ginono	-	Clerk Assistant I
2. Ms. Ruth Mwihaki	-	Clerk Assistant III
3. Mr. Emmanuel Muyodi	-	Clerk Assistant III
4. Ms. Christine Odhiambo	-	Legal Counsel II
5. Mr. Noah Too	-	Research Analyst I
6. Mr. Yakub Ahmed	-	Media Relations Officer III

MINUTE NO. DCL/LN/2015/654 PRELIMINARIES

The Chairman called the meeting to order at 10.29 am with a word of prayer.

MINUTE NO. DCL/LN/2015/655 ADOPTION OF AGENDA

The agenda of the meeting was adopted after being proposed by the Hon. Patrick Makau, M.P and Seconded by the Hon. Francis Waweru, M.P as hereunder.

MINUTE NO. DCL/LN/2015/659 SUBMISSION FROM THE CABINET SECRETARY, MINISTRY OF LANDS,HOUSING AND URBAN DEVELOPMENT

While appearing before the Committee, Dr. Fred Matiang'i, Ag. Cabinet Secretary, Ministry of Lands Housing and Urban Development, accompanied by Mrs. Mariam El Maawy, Principal Secretary, Mr. Peter Kahuho, Ag. Secretary Lands, Mr. Martin Oloo, Legal Advisor to the Cabinet Secretary, Mr. Augustine Masinde, Director, Physical Planning, Mr. Barasa Wahonjo, Parliamentary Liason Officer, Mr. Francis Orioki, Mr. Steve Mokaya, Mr. Paul Ndung'u , Mr.Phillip Abong'o and Mr Owino Jacob informed the Committee as follows:

Mombasa Cement Land

a) LR.No. MN/III/289 is located in Takaungu area of Kilifi County and fronts the Indian Ocean to the East. It was initially Government land and was in 1920 subdivided into two portions namely LR NO MN/III/289/1 measuring 422 acres and LR NO MN/III/289 (R);
b) LR NO. MN/III/289/1 was allocated by the colonial Government to Khamis Bin Rashid Bin Sood who later sold it to Claud Pier Robertson-Dunn and Yusufali Gulamhusein Datoo. The land later reverted to the Government in 1971;
c) LR No MN/III/289 (R) together with LR No. MN/III/290 was allocated to Vipingo Estate Limited in 1951;
d) Subdivision of MN/III/289 to create MN/289/1 and 289/R was undertaken in 1920's as depicted by a copy of Deed Plan No.22035 of 26/5/1924.The procedure used then in

subdivision of land by the Government cannot be established because there is no information on record;

e) The Amalgamation of MN/III/289 and MN/III/290 to create MN/III/3545 was done in August, 1951 as per the Survey plan No. F/R 328/100 which quotes approval letter No. 36735/176 from the Commissioner of Land as authority for amalgamation. The genesis of this authority was a letter of allotment for agricultural land in favour of Vipingo Estate Ltd. The Director of Survey re-surveyed the amalgamated land on 26th August 1997 during the normal re-survey exercise. (Copy of letter of allotment ref.36735/176 of 28/9/1951 and survey plan FR NO.328/100 attached;

f) According to available records, MN/III/3545 was the new survey number allocated for MN/III/290 after the re-survey. Survey plan F/R Number 289/39 of 1st October, 1999 depicts that MN/III/289/1 falls outside MN/III/3545. Therefore, there is no formal amalgamation of MN/III/290 and MN/III/289/1 according to available land records;

g) LR No.MN/III/3545 has no CR. or Grant Number since the same was subdivided before registration;

h) MN/III/3545 is reflected on Survey plan No. F/R 328/ 100 and Deed Plan Number 214687 issued on 9th September, 1979. The land depicted on the deed plan was subdivided without being registered in the Land Registry as MN/III/3545;

i) LR NO. MN/III/3545 was initially subdivided vide survey plan F/R NO 289/39 of 1/10/1999 into four portions namely MN/III/3545/1-4.One portion MN/III/3545/2 Mombasa was further subdivided into two portions, MN/III/4391 and MN/III/4392 as depicted on the Deed Plan No. 254238 of 9th July, 2004 (Copy attached). MN/III/3544 (same as MN/III/289) was subdivided into two portions MN 3544/1&2 vide survey plan F/R 289/39. MN/III/3544/2 and consolidated with MN/III/4392 and issued with number MN/III/4393 vide survey plan number F/R 434/109 of 6thJanuary 2004;

j) In conclusion LR MN/III/3545 was not registered and no title was issued. Therefore, there are no CR or Grant Number. Instead, the same was subdivided into LR NO. MN/III/4391 and part of MN/III/4393. The CR and Grant Numbers are as, MN/III/4391- Coast Registry Number. (CR) is 38221 registered at Mombasa Registry on 1st September, 2004 under the name of Vipingo Estate Ltd and later transferred to Mombasa Cement Ltd on 9th March 2005. MN/III/4393-Coast Registry (CR NO 382223 registered at Mombasa Registry on 1st September, 2004 to Vipingo Estates Ltd.

(Copy of survey plan FR NO.328/100 and Deed plan No 214687 for LR MN/III/3545 issued on 9/9/1997 were presented as requested.)

The Committee observed:

1. The trail of documentation and the chronology of the subdivisions and amalgamations on the land are not clear. The presentation by the Ministry did not explain the creation of LR no MN/III/3544 and various amalgamations to create LR MN/III/3545;
2. LR no MN/III/3545 was never registered but was later subdivided; the Ministry officials acknowledged that this is not procedural and therefore the number is a forgery as it doesn't have the L.R No. or the grant No.

3. LR MN/III/289 which was surrendered to the government was not reallocated but cannot be accounted for in subsequent amalgamations and subdivisions;
4. The Cabinet Secretary acknowledged gaps and anomalies in the manner in which the allocations and amalgamations were done on the land and noted that the matter requires full investigation by the Criminal Investigations Department and the Ethics and Anti-Corruption Commission.
5. The Cabinet Secretary acknowledged that the land occupied by Mombasa Cement was public land upon scrutiny of available documents in the Ministry.

MINUTE NO. DCL/LN/2015/ 671 **ADJOURNMENT & DATE OF THE NEXT SITTING**

There being no any other business, and the time being 3.15 p.m. the meeting was adjourned.

SIGNED .....

(CHAIRPERSON)

DATE 24/11/2015

Appendix I

Bambani Kilio C.B.O
P.O BOX 1157
KILIFI

21ST SEPT. 2014

To The Member of Parliament
Kilifi North Constituency
KILIFI

Dear Sir

Re: Plot No. 289/290/MN/III (BOYANI)

We have been following up our land in the reference above, through the then Public Complaints and Resolution Committee of the Ministry of Lands since 2002. After we had been forcefully evicted from the land after having been lawfully allocated the Land and allotment letters given by the Land Ministry.

The Public Complaints and Resolution Committee then become a subsidiary of the National Land Commission, which by way of a meeting between us, the Mombasa Cement and the County Government Lands Executive Officers publicly upheld the decision of the Public Complaints and Resolution Committee; That the parcels MN/III/289 and MN/III/290 were genuinely allocated to us.

The Bambani Committee, the Mombasa Cement and the County Government of Kilifi have since worked out closely with the Commission and investigations carried out by the National Land Commission Vice-Chair, Ms. Abigail Mbagaya. She preliminarily upheld the decision to favor us. However, a turn around of this ongoing investigation by the Chairman of National Land Commission, to suggest otherwise, without us having been involved by the appointed investigator Mr. Mburugu, has thrown us into a deep sea of doubt on the credibility of the newfound decision of the National Land Commission.

We kindly pray to your office to help us reach the highest level of justice to help us get back our land that the Honorable Government of Kenya had given us back after having been taken away by the cruel colonialist.

Kindly expedite action as this matter is likely running out of hand.

Yours truly,

Mr. Wycliffe Mwangone - 0721566174
.....

Mr. Charles Munga Janji 0727400923
.....

Hon. Gideon M. Mung'aro, OGW, DS, MP
Kilifi North Constituency

Parliament Buildings
Tel: +254 20 2221 291
Fax: +254 20 245 473
P. O. Box 41842-00100 Nairobi, Kenya

Continental House, 4th Flr.
Mobile 0721 600 856
E-mail: gmungaro66@gmail.com

28th November 2014

THE CLERK
KENYA NATIONAL ASSEMBLY
P.O.BOX 41842-00100
NAIROBI

Dear Sir

Re: Forceful occupation of Plot Nos. MN/III/289 and 290 by Mombasa Cement Company

I would kindly request your able Committee to intervene and help the aforementioned group to resolve this urgent issue on Land.

As a way to find quick and suitable solutions we recommend to the Committee to pay a visit. Kindly find detailed attached copies for your perusals.

Your quick intervention will be highly appreciated.

Thank you.

Yours Sincerely,

Hon. Gideon M. Mung'aro, OGW, DS, MP
KILIFI NORTH

CC The Chairman
Lands Committee
Kenya National Assembly

Appendix 3

MOMBASA CEMENT LIMITED

P.O.Box 83594 MOMBASA - 80100 Tel nos: +254 - 020 - 2024020/2023860
Fax nos: +254 - 020 - 2023862 Mobile nos: +254 - (0722) 204848/(0733) 615465/(0727) 605899
Email: nyumba@africaonline.co.ke, csl@nyumba.com

Nairobi Office: P.O. Box 39020-00623, Addis Ababa Rd. Off Enterprise Rd. Nairobi
Tel: +254 (020) 2668305/2668311/2331508 Fax: +254 (020) 558790
Email: cslnairobi@africaonline.co.ke

Our Ref No. **MCL-323/14/HP-rm** 08th July 2014

The Chief Officer
Energy, Physical Planning & Urban Development
County Government of Kilifi
P.O. Box 519
KILIFI

Dear Sir

RE : DEVELOPMENT ON PLOT NO. MN/111/289/290.

We acknowledge receipt of your letter **CG/KFI/LND/HSG/6/14** dated 23rd June 2014 have noted the contents.

We wish to point out the fact that LR No. MN/111/289 and LR No. MN/111/290 do not belong to us.

Please note our plots are LR No. MN/111/4391 and LR No. MN/111/291.

Thanking you.

Yours faithfully
Mombasa Cement Ltd.

Hasmukh K. Patel
Director

DIRECTORS:- Mr. S. A. Patel (British), MR. H. K. Patel (Kenyan), Mr. B.T Shah (Kenyan), Mr. Vikram Kanji (Kenyan) Mr. H.C. Patel (British)

Appendix 4

VICE CHAIR'S OFFICE

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: **CF/1544/17**

30th October, 2014

The Governor
The County Government of Kilifi
P. O. BOX 519
KILIFI

9 NOV 2014
RECEIVED

Dear Sir

RE: STOPPAGE OF DEVELOPMENT/EXPANSION ON YOUR PROJECT LR. MN/III/290

We acknowledge receipt of your letter Ref. No. CG/KFI/LND/HSG/NLC/1/48 dated 2nd October, 2014 regarding the above matter.

Please note that Plot No. 4391/MN/III is the same as L.R. No. 290/MN/III and is the same property that is subject of investigations by the Commission.

The Commission is investigating how 290/MN/III became to be L.R. No. 4391/MN/III and came to be owned by Mombasa Cement.

We still maintain that no further transactions are carried out on the property until the matter is determined by the Commission.

Yours faithfully,

ABIGAEL MBAGAYA MUKOLWE (MRS.)
VICECHAIR, NATIONAL LAND COMMISSION

cc. - H. E The Governor – Kilifi County
- CEC – Lands, Energy, Housing, Physical Planning and Urban Development
- Mombasa Cement Factory Ltd- P O Box 83594-80100, Mombasa

When was a commission meeting
for that decision.

Appendix 5.

THE NATIONAL LAND COMMISSION

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

Ref: 134678

Date: 30TH JANUARY, 2014

THE DISTRICT/COUNTY SURVEYOR
KILIFI COUNTY
P. O. BOX 238
KILIFI

THRO'

THE DIRECTOR OF SURVEY
NAIROBI

Dear Sir

RE: L.R. NO. MN/III/290 AND L.R. NO. MN/III/291

The Commission has received a complaint from Bambani Kilio Group regarding the above properties that Mombasa Cement has encroached on their property L.R. NO. MN/III /290 and 291.

The Commission has launched investigations into the above complaint to determine the matter and would like your assistance in this regard.

Preliminary investigations indicate that Mombasa Cement has encroached on L. R. NO. MN/III/289 and MN/III/290. A subdivision of LR. NO. MN/III/291 was done creating L. R. NO. MN/III/291/2 which increased the acreage of L.R. NO. MN/II/291 and overlapped on L. R. NO. MN/III/289 and L.R. NO. MN/II/290.

The purpose of this letter is to request your office to carry out investigation on the above property to:

1. Determine the validity of this purported survey
2. Determine the original Boundaries of MN/II/289, MN/II/290 and MN/III/291
3. A detailed status report of the properties concerned.

Yours faithfully

ABIGAEL MBAGAYA-MUKOLWE (MRS.)
VICE- CHAIRPERSON
FOR: CHAIRMAN NATIONAL LAND COMMISSION

c.c.

THE GOVERNOR
KILIFI COUNTY
KILIFI

✓ KILIO BAMBANI GROUP
P. O. BOX 1157
KILIFI

Appendix 6

THE COUNTY GOVERNMENT OF KILIFI

OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER
LANDS, ENERGY, HOUSING, PHYSICAL PLANNING & URBAN DEVELOPMENT

Email: kilificountygovt@gmail.com
When Replying please quote:

P.O BOX 519
KILIFI, KENYA

Your Ref:

Date: 1st October 2014

Our Ref. No: CG/KFI/LND/HSG/8/105

Managing Director
Mombasa Cement Ltd
P. O. Box 83594
MOMBASA

RE: DEVELOPMENT ON PLOT NO. MN/III/290, 291/2/III/MN & 4391/MN/III

Your letter to us Ref. No. MC – 323/14/hp – rm dated 8th July 2014, and a letter from the National Land Commission to you Ref.No. CF/1544/17 dated 2nd September 2014 refers.

Kindly note that the County cannot approve any development on plot No. 290/III/MN until the ongoing investigations by the National Land Commission are concluded.

However, development on plot nos. MN/III/291/2 & 4391/MN/III, can be allowed upon fulfillment of the County Planning regulations including:-

(1) Submission of drawings for proposed development for approval.
(2) Payment of rates and obtaining clearance certificates.

C. K. Kazungu
Chief Officer
Energy & Physical Planning

CC CEC - Lands

Chairman - National Land Commission
P. O. Box 44417
NAIROBI

CKK/mmc

THE COUNTY GOVERNMENT OF KILIFI

OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER
LANDS, ENERGY, HOUSING, PHYSICAL PLANNING & URBAN DEVELOPMENT

Email: kilificountygovt@gmail.com
When Replying please quote:

P.O BOX 519
KILIFI, KENYA

Your Ref:

Date: 2nd October 2014

Our Ref. No: CG/KFI/LND/HSG/NLC/1/48

The National Land Commission
P. O. Box 44417
NAIROBI

RE: STOPPAGE OF DEVELOPMENT/EXPANSION ON YOUR PROJECT LR. NO. MN/III/290

We are in possession of your letter ref. no. CF/1544/17 dated 22nd September 2014 to the Mombasa Cement Factory concerning plot no. 290/III/MN & 291/2/III/MN.

The letter confirms ownership of plot no. 291/2/III/MN to Mombasa Cement Factory while ownership of parcel no. 290/III/MN is still under investigation.

However, we are also in possession of another letter from Mombasa Cement Factory claiming that they do not own plot no. 290/MN/III but they own plot no. 4391/MN/III which is next to plot no. 291/2/III/MN. A closer look of the parcel no. 4391/MN however shows that it's the same as plot no. 290/III/MN and in essence, it's the same one under investigation.

Kindly therefore advice on the authensity of the documents for plot no. 4391/MN/III as Mombasa Cement Factory have submitted to us for approval a development proposal on this parcel.

Your quick response on this will highly be appreciated.

C. K. Kazungu
Chief Officer
Energy, Physical Planning & Urban Development

CC **H. E. The Governor - Kilifi County**

CEC - Lands, Energy, Housing, Physical Planning & Urban Development

Mombasa Cement Factory Ltd
P. O. Box 83594 - 80100
MOMBASA

- my letter to you ref. no. CG/KFI/LND/HSG/8/105 dated 1/10/14 is only applicable for plot no. 291/2/III/MN until clarification of the status of 4391/III/MN is done.

CKK/mmc

D. Exhibit 1 VEL-EXHIBIT 2

MINISTRY OF LANDS AND SETTLEMENT

Telephone: Mombasa 312914
When replying please quote
Ref. No. MSA/10129/1
and date

DEPARTMENT OF LANDS
P.O. Box 80053
MOMBASA

23rd June, 1993, 19.....

Annexure 20

M.B. Salloo & Co,
P.O.Box 80987,
MOMBASA.

RE: PLOT NO.290 SECTION III/M.N.

Please refer to your letter dated 10th June,1993 in connection with the above.

Records held by this office indicate that no title has been issued in respect of the said land. Any other clarifications regarding the offer of a lease etc., should be sought from the office of the Commissioner of Lands in Nairobi.

L. M. MUTTIMOS (MRS)
SENIOR REGISTRAR OF TITLES.

MOMBASA.

Encerrif [illegible]
[illegible]
[illegible] 29th NOVEMBER, 1996.

[illegible]
REGISTRAR OF TITLES

COAST REGION

ograms: REGSEC, MOMBASA.
ephone: MOMBASA 6741

hen replying please quote
f. No.
d date

OFFICE OF THE PRESIDENT
OF THE REGIONAL ASSEMBLY
P. O. Box 2424
MOMBASA
Kenya

5th September 196[illegible]

The Hon. Prime Minister,
Mr. Jomo Kenyatta,
NAIROBI.

Dear Jomo,

I have often seen you and discussed the land problems in the Coast. As you know in the trust land particularly in the hinterland of Kwale and Kilifi Districts, the problem is lack of water for human consumption and for Agricultural development. My detailed memorandum to you in March this year even indicated the amount of money we would require for that but so far nothing has happened.

2. In the former Coastal strip area the problem is that of squatters - some of whom have occupied the so called Arab land before 1901, 1902, 1903, 1904 when titles were issued to the Arabs by the imperialists - our people are now being unfairly exploited. Their trees are being pulled down and asked to quit without any compensation. Long established African farmers with permanent trees are daily loosing their livelihood. This is why a motion was moved in the House to the effect that money should be made available to purchase such private lands in the Coast. Your Minister, the Hon. Jackson Angaine accepted the motion on behalf of the government but again we have not received anything so far. The notorious places in this matter are Malindi, Kilifi, Shariani, Mtwapa, Likoni area, Diani and Gombato Estate in Kwale.

3. Africans in the Coast are looking forward to the African Government solving this long standing issue this first year of our independence.

4. The attached is a list of people who are now in danger of losing a total of 8000 trees at Kijipwa and Bureni in Vipingo Estate. Most of them have established the land ever since 1929 that is before the Estate acquired the land. The danger is that the people would lose their trees and would not get [illegible] sation. Something must be done urgently concerning the whole problem of land in the Coast Region.

Yours sincerely,

R.G. Ngala

(R.G. NGALA)
PRESIDENT

c.c. Hon. J.H. Angaine,
Minister for Lands and Settlement,
P. Box 30450,
NAIROBI

Appendix 7

THE COUNTY GOVERNMENT OF KILIFI

OFFICE OF THE COUNTY EXECUTIVE COMMITTEE MEMBER
LANDS, ENERGY, HOUSING, PHYSICAL PLANNING & URBAN DEVELOPMENT

Email: kilificountygovt@gmail.com
When Replying please quote:

P.O BOX 519
KILIFI, KENYA

Your Ref:

Date: 23rd June 2014

Our Ref. No: CG/KFI/LND/HSG/6/14

The Managing Director
Mombasa Cement Ltd
P.O. Box 83594
MOMBASA

RE: DEVELOPMENT ON PLOT NO. MN/III/289/290

It is with great concern that you have embarked on developing the above parcel (erecting a boundary wall) contrary with disregard of the following:-

(1) Ownership of the said parcel is disputed and under investigation by National Land Commission. Therefore any development is likely to cause tensions with the local community.

(2) Contrary to the building regulations, you did not seek approval from the County Government for the development.

This letter therefore, serves **as an order to STOP any further developments** on the said parcel till the issues are resolved amicably.

C. K. Kazungu
CHIEF OFFICER
ENERGY, PHYSICAL PLANNING & URBAN DEVELOPMENT

CKK/mmc

ANNEX VIII

Correspondence from the Vice-Chair, National Land Commission

Appendix 8

THE NATIONAL LAND COMMISSION

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: CF/1544/2

Date: 16TH DECEMBER, 2013

THE DIRECTOR
MOMBASA CEMENT
P. O. BOX 83594-80100 GPO
MOMBASA

Dear Sir

RE: FORCEFUL OCCUPATION OF LOCALS LAND – PLOT NO. 289 & PLOT NO. 290-MN/3

The Commission has received a complaint from the Bambani Kilio Group that you have forcefully occupied their land, destroyed their buildings, crops and lives and proceeded to build a cement plant on their land.

The Commission is mandated by Law to investigate such complaints. In addition, the Commission has a mandate to review grants and dispositions in Public Land to determine their legality. In this regard, the Commission has launched investigations into this matter.

The purpose of this letter is to ask you to provide the Commission with ownership documents of the property you occupy and any relevant information on how the land was acquired by yourselves for our information, to enable the Commission resolve the issue.

Yours faithfully

ABIGAEL MBAGAYA-MUKOLWE (MRS.)
VICE- CHAIRPERSON
FOR: CHAIRMAN NATIONAL LAND COMMISSION

c.c.

THE GOVERNOR
KILIFI COUNTY

BAMBANI KILIO GROUP
KILIFI

Received without prejudice
21/12/2013
08.45 AM

COUNTY GOVERNMENT OF KILIFI
P. O. Box 519 - 80108, KILIFI
17 DEC 2013
RECEIVED

THE NATIONAL LAND COMMISSION

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P O. Box 44417
NAIROBI

Ref: CF/1544/2

Date: 16TH DECEMBER, 2013

THE DIRECTOR
CORRUGATED GROUP (TORORO CEMENT)
P. O. BOX 83594-80100 GPO
MOMBASA

Dear Sir

RE: FORCEFUL OCCUPATION OF LOCALS LAND - PLOT NO. 289 & PLOT NO. 290-MN/3

The Commission has received a complaint from the Bambani Kilio Group that you have forcefully occupied their land, destroyed their buildings, crops and lives and proceeded to build a cement plant on their land.

The Commission is mandated by Law to investigate such complaints. In addition, the Commission has a mandate to review grants and dispositions in Public Land to determine their legality. In this regard, the Commission has launched investigations into this matter.

The purpose of this letter is to ask you to provide the Commission with ownership documents of the property you occupy and any relevant information on how the land was acquired by yourselves for our information, to enable the Commission resolve the issue.

Yours faithfully

ABIGAEL MBAGAYA-MUKOLWE (MRS.)
VICE- CHAIRPERSON
FOR: CHAIRMAN NATIONAL LAND COMMISSION

c.c.

THE GOVERNOR
KILIFI COUNTY

✓BAMBANI KILIO GROUP
KILIFI

Appendix 9

BAMBANI KILIO GROUP
P.O BOX 1157
KILIFI
21ST NOVEMBER 2012

THE PERMANENT SECRETARY
MINISTRY OF LANDS
P.O BOX 30450
NAIROBI



THROUGH: ADI / PCRC
DEPUTY COORDINATOR

Dear Madam,

RE: PLOT NO. 289 / 290 / MN / 3 (BOYANI)

We humbly wish to request for an appointment with the PCRC on the above mentioned plot

We applied for the land and through the help of our former P.C Mr. Francis Baya about 700 squatters were issued with a letter of allotments

Madam, after we had settled on the said plots and made a lot of development on the said land. The land was at the end sold to a developer without our concern, as the matter went further to the court, no ruling was made as the land was a G.L land and the court had preferred the land to be given back to us since the developer had no documents.

Madam, we are requesting this appointment so that, your intervention in this matter can assist us get back our land.

Yours faithfully,

Charles Munga Janji
Chairman – 0727 400903

5th JUNE, 2012

A BRIEF HISTORY OF BOYANI SETTLEMENT SCHEME

(MIN/3/289/290)

1. The history of this problem dates back to 1949 when the colonial governments forced our people away from this land and allocate the same to vipingo sisal estate.
2. Some people had planted coconut trees which are still there to date
3. On being allocated the land the Vipingo Estate paid rates for 3yrs and ceased. Since then they left the land vacant and under fallow.
4. On March 23rd 1993, the then area councilor, who was also the chairman of town planning Mr. Charles Janji and other members of the community conducted a search with the Ministry of Lands that revealed plot 289 and 290 are government land (G/L) and vacant.
5. The chairman of Town Planning and an interim committee from the community consulted the area D.C and later on the area P.C.
6. By the help of the then P.C and the area D.C, consultations were advanced to the office of the lands Commissioner and the matter was handled by Deputy Lands commissioner Mr. Chesina.
7. Consultations were further extended to the then president Daniel Torotich Arap Moi through the P.C and conset was given to relevant Authorities to implement the same. Wananchi were therefore

allowed by the P.C to go ahead with the development of the small plots each allocated by the committee.

8. After the P.C. had consulted the President and the Ministry of Lands an official Prayer (Application) for the land was made through the P.C by way of letter to Ardhi house.

9. Later on wananchi were involved in various activities by the Ministry of Lands and eventually they were officially allocated the land allotment letters by the Ministry of Lands were given.

10. The Authenticity of the allotment letters was confirmed when the then Minister for Lands Hon. Nyaga gave the allotment letters by his hand in public.

11. By then wananchi had started living before developing their plots and therefore enjoying ownership.

12. In 1995, Vipingo Estate, raised a complaint at Kijipwa police Station that wananchi had invaded their shambas and unlawfully cultivated the land. A case was lodged in court in 1996 and after a long argument the court acquitted the community members.

13. The same land was later sold to a developer who has since constructed a cement factory to the disadvantage of over 700 squatters who are still landless and who are languishing in the agony of

squatter ship watching their land grabbed helplessly.

14. Believing that our justice is not yet lost we wish to pray to our humble government to consider giving us back our land.

Appendix 10

DCM

MJUMA LANDS ASSOCIATION
C/O P.O. BOX 5,
VIPINGO.

DATE: 31ST OCTOBER, 2005.

THE DIRECTOR,
NATIONAL ENVIRONMENTAL ASSOCIATION AUTHORITY (NEMA)
KAPITI ROAD OF MOMBASA ROAD,
P.O. BOX 67839, - 00200
NAIROBI.

This is the exhibit marked "DCM" in the Affidavit of ..... Sworn before me at Mombasa this 3rd day of March 2009
..... Commissioner for Oaths

Dear Sir/Madam

RE: OBJECTION OF THE PROPOSED CEMENT FACTORY AT TAKAUNGU MAVUENI - KILIFI DISTRICT PLOT NOS. 291/2 AND MN/111/4391, TAKAUNGU

In reference to the Notice do the Public do submit comments on an environmental impact assessment study report on the proposed limestone quarry and cement factory Takaungu Mavueni Kilifi district.

The Mjuma Lands Association and the Community of Takaungu MavueniLocation hereby submit our objections on the assessment study report and even the construction of the cement plant in Takaungu Mavueni Location. The following are the reasons of objections:-

1. The Community are in court against the Government and the former owners of the proposed Land i.e. Vipingo Estate Limited and other organisations -Ref. No. Misc.No.21/2003 file No. 656 High Court of Mombasa

11. During the meeting held by the Buyers at Takaungu, the Community of Takaungu Mavueni did not agree with sale, because, they were not consulted of sale of the said parcel.

111. During the Land Control Board meeting held at Kilifi, the Members of the Land Control Board deferred for the Sub-division and the sale of the parcel MN/111/4391 and 291/2.

The community of Takaungu Mavueni Location have more interest of the Land i.e. the community have established their own donor who want to assist the Community with similar Project.

It is our since hope that our letter will reach to your consideration.

Yours faithfully,

DAVINO MUNGA
SECRETARY
MJUMA LANDS ASSOCIATION

Appendix II

REPUBLIC OF KENYA
IN THE ENVIRONMENTAL AND LAND COURT AT NAIROBI
PETITION NO. 177 OF 2015

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF KENYA, ARTICLES NOS. 2, 3, 10, 22 (1) 27, 40, 47, 48, 60, 67, 93 (2), 159, 160, 162, 249, 258 AND 259

-AND-

IN THE MATTER OF ENVIRONMENTAL AND LAND COURT ACT (CHAPTER 12A LAWS OF KENYA)

-AND-

IN THE MATTER OF THE NATIONAL LAND COMMISSION ACT, 2012 (ACT NO. 5 OF 2012)

-AND-

IN THE MATTER OF THE LAND ACT (ACT NO. 6 OF 2012)

-AND-

IN THE MATTER OF THE INDEPENDENCE OF THE NATIONAL LAND COMMISSION

-AND-

IN THE MATTER OF THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

-AND-

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND PROTECTION OF RIGHT TO PROPERTY AND LAND

-BETWEEN-

MOMBASA CEMENT LIMITED .....PETITIONER

AND

THE SPEAKER OF THE NATIONAL ASSEMBLY.....1ST RESPONDENT

THE HONOURABLE ATTORNEY GENERAL .....2ND RESPONDENT

1ST RESPONDENT'S GROUNDS OF OPPOSITION

TAKE NOTICE that the **Speaker of the National Assembly** (the 1st Respondents), shall oppose the Petitioner's Notice of Motion application and the Petition herein dated 30th April, 2015 on the following grounds:

1. **THAT** the High Court lacks the requisite jurisdiction under Article 1(1) and 165 of the Constitution, to issue any of the orders sought by the Petitioner in the present Application and the entire Petition.
2. **THAT** the Notice of Motion and the Petition dated 30th April, 2015 is an affront to the role of Parliament under Articles 94, 95 and 96 of the Constitution, namely; representation, legislation and oversight.
3. **THAT** the Petitioner's Notice of Motion and the Petition herein seeks to restrict the National Assembly from carrying out its oversight mandate over the constitutional Commissioners as stipulated under Article 153(3) of the Constitution.
4. **THAT** the orders sought in the Petitioner's Notice of Motion and the Petition, are an infringement of the powers conferred upon both Houses of Parliament under Articles 124 and 125 of the Constitution.
5. **THAT** the effect of the orders sought in the Petitioner's Notice of Motion and the Petition herein is too suspend the provisions of Articles 1, 124, 125 and 153(3) of the Constitution.
6. **THAT** the Petition herein lacks merit, it is frivolous, generally argumentative and an outright abuse of the court process and ought to be struck out with costs.

Dated at **Nairobi** this…**15th** ……day of……**May**……..2015

S. M. MWENDWA

ADVOCATE FOR THE 1ST RESPONDENT

Drawn and filed by:
S. M. Mwendwa, Advocate
5th Floor, Protection House
Parliament Road
P.O Box 41842-00100
NAIROBI

To be served upon:

1. **Ogeto, Otachi & Company**
   Advocates
   Ambassador Court, Block C, Door 6
   Milimani Road
   P.O.Box 79438-00200
   NAIROBI

2. **The Hon. Attorney-General**
   Attorney-General Chambers,
   State Law Offices,
   Sheria House, 7th floor
   P.O BOX 40112,
   NAIROBI

NATIONAL ASSEMBLY
RECEIVED
04 MAY 2015
SPEAKER
P. O. Box 41842, NAIROBI

Appendix 12

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

PETITION NO. 177 OF 2015

30 APR 2015

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF KENYA, ARTICLES NOS. 2, 3, 10, 22 (1), 27, 40, 47, 48, 60, 67, 93 (2), 159, 160, 162, 249, 258, 259, OF THE CONSTITUTION

AND

IN THE MATTER OF THE ENVIRONMENT AND LAND COURT ACT (CHAPTER 12A LAWS OF KENYA)

AND

THE MATTER OF THE NATIONAL LAND COMMISSION ACT, 2012 (ACT NO. 5 OF 2012)

AND

THE MATTER OF THE LAND ACT, 2012 (ACT NO. 6 OF 2012)

AND

IN THE MATTER OF THE INDEPENDENCE OF THE NATIONAL LAND COMMISSION

AND

IN THE MATTER OF: THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND PROTECTION OF RIGHT TO PROPERTY AND LAND

BETWEEN

MOMBASA CEMENT LIMITED ..... PETITIONER

VERSUS

THE SPEAKER, NATIONAL ASSEMBLY.....1ST RESPONDENT

THE HONOURABLE ATTORNEY GENERAL .....2ND RESPONDENT

CERTIFICATE OF URGENCY

I, **Kennedy Ogeto**, advocate of the High Court of Kenya and practising as such in the name and style of Ogeto, Otachi & Company advocates do certify the Notice of Motion application attached hereto as extremely urgent and deserving a hearing on priority basis for the following reasons:

a) The National Assembly Departmental Committee on Lands has purported to open investigations over the propriety of the titles over ***L.R.NO. MN/III/291/2 and MN/III/4391*** held by the Petitioner.

b) The said parcels of land have been a subject of an earlier investigation by the National Land Commission which has certified the same as being lawful and regular.

c) The purported investigation over the same titles by the National Assembly Committee on Lands is a collateral attack on the powers of the National Land Commission as established by the Constitution and Statute and is a violation of the Petitioners rights to property, fair administrative action and equality before the law as well as secure protection of the law all of which are guaranteed by the Constitution.

d) It is just, fair and in tandem with the dictates of constitutionalism and the rule of law that this honourable court intervenes to safeguard the Petitioner against the said violations and to strike a blow for the twin and kindred principles of constitutionalism and the rule of law.

DATED at **NAIROBI** this ....30th.....day of.....April..... 2015

OGETTO, OTACHI & COMPANY
ADVOCATES FOR THE PETITIONER

DRAWN & FILED BY:-
Ogetto, Otachi & Company
Advocates
Ambassador Court, Block C, Door 6
Milimani Road

P.O. Box 79438 – 00200,
NAIROBI
Email: Info@law-consults.org

TO BE SERVED UPON:-
The Speaker
National Assembly
Parliament Building
Parliament Road
P. O. Box 41842 – 00100,
NAIROBI

The Hon. Attorney-General
The Attorney-General's Chambers,
State Law Offices,
Sheria House,
P. O. Box 40112,
NAIROBI

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
PETITION NO. OF 2015

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF KENYA, ARTICLES NOS. 2, 3, 10, 22 (1), 27, 40, 47, 48, 60, 67, 93 (2), 159, 160, 162, 249, 258, 259, OF THE CONSTITUTION

AND

IN THE MATTER OF THE ENVIRONMENT AND LAND COURT ACT (CHAPTER 12A LAWS OF KENYA)

AND

THE MATTER OF THE NATIONAL LAND COMMISSION ACT, 2012 (ACT NO. 5 OF 2012)

AND

THE MATTER OF THE LAND ACT, 2012 (ACT NO. 6 OF 2012)

AND

IN THE MATTER OF THE INDEPENDENCE OF THE NATIONAL LAND COMMISSION

AND

IN THE MATTER OF: THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND PROTECTION OF RIGHT TO PROPERTY AND LAND

BETWEEN

MOMBASA CEMENT LIMITED ..... PETITIONER/APPLICANT

VERSUS

THE SPEAKER, NATIONAL ASSEMBLY.....1ST RESPONDENT

THE HONOURABLE ATTORNEY GENERAL .....2ND RESPONDENT

NOTICE OF MOTION

(Under Section 13 of the Environment and Land Court Act; Articles 22 (1) 23 (3) and 258 of the Constitution of Kenya; Rule 23 of the Constitution of Kenya (Protection of Rights and Fundamental Freedoms) Practice and Procedure Rules, 2013 and all other enabling provisions of the law)

TAKE NOTICE that this Honourable Court shall be moved on the.....7th.....day of.....May.....2015 at 9.00 o'clock in the forenoon or soon thereafter as may be convenient as Counsel for the Applicant may be heard on an application **FOR ORDERS THAT:**

(a) This Application be certified urgent and service thereof be dispensed with in the first instance.

(b) Pending the hearing of this Application inter partes, a conservatory order be issued directed at the National Assembly Departmental Committee on Lands staying any further proceedings, hearing, deliberating, or in any way, determination of the alleged investigations into all the land owned by the Applicant in Kilifi County particularly LR.NO. MN/III/291/2 and MN/III/4391.

(c) Pending the hearing and determination of the substantive Petition a conservatory, prohibitory and restraining order be issued directed at the National Assembly Departmental Committee on Lands staying any further proceedings, hearing, deliberating, or in any way, determination of the alleged investigations into all the land owned by the Applicant in Kilifi County.

(d) Any other appropriate orders be made.

(e) The Respondents be condemned to pay the costs of this application.

WHICH APPLICATION is made on the GROUNDS THAT: -

1. The enactment of the Constitution of Kenya 2010, established the National Land Commission under Article 67 of the Constitution and gave it the sole authority to among others, *manage public land on behalf of the national and county governments;*

2. As one of the independent constitutional commissions under Article 248, the National Land Commission is subject only to the Constitution and the law in accordance with the provisions of Article 249(2) and not subject to the direction or control of any party or authority.

3. Section 14 of the National Land Commission Act also grants the National Land Commission power to review all grants and dispositions of public land to establish their propriety or legality and thereafter make a determination.

4. In exercise of its Constitutional mandate, the National Land Commission reviewed the entire grant and disposition of property owned by the Applicant in Kilifi County and in exercise of its powers determined the properties to have been properly acquired.

5. The Departmental Committee of the National Assembly on Lands has however now purportedly sought to review grants and disposition in disregard of the decision of the National Land Commission in effect proclaiming itself as the body mandated to exercise the powers reserved for the National Land Commission under Article 67 of the Constitution.

6. The actions by the Departmental Committee of the National Assembly on Lands are in flagrant violation of the tenor, letter, spirit and intent of the Constitution of Kenya in particular the powers of the National Land Commission.

7. The actions by the Departmental Committee of the National Assembly on Lands tarnish, trivialize and undermine the Constitution of Kenya and are unconstitutional and null and void *ab initio*.

8. The actions of the Departmental Committee of Lands violate the Petitioner's Right to Property and Fair Administrative Action under articles 40 and 47 of the

Constitution and are also in breach of the Applicant's Legitimate Expectation to the free enjoyment of the suit property in question.

9. It is therefore imperative that this Honourable court makes conservatory and restraining orders of injunction to stop the actions of the Departmental Committee of Lands which are in flagrant violation of the Constitution and the rights and fundamental freedoms guaranteed to the Petitioner under the Constitution.

10. If no such orders are made the Petition herein will be rendered nugatory.

THIS APPLICATION is based upon the grounds aforesaid, the affidavit of **HASMUKH PATEL** sworn on behalf of the applicant herein and/or such further grounds and reasons to be adduced at the hearing hereof.

DATED at **NAIROBI** this 20th day of April 2015

OGETTO OTACHI & COMPANY
ADVOCATES FOR THE PETITIONER/APPLICANT

DRAWN & FILED BY:-
Ogetto, Otachi & Company
Advocates
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NAIROBI

The Hon. Attorney-General
The Attorney-General's Chambers,
State Law Offices,
Sheria House,
P. O. Box 40112,
NAIROBI

Note: "If any party served does not appear at the time and place above-mentioned such order will be made and proceedings taken as the court may think just and expedient."

30 APR 2015

REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

PETITION NO. OF 2015

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF KENYA, ARTICLES NOS. 2, 3, 10, 22 (1), 27, 40, 47, 48, 60, 67, 93 (2), 159, 160, 162, 249, 258, 259, OF THE CONSTITUTION

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AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND PROTECTION OF RIGHT TO PROPERTY AND LAND

BETWEEN

MOMBASA CEMENT LIMITED ..... PETITIONER

VERSUS

THE SPEAKER, NATIONAL ASSEMBLY.....1ST RESPONDENT

THE HONOURABLE ATTORNEY GENERAL .....2ND RESPONDENT

AFFIDAVIT IN SUPPORT OF THE NOTICE OF MOTION

I, **HASMUKH PATEL**, a resident of Mombasa and of Post Office Box Number 83594 – 80100 Mombasa, do hereby make solemn oath and state as follows:

1. **THAT** I am a Director of the Petitioner and, being well aware of the pertinent issues involved in this suit, I am duly authorised by the Petitioner's Board of Directors and hence competent to swear this affidavit on behalf of the Petitioner.

2. **THAT** on the basis of the agreement to sale dated 17th February 2004 entered into with Vipingo Estate Limited in Respect of Land Ref Number 291/2 and a sub division of L.R 3545/2 Section III Mainland North, Vipingo Estate Limited agreed to sale the right and interest to the said properties for the agreed consideration therein. ***(Annexed hereto and marked "HP1" is a copy of the agreement)***

3. **THAT** on 1st March 2005, the Petitioner and Vipingo Estate Limited executed a Transfer of Lease in respect of the Land and buildings comprised in Subdivision No. 4391 (Original No. 3545/2/1) of Section III MN measuring approximately four nine nine decimal nought (499.0) or thereabouts whereby the right title and interest in the said property was transferred to the Petitioner/ Applicant. ***(Annexed hereto and marked "HP2" is a copy of the Transfer of Lease)***

4. **THAT** similarly, Vipingo Estates Limited and Mombasa Cement Limited executed a Transfer of Land in respect of Subdivision No. 291/2 of Section III MN Mombasa measuring approximately one seven three decimal seven (173.7) or thereabouts whereby the right title and interest in the said property was transferred to the Petitioner/ Applicant. ***(Annexed hereto and marked "HP3" is a copy of the Transfer of Land)***

5. **THAT** preceding the above executions, all the legal requirements were met. These included consent from the Land Control Board, Commissioner of Land

12. **THAT** the parcel of land MN/III/289 was subdivided into two (2) portions in 1920 with one of the portions allocated by the crown government to a private individual.

13. **THAT** in 1949, the remainder of MN/III/289 together with L.R No. MN/III/290 were allocated to Vipingo Estate Limited with the subsequent amalgamation of these parcels resulting in MN/III/3545. This land was later to be subdivided again into three portions namely, MN/III/4391, 4392 and 4393.

14. **THAT** thereafter, Parcel MN/III/4391 was transferred to the Petitioner by Vipingo Estates Limited on 9th March 2005.

15. **THAT** the Petitioner received a letter (though stated as addressed to Corrugated Group (Tororo Cement) Ref Number CF/1544/2 from the National Land Commission dated 16th December 2013 and titled *"Forceful Occupation of Local's Land – **Plot No. 289 & Plot No. 290**-MN/3"*. The letter stated that the Commission had received a complaint from the Bambani Kilio Group and since it was mandated by law to investigate such complaints, it had launched investigations into the matter. The letter requested the Petitioner to supply the Commission with ownership documents of the properties it occupies. ***(Annexed hereto and marked "HP10" is a copy of the said letter)***

16. **THAT** the Petitioner responded to the letter vide its letter dated 18th December 2013. It pointed out the error in the description in the address while strongly expressing its concern over the position adopted by the National Land Commission. The Petitioner pointed out that the land acquisition process was above board, a position which could be verified from all the concerned government officers on the ground. The Petitioner did also forward to the Commission, copies of the Title documents for the land which it occupies. ***(Annexed hereto and marked "HP11" is a copy of the Petitioner's letter of reply)***

17. **THAT** the National Land Commission thereafter corrected the error in the title of its letter to reflect the Petitioner as the addressee. ***(Annexed hereto and marked "HP12" is a copy of the amended letter)***

18. **THAT** on 21st February 2014, the Petitioner received a call from the National Land Commission informing it that there will be a meeting at Kilifi County Government Offices to discuss the matters contained in the Petitioner's letter of 18 December 2013. The meeting was held on 24th February 2014 and was chaired by the vice Chairperson of the Commission, Mrs. Abigael Mbagaya-Mukolwe

19. **THAT** a further letter was received from the Commission dated 5th March 2014 requesting for additional information in terms of *"I) Documents relating to the property purchased by the Petitioner from Vipingo Estates Limited, II) Copies of the original titles in relation to the consolidation of MN/III/ 4391 and the sub division of the same III) Any other necessary information"* ***(Annexed hereto and marked "HP13" is a copy of the said letter)***

20. **THAT** the Petitioner substantively responded to this request by a letter from its Firm of Advocates, Onyony & Company Advocates, dated 20th March 2014, setting out the history and the process leading up to the acquisition of the subject properties.

21. **THAT** this letter was followed by another letter dated 9th April 2014 requesting for additional documents to assist in the investigations and inquiry. This was further followed by a ground visit by the National Land Commission on 13th May 2014 ***(Annexed hereto and marked "HP14" are copies of both letters evidencing these facts)***

22. **THAT** on 13th August 2014, the Petitioner through the firm of Kanyi J. & Company Advocates made its submissions in regard to L.R No. MN/III/4391 and also 291/2 after an invitation by the National Land Commission through an

advert that appeared in the Standard Newspaper on 4th August 2014. The Petitioner reiterated that the land was properly acquired and it was the lawful owner. *(Annexed hereto and marked "HP15" is a copy of the submissions)*

23. **THAT** the investigations and final determination by the National Land Commission showed that the transfer of the land from Vipingo Estate Limited to the Petitioner met all the requirements in law and was a lawful transfer.

24. **THAT** by a letter dated 22nd September 2014, REF No. CF/1544/17 the National Land Commission wrote to the Petitioner confirming ownership of MN/III/291/2. *(Annexed hereto and marked "HP16" is a copy of the said letter)*

25. **THAT** by a further letter dated 8th January 2015 and titled "Land Parcels for Mombasa Cement Ltd. LR. Nos. MN/III/291/2 and MN/III/4391-Kilifi County", the National Land Commission through its Chairman Dr. Muhammad A. Swazuri wrote to the Governor of Kilifi County enclosing a report and documents relating to land parcels associated with the Petitioner in Kilifi County. It was the Commission's decision that after thorough scrutiny and analysis, it was clear that the subject parcels were properties of the Petitioner. *(Annexed hereto and marked "HP17" is a copy of the said letter)*

26. **THAT** various relevant bodies and departments have also issued their confirmation as to the legal ownership of the properties. *(Annexed hereto and marked "HP18" are copies of letters from the Director of Surveys and the Department of Lands)*

27. **THAT** I am advised by the Applicant's advocates on record which advice I verily believe to be true that the under the law, the registration of a person as a proprietor of land vests upon that person the absolute ownership of that land and that the rights of a proprietor of land acquired for valuable consideration is generally indefeasible.

The purported inquiry by the Departmental Committee of the National Assembly on Lands

28. **THAT** sometime in March 2015, the Applicant received a letter dated 11th March 2015 from the Clerk of the National Assembly inviting the Director of the Petitioner to appear before the Departmental Committee on Lands pursuant to the Committee's mandate to "investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House" under the guise of "shedding more light" on the subject pieces that it legally owns, that is, LR NO. MN/III289; 290, MN/III/291 and 4391/MN/II. ***(Annexed hereto and marked "HP19" is a copy of the said letter)***

29. **THAT** as shown above, these title numbers refer to different amalgamation and sub-divisions over portions of the same piece of land, part of which is owned and occupied by the Petitioner as MN/III/4391 and MN/III/291/2.

30. **THAT** it is this same land that was subject to inquiry, investigation and determination by the National Land Commission a few weeks prior to receipt of the said letter from the Clerk of the National Assembly inviting the Petitioner for another investigation and inquiry.

31. **THAT** I am informed by the Petitioner's advocates on record which information I verily believe to be true that under section 14 of the National Land Commission Act, the Commission is mandated with the exclusive mandate of reviewing all grants or dispositions of public land to establish their propriety or legality.

32. **THAT** I am advised by the Petitioner's advocates on record which advice I verily believe to be true that based on the provisions of section 14 above as read with Article 68(c) (v) of the Constitution, no other body apart from the National Land

Commission can purport to exercise such power of review of grants and dispositions of public land.

33. **THAT** I am further advised by the Petitioner's advocates on record which advice I verily believe to be true that once the Commission has exercised its powers under section 14 of the National Land Commission Act, then it is only this Honourable Court that has the power to review the decision.

34. **THAT** therefore, the Petitioner is at a loss as to why it was being required to undergo a review of matters which had already been determined by the relevant competent constitutional body just a few weeks prior.

35. **THAT** I am further advised by the Petitioner's advocates on record which advice I verily believe to be true that the Departmental Committee of the National Assembly on Lands cannot seek to review or sit in appeal over the decision of the National Lands Commission.

36. **THAT** while the Petitioner reluctantly sent representatives to the initial stated meeting, it sought legal advice on the issue and consequently filed the present petition seeking to defend the sanctity and integrity of the Constitution and to enforce the protection of its rights as granted by the constitution.

37. **THAT** meanwhile, by a further letter dated 31st March 2015, the Clerk of the National Assembly informed the Petitioner that the Departmental Committee of the National Assembly on Lands had resolved to invite the Managing Director of the Petitioner to personally appear before it in a follow up meeting to respond to what it termed as:

"outstanding land issues involving the company with a view of providing information on...

a) Searches done on the land during the last 10 years

b) *The total acreage of land owned by the company in Kilifi County and proof of ownership;*
c) *A comprehensive chronology of events with supporting documents regarding the ownership of the land that the land that the company is currently doing business in*
d) *Minutes of the Land Control Board which allocated the Company the land it is operating on*
e) *Provide records and documents relating to land parcels associated with Mombasa Cement Limited in Kilifi County*
f) *Provide cadastral map of the land owned by Mombasa Cement Company in Kilifi*

(Annexed hereto and marked "HP20" is a copy of the said letter)

38. **THAT** these were the exact issues determined by the National Land Commission.

39. **THAT** the Petitioner avers that it is being unlawfully targeted in advancement of political agendas at the expense of the Constitution and the law. Indeed on 16 April 2015, the Clerk to the National Assembly wrote to the Petitioner's Managing Director threatening him and expressing the Committee's annoyance because the Petitioner had involved lawyers in the matter. ***(Annexed hereto and marked "HP21" is a copy of the said letter)***

40. **THAT** even recently, a group of persons illegally entered upon the petitioner's land and demolished it perimeter wall, costing it a loss of at least KShs. 3,200,000. ***(Annexed hereto and marked "HP22" are copies of Topograhical Survey Report on MN/III/291/2 and 4391 dated 24th December 2014 and Photographic evidence of the damage)***

41. **THAT** I am advised by the Petitioner's advocates on record which advice I verily believe to be true that the Departmental Committee of the National Assembly on Lands misdirected itself in the present matter and therefor acted ultra vires, unconstitutional and illegal.

42. **THAT** I am further advised by the Petitioner's advocates on record, which advice I verily believe to be true that in light of the foregoing and also the grounds set out in the Notice of Motion herein, the continuation of the purported process in regard to the subject properties would be in flagrant violation of the Constitution and the rights and fundamental freedoms guaranteed to the petitioner under the Constitution.

43. **THAT** the Court ought to exercise its jurisdiction to review erroneous orders or actions to protect the Petitioner's rights by examining the said actions by the departmental committee and declaring them unconstitutional.

44. **THAT** I am further advised by the Petitioner's advocates on record which advice I verily believe to be true that the power delegated to the Departmental Committee of the National Assembly on Lands does not include the power to usurp the constitutional functions of the National Lands Commission, an independent commission.

45. THAT the matters stated herein are true to the best of my knowledge save as to facts based on information and belief sources and grounds whereof have been respectively specified.

SWORN by the said HASMUKH PATEL)

at MOMBASA this 30th day of April 2015)

BEFORE ME: EVANS ASUGA ONGICHO)
ADVOCATE &
COMMISSIONER FOR OATHS
P. O. Box 627 - 00100, NAIROBI.

COMMISSIONER FOR OATHS)

DEPONENT

DRAWN & FILED BY:-
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REPUBLIC OF KENYA

IN THE ENVIRONMENT AND LAND COURT AT NAIROBI

PETITION NO. OF 2015

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF KENYA, ARTICLES NOS. 2, 3, 10, 22 (1), 27, 40, 47, 48, 60, 67, 93 (2), 159, 160, 162, 249, 258, 259, OF THE CONSTITUTION

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BETWEEN

MOMBASA CEMENT LIMITED ..... PETITIONER

VERSUS

THE SPEAKER, NATIONAL ASSEMBLY.....1ST RESPONDENT

THE HONOURABLE ATTORNEY GENERAL .....2ND RESPONDENT

PETITION

To: The Environment and Land Court of Kenya
NAIROBI

The Humble Petition of the Petitioner, Mombasa Cement Limited states as follows:

PARTIES TO THE PETITION

1. Your humble Petitioner, Mombasa Cement Limited ("**the Petitioner**") is a limited liability company incorporated as such under the Companies Act, Chapter 486 Laws of Kenya having its registered offices at Mombasa in the Republic of Kenya. Its address for service for the purpose of these proceedings is care of **Ogetto, Otachi & Company Advocates, Ambassador Court, Block C, Door 6, Milimani Road, P.O. Box 79438 – 00200, Nairobi.** The Petitioner brings this Petition as:

   a) A person under an obligation to respect, uphold and defend the constitution within the meaning of article 3(1) of the Constitution.

   b) A person with a right to institute court proceedings claiming that a right or fundamental freedom in the Bill of Rights has been denied, violated or infringed, or is threatened within the meaning of article 22(1) of the Constitution.

   c) A person acting in his own interest within the meaning of article 22(2) of the Constitution.

   d) A person acting in the public interest to safeguard constitutionalism and the rule of law within the meaning of article 22(2)(c) of the Constitution.

2. The 1st Respondent is the Hon. Speaker of The National Assembly of Kenya. His address is care of The National Assembly, Parliament Buildings, Parliament Road, P. O. Box 41842 – 00100, Nairobi. *(Service should be effected through the Petitioner's advocate's office).* The 1st Respondent is joined to this Petition as:

a) A person under an obligation to respect, uphold and defend the constitution within the meaning of article 3(1) of the Constitution.

b) A person bound by the Bill of Rights within the meaning of article 20(1) of the Constitution.

3. The 2nd Respondent is the Hon. Attorney-General of The Republic of Kenya who by virtue of Article 156 of the Constitution of Kenya is the principal legal advisor to the Government of Kenya. His address is care of The Attorney-General's Chambers, State Law Offices, Sheria House, P. O. Box 40112, Nairobi. *(Service should be effected through the Petitioner's advocate's office).* The 2nd Respondent is joined to this Petition as:

a) The principle legal adviser to the Government;
b) The person who represents the national government in court or in any other legal proceedings to which the national government is a party
c) The person required by the constitution to promote, protect and uphold the rule of law and defend the public interest.

FACTS OF THE PETITION

4. On 1st March 2005, the Petitioner and Vipingo Estate Limited executed a Transfer of Lease and a Transfer of Sale respectively in respect of the Land and buildings comprised in Subdivision No. 4391 (Original No. 3545/2/1) of Section III MN measuring approximately four nine nine decimal nought (499.0) or thereabouts and Subdivision No. 291/2 of Section III MN Mombasa measuring approximately one seven three decimal seven (173.7) or thereabouts whereby the right title and interest in the said properties was transferred to the Petitioner/ Applicant.

5. That all the legal requirements were met and the transaction was therefore lawful

6. The transfer documents for the above properties were lodged for registration on 9th March 2005 at the coastal registry.

7. The history of the land parcel MN/III/4391 is traceable back to several sub divisions and consolidation of parcels of land under the original plot numbers which included ***L.R No. MN/III/289 and 290***. The parcel of land MN/III/289 was subdivided into two (2) portions in 1920 with one of the portions allocated by the crown government to a private individual. The remainder of MN/III/289 together with L.R No. MN/III/290 were allocated to Vipingo Estate Limited in 1949 with the subsequent amalgamation of these parcels resulting in MN/III/3545. This land was later to be subdivided again into three portions namely, MN/III/4391, 4392 and 4393 with Parcel MN/III/4391 later being transferred to the Petitioner by Vipingo Estates Limited on 9th March 2005.

8. On 16th December 2013, the Petitioner received a letter from the National Land Commission informing it that the Commission had received a complaint and since it was mandated by law to investigate such complaints, it had launched investigations into the matter.

9. The Petitioner responded to the letter vide its letter dated 18th December 2013. It pointed out that the land acquisition process was above board, a position which could be verified from all the concerned government officers on the ground. The Petitioner did also forward to the Commission, copies of the Title documents for the land which it occupies.

10. Subsequent meetings were held and various correspondence exchanged. By a letter dated 22nd September 2014, REF No. CF/1544/17 the National Land Commission wrote to the Petitioner confirming ownership of MN/III/291/2.

11. Similarly, by a further letter dated 8th January 2015 and titled "Land Parcels for Mombasa Cement Ltd. LR. Nos. MN/III/291/2 and MN/III/4391-Kilifi County",

the National Land Commission through its Chairman Dr. Muhammad A. Swazuri wrote to the Governor of Kilifi County enclosing a report and documents relating to land parcels associated with the Petitioner in Kilifi County. It was the Commission's decision that after thorough scrutiny and analysis, it was clear that the subject parcels were properties of the Petitioner.

12. Sometime in March 2015, the Applicant received a letter dated 11th March 2015 from the Clerk of the National Assembly inviting the Director of the Petitioner to appear before the Departmental Committee on Lands pursuant to the Committee's mandate to "investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House" under the guise of "shedding more light" on the subject pieces that it legally owns, that is, LR NO. MN/III/289; 290, MN/III/291 and 4391/MN/II.

13. These are the same properties for which the Commission has just finalised its investigations and delivered its determination.

14. The Petitioner is at a loss as to why it was being required to undergo a review of matters which had already been determined by the relevant competent constitutional body just a few weeks prior.

15. Meanwhile, by a further letter dated 31st March 2015, the Clerk of the National Assembly informed the Petitioner that the Departmental Committee of the National Assembly on Lands had resolved to invite the Managing Director of the Petitioner to personally appear before it in a follow up meeting over the same matter already adjudicated upon the National Land Commission.

16. The purported exercise of powers by the Departmental Committee on Lands is misconceived, misguided, violates the Petitioner's rights and is consequently unconstitutional.

17. The circumstances of this case show that the actions of the Departmental Committee are driven by motives other than the execution of the legal oversight obligation for the benefit of the people within the constitutional limits.

THE GROUNDS RELIED UPON AND THE PROVISIONS OF THE LAW VIOLATED BY THE RESPONDENTS

18. That the Constitution of Kenya is the Supreme Law of the Land and Parliament cannot make law or perform any act which is not sanctioned by the constitution.

19. Article 2 (4) of the Constitution provides that any law, that is inconsistent with the Constitution is void and any act or omission in contravention of the Constitution is invalid.

Ultra Vires Acts and Independence of the National Land Commission

20. The enactment of the new Constitution of Kenya 2010, established the National Land Commission under Article 67 of the Constitution and gave it the sole authority to:

> *(a) to manage public land on behalf of the national and county governments;*
> *(b) to recommend a national land policy to the national government;*
> *(c) to advise the national government on a comprehensive programme for the registration of title in land throughout Kenya;*
> *(d) to conduct research related to land and the use of natural resources, and make recommendations to appropriate authorities;*
> ***(e) to initiate investigations, on its own initiative or on a complaint, into present or historical land injustices, and recommend appropriate redress;***
> *(f) to encourage the application of traditional dispute resolution mechanisms in land conflicts;*

(g) to assess tax on land and premiums on immovable property in any area designated by law; and

(h) to monitor and have oversight responsibilities over land use planning throughout the country.

21. As one of the independent constitutional commissions under Article 248, the National Land Commission is subject only to the Constitution and the law in accordance with the provisions of Article 249(2) and not subject to the direction or control of any party or authority.

22. Pursuant to Article 68 of the Constitution, the Parliament enacted the National Land Commission Act, Chapter 5D of the Laws of Kenya "to make further provision as to the functions and powers of the National Land Commission, qualifications and procedures for appointments to the Commission; to give effect to the objects and principles of devolved government in land management and administration, and for connected purposes."

23. The functions of the National Land Commission as set out in Article 67 are clear and were repeated in Section 5 the National Land Commission Act.

24. Further, Section 14 of the National Land Commission Act grants the National Land Commission power to review all grants and dispositions of public land to establish their propriety or legality and thereafter make a determination.

25. The Departmental Committee of the National Assembly on Lands therefore has no constitutional or legal mandate to take over or purport to undertake actions and powers which are within the exclusive mandate of the National Land Commission.

26. For that reason, by purporting to undertake a function constitutionally reserved for the National Land Commission in defiance of this constitutional decree and under the guise of "investigating and inquiring into all matters relating to the assigned

Ministries and departments" the Departmental Committee acted in violation of the Constitution.

27. Further, by purporting to review a matter which had just been concluded and determined by an independent constitutional commission, the Departmental Committee will effectively be sitting on appeal over the decision of the National Land Commission.

28. Such action of the Departmental Committee of Lands is unconstitutional and null and void *ab initio* because the Departmental Committee has no power to sit on appeal over the decision of the National Land Commission. Further, any such attempt also amounts to usurping the supervisory jurisdiction of the court over any person, body or authority exercising a judicial or quasi-judicial function as set out under Article 165 (6) of the Constitution.

29. Effectively, this amounts to direction and control by the Departmental Committee over the National Land Commission in the lawful discharge of its mandate contrary to Article 249 of the Constitution.

30. Such an "investigation" as purported by the Departmental Committee are a charade and a mockery of the new Constitutional dispensation.

31. The above actions render the alleged proceedings before the Departmental Committee a non-starter, incompetent, illegal and an unconstitutional attempt by the Departmental Committee of the Lands to usurp the powers exclusively vested in the National Land Commission by the Constitution.

32. The provisions of the Standing Orders which were used by the Departmental Committee to try and justify its unconstitutional acts are also irrelevant and unconstitutional to the extent that they cannot interfere with the independence and powers of constitutional bodies or override the Constitution.

33. For all purpose of intents therefore, all actions that have been taken thereon by the Departmental Committee on Lands on the matters in issue herein that are constitutionally reserved for the National Land Commission are misguided, unconstitutional and therefore null and void.

34. The Hon. Speaker of the National Assembly has failed, refused and/or neglected to perform his constitutional responsibility of giving constitutional guidance to the house and has permitted Departmental Committee on Lands to undertake an illegal exercise in gross violation of the Constitution.

35. The cumulative effect of the above action of the Departmental Committee overstepping its mandate as prescribed within the enabling Articles of the Constitution is that the Petitioner's rights have been violated as further stated below.

Violation of the Right to Property

36. The Petitioner has the right of ownership of the subject land and the protection of that right of ownership under Article 40 of the Constitution.

37. The Petitioner has a right to peaceful and quiet possession of the subject properties. The Departmental Committee has no right or power to interfere with the Plaintiff's quiet possession or ownership or proceed as they purport given the sanctity of title secured in the applicable land laws including under Article 40 of the Constitution.

38. As a result, the Petitioner avers that its right to property and secure protection of the law were violated and risk being further violated.

Breach of the Right to Fair Administrative Actions

39. Article 47 of the Constitution provides for the Right to fair administrative action.

40. This right is upheld only when such administrative actions are carried out procedurally, through due process and in respect to the rules of the law.

41. By attempting to exercise administrative powers which do not vest in it, the Departmental Committee is in violation of Article 47 which guarantees to everyone the right to fair administrative action.

Breach of Legitimate Expectation

42. The Petitioner has a legitimate expectation to the free enjoyment of the suit property in question, its rights therein having been lawfully acquired and approved by the National Land Commission

43. The Petitioner states that the actions of the Departmental Committee are violation of its right to legitimate expectation.

Violation of Right to Title

44. Section 24 (a) of the Land Registration Act, 2012 provides that the registration of a person as a proprietor of land vests upon that person the absolute ownership of that land together with all rights and privileges belonging or appurtenant thereto; and that the rights of a proprietor of land acquired for valuable consideration is indefeasible except as provided for under the Act.

45. Section 24 (b) of the Land Registration Act, 2012 further provides that the registration of a person as the proprietor of a lease shall vest in that person the leasehold interest described in the lease, together with all implied and expressed rights and privileges belonging or appurtenant thereto and subject to all implied or expressed agreements, liabilities or incidents of the lease.

46. Section 23 of the repealed Registration of Titles Act also set out similar provisions.

47. By the Departmental Committee seeking to meddle and interfere with the Title of the Petitioner in a manner not recognized in law, the Petitioner's right to was/ is violated.

THE INJURIES SUFFERED AND TO BE SUFFERED

If the stated actions are not immediately halted and/or reversed there is the real and imminent danger that:

48. The Departmental Committee will proceed with its actions in flagrant violation of the Constitution; and the rights and fundamental freedoms guaranteed to the Petitioner under the Constitution

49. The immense investments expended by the Petitioner in exercise of its right of ownership have been negatively impacted and are at risk owing to the failure by the Departmental Committee on Lands and the Respondents to adhere to clearly laid down provisions of the law.

50. Foreign investor confidence will be eroded owing to the unconstitutional and cavalier manner in which the Departmental Committee and Respondents have sought to interfere with the lawful activities of the Petitioner.

51. The actions of the Departmental Committee on Lands interfering with the developmental milestones of the National Land Commission as an independent Constitutional commission which will result in claw-backs on constitutional provisions.

JURISDICTION

52. The Petitioner avers that this Honourable Court - under Article 162 (2) of the Constitution of Kenya - is vested with the jurisdiction to hear and determine, any question or matter where it is alleged that any law, decision or the exercise of

authority touching on the environment and the use and occupation of, and title to, land is inconsistent or in contravention with the Constitution.

53. That the Departmental Committee of the National Assembly on Lands is subject to the supervisory jurisdiction of the Court when exercising quasi-judicial powers.

54. Section 13 of the Environmental and Land Court Act sets out the jurisdiction of the Court which includes power to hear and determine disputes relating to public, private and community land and contracts, choses in action or other instruments granting any enforceable interests in land; and any other dispute relating to environment and land.

55. The Petitioner pleads that by virtue of the all the foregoing there is disclosed a cause of action within the jurisdiction of this Honourable Court.

56. There are no other proceedings in respect of the subject matter hereof between the Petitioner and the Respondents in this Honourable Court or in any other court.

REASONS WHEREFORE the Petitioner prays for:-

a. *A declaration that the National Land Commission as a Constitutional commission is not subject to the control or direction of the National Assembly or any of its Departmental Committees established under the Standing Orders in the lawful discharge of its Constitutional mandate under Article 67 of the Constitution particularly when dealing with all those properties known as LR.NO. MN/III/291/2 and MN/III/4391*

a. *A declaration that the attempt by the Departmental Committee of the National Assembly on Lands seeking to curtail, undermine and/or deprive the National Land Commission of its Constitutional powers and mandate and also sit on appeal on the decisions of the National Land Commission with regard to all*

those properties known as LR.NO. MN/III/291/2 and MN/III/4391 is a violation of the Constitution.

b. *A Declaration that the acts of the departmental committee purporting to investigate and inquire on a matter constitutionally placed under the National Land Commission issue is ultra vires their powers under the Constitution and therefore unconstitutional thus null and void.*

c. *A Declaration that the action by the Departmental Committee of the national assembly purporting to investigate and inquire into LR.NO. MN/III/291/2 and MN/III/4391, a matter determined by the National Land Commission, violates Articles 67 of the Constitution and the National Land Commission Act.*

d. *An Order restraining the proceedings at the Departmental Committee of the National Assembly on Lands from summoning the petitioner for purposes of conducting any proceedings whatsoever and howsoever concerning LR.NO. MN/III/291/2 and MN/III/4391 so far those matters fall within the exclusive constitutional purview of the National Land Commission.*

e. *A declaration that the decision and or acts of the Departmental Committee of the National Assembly on Lands from summoning the petitioner for purposes of conducting any proceedings whatsoever and howsoever concerning LR.NO. MN/III/291/2 and MN/III/4391 so far those matters have conclusively been determined by the National Land Commission is a violation of the Petitioner's right to fair administrative action protected by article 47 of the Constitution.*

f. *A declaration that the act and/or decision of the Departmental Committee of the National Assembly on Lands from summoning the petitioner for purposes of conducting any proceedings whatsoever and howsoever concerning LR.NO. MN/III/291/2 and MN/III/4391 so far those matters have conclusively been determined by the National Land Commission outside the appeal procedures*

provided for under the National Land Commission Act is a violation of the Petitioner's right to equality before the law and the secure protection of the law protected by article 27 of the Constitution.

g. *That the Respondents be condemned to pay the costs of this Petition/Application;*

h. *Any other relief this Court may deem just and fit to grant.*

DATED at **NAIROBI** this ....30th.....day of.....April..... 2015

OGETTO, OTACHI & COMPANY
ADVOCATES FOR THE PETITIONER

DRAWN & FILED BY:-
Ogetto, Otachi & Company
Advocates
Ambassador Court, Block C, Door 6
Milimani Road
P.O. Box 79438 – 00200,
NAIROBI
Email: Info@law-consults.org

TO BE SERVED UPON:-
The Speaker
National Assembly
Parliament Building
Parliament Road
P. O. Box 41842 – 00100,
NAIROBI

The Hon. Attorney-General
The Attorney-General's Chambers,
State Law Offices,
Sheria House,
P. O. Box 40112,
NAIROBI

REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT NAIROBI
PETITION NO. OF 2015

IN THE MATTER OF THE CONSTITUTION OF THE REPUBLIC OF KENYA, ARTICLES NOS. 2, 3, 10, 22 (1), 27, 40, 47, 48, 60, 67, 93 (2), 159, 160, 162, 249, 258, 259, OF THE CONSTITUTION

AND

IN THE MATTER OF THE ENVIRONMENT AND LAND COURT ACT (CHAPTER 12A LAWS OF KENYA)

AND

THE MATTER OF THE NATIONAL LAND COMMISSION ACT, 2012 (ACT NO. 5 OF 2012)

AND

THE MATTER OF THE LAND ACT, 2012 (ACT NO. 6 OF 2012)

AND

IN THE MATTER OF THE INDEPENDENCE OF THE NATIONAL LAND COMMISSION

AND

IN THE MATTER OF: THE CONSTITUTION OF KENYA (PROTECTION OF RIGHTS AND FUNDAMENTAL FREEDOMS) PRACTICE AND PROCEDURE RULES, 2013

AND

IN THE MATTER OF ALLEGED CONTRAVENTION OF FUNDAMENTAL RIGHTS AND PROTECTION OF RIGHT TO PROPERTY AND LAND

BETWEEN

MOMBASA CEMENT LIMITED ..... PETITIONER

VERSUS

THE SPEAKER, NATIONAL ASSEMBLY.....1ST RESPONDENT

THE HONOURABLE ATTORNEY GENERAL .....2ND RESPONDENT

AFFIDAVIT IN SUPPORT OF THE PETITION

I, **HASMUKH PATEL**, a resident of Mombasa and of Post Office Box Number 83594 – 80100 Mombasa, do hereby make solemn oath and state as follows:

1. **THAT** I am a Director of the Petitioner and, being well aware of the pertinent issues involved in this suit, I am duly authorised by the Petitioner's Board of Directors and hence competent to swear this affidavit on behalf of the Petitioner.

2. **THAT** in support of the Petition herein, I wholly rely on and adopt the contents of my affidavit sworn in support of the Notice of Motion accompanying the Petition herein.

3. **THAT** the matters stated herein are true to the best of my knowledge save as to facts based on information and belief sources and grounds whereof have been respectively specified.

SWORN by the said **HASMUKH PATEL**)

at **MOMBASA** this 30th day of April 2015) _____

BEFORE ME:) **DEPONENT**

EVANS ASINGA ONGICHO
ADVOCATE &
COMMISSIONER FOR OATHS
P. O. Box 6279 - 00100, NAIROBI.

COMMISSIONER FOR OATHS)

DRAWN & FILED BY:-
Ogetto, Otachi & Company
Advocates
Ambassador Court, Block C, Door 6
Milimani Road
P.O. Box 79438 – 00200,
NAIROBI
Email: Info@law-consults.org

TO BE SERVED UPON:-
The Speaker

National Assembly
Parliament Building
Parliament Road
P. O. Box 41842 – 00100,
Nairobi.

The Hon. Attorney-General
The Attorney-General's Chambers,
State Law Offices,
Sheria House,
P. O. Box 40112,
Nairobi.

Appendix 13

NATIONAL LAND COMMISSION

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Telegrams: "MINILANDS", Nairobi
Telephone: Nairobi 2718050
When replying please quote

Ref: NLC/CHAIRMAN/VOL.VIII/73

Date: 8th January, 2015

Governor
KILIFI COUNTY

LAND PARCELS FOR MOMBASA CEMENT LTD: LR.NOS.MN/III/291/2 AND MN/111/4391 – KILIFI COUNTY

Greetings for the New Year from National Land Commission.

Enclosed is a report and documents relating to land parcels associated with Mombasa Cement Limited in your County.

After thorough scrutiny and analysis of the same, it would appear that subject parcels are properties of the said company. The National Land Commission humbly suggests that the County Government of Kilifi explores the possibility of an alternative parcel nearby in order to settle squatters who continue to demand for settlement. The National Land Commission is ready and willing to cooperate with your Government in order to achieve that mission.

Thank you.

MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

c.c.

Vice Chair - Incharge Kilifi County

Director Land Administration (NLC)

County Commissioner
KILIFI COUNTY

Managing Director
Mombasa Cement Ltd
P. O. Box 90394
MOMBASA

Appendix 14

ISSUES REGARDING MOMBASA CEMENT

1. Hon. Gideon Mung'aro, M.P is a Member of the Departmental Committee on Lands and having received various complaints related to land in his Constituency wrote to the Committee in various dates in 2014 inviting the Committee to visit his Constituency with a view to interrogate the Land matters (Attached are various Letters of invitation);
2. During its visit the Departmental Committee on Lands visited various areas which had outstanding Land issues in Kilifi North the areas included but not limited to Mtaani, kisumu Ndogo, Kibaoni ExtensionGTZ, plot nos. Block 4236/14, 5023, Plot no. 11 plot no. L.R NO. MN/III/289, MN/III/290, L.R NO. MN/III/3545 MN/III/291; among others;
3. There are various correspondences from the National Lands Commission originating from the Chairman and the vice Chairperson's office which are contradictory regarding the ownership of the Land in question;
4. There was irregular transfer of officers dealing with the matter within the Commission leading to suspicion and unprofessionalism;
5. There has never sat a Commission Meeting which approved that the Land being used by Mombasa Cement legally belongs to the Company;
6. Vide a letter to the Governor Kilifi County ref. NLC/Chairman/Vol/VIII/73 dated 8th January 2015 the Chairman of the Commission informs the Governor that the Plots L.R. Nos. MN/III/291/2 and MN/III/4391 belongs to Mombasa Cement; in its oversight role to the Commission the Committee resolved to query how the Chairman arrived at this conclusion in view of the following listed hereunder:
    a. There is evidence to show that Mombasa Cement is occupying and using Plot No. 290, which belongs to the residents of Kilifi; A fact, which the Committee is investigating how the Company acquired the land.
    b. The Committee is inquiring into how Mombasa Cement acquired plot no. MN/III/4391 currently held and being used for commercial purposes which is the same as L.R No. 290/MN/III; ***(Annex; Letter ref CG/KFI/LND/HSG/NLC/1/48 dated 2nd December 2014, and Letter Ref. CF/1544/17 dated 30th October, 2014)***
    c. Mombasa Cement encroached on L.R NO. MN/III/289 and MN/III/290; and further how a sub-division of L.R NO. MN/III/291 was done to create L.R NO. MN/III/291/2; which increased the acreage of L.R NO. MN/III/291 and overlapped onto L.R. NO. MN/III/289 and LR. NO. MN/II/290 **(Annex; Letter Ref 134678 dated 30th January 2014 by the NLC).**
    d. Why MN/III/290 and MN/III/289/R (Previously Crown Land) was consolidated to create MN/III/3545 which was subsequently sub-divided into three (3) portions namely MN/III/4391; MN/III/4392;

MN/III/4393 and later in March 2005, MN/III/4391 was transferred to Mombasa Cement; the concern is what happened to 4392 and 4393.

e. The Committee is investigating how 290/MN/III became to be L.R No. 4391/MN/III and came to be owned by Mombasa Cement.
f. The acreage held by Mombasa cement is approximately 1129 acres (LR 4391)
g. To explain the procedure used to subdivide MN/III/289 so as to create MN/III/289/1 and MN/III/289/R, and provide necessary approvals for the same;
h. To explain the procedure used to amalgamate MN/III/289 and MN/III/290 to create MN/III/3545, and provide necessary approvals for the same;
i. To explain the procedure used to consolidate MN/III/290 with MN/III/289/1 to create MN/III/3545, and provide necessary approvals for the same;
j. To provide the CR No and the Grant No. for the MN/III/3545;
k. To provide the Sketch map and the deed plan for MN/III/3545;
l. All relevant approvals from the Commissioner of Lands for the amalgamations and subdivisions, together with their plans;
m. To provide an official letter from the Survey of Kenya confirming that there was no development plan for the said land;

NATIONAL LAND COMMISSION
Our Land, Our Wealth, Our Heritage

VICE – CHAIR'S OFFICE

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: CF/1544/(19)

Date: **13th April, 2015**

The Clerk to the National Assembly
Parliament Buildings
NAIROBI

NATIONAL ASSEMBLY
RECEIVED
CLERK'S OFFICE
P. O. BOX 41842, NAIROBI

Dear Sir,

RE: MOMBASA CEMENT - KILIFI

The above matter refers.

I appeared before the Parliamentary Committee on Land and Environment on 9th April, 2015 to make a presentation on Mombasa Cement. I was requested to provide some information on the same and hereby attach the following documents for your information.

1. Copy of certificate of Title for subdivision number 4392 (original number 3545/2/2 Section III Mainland North.)
2. Copy of lease for L.R. No. MN/III/3545
3. Copy of certificate of title for subdivision number 4393 (original number 4392 and 3544/2 – Section III Mainland North.)
4. Copy of certificate of title for subdivision 4391 (original number 3545/2/1 Section III Mainland North.)
5. Agreement for sale between Vipingo Estate Limited and Kanji Premji – Patel for L.R. NO. 291/2 and a subdivision of L.R. & 3545/2 Section III Mainland North.
6. Transfer of land Document – Vipingo Estate Limited to Mombasa Cement Limited Subdivision NO. 291/2 of Section III MN Mombasa.

7. A copy of a letter from the County Survey Office – on L.R. No. MN/III/290 and L.R. No. MN/III/291.

Kindly acknowledge receipt.

Yours faithfully,

ABIGAEL MBAGAYA MUKOLWE (MRS.)
VICE - CHAIRPERSON
NATIONAL LAND COMMISSION

NO 1.

NO. 9

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(*Chapter* 281)

CERTIFICATE OF TITLE

TITLE NUMBER ~~I.R.~~ C.R. 38222

TERM: 999 YEARS FROM 1/10/1949

ANNUAL RENT SHILLINGS

I HEREBY CERTIFY that VIPINGO ESTATES LIMITED a limited liability company havings (*Revisable*)

its registered office at P.O. Box 1 VIPINGO

of

in the Republic of Kenya pursuant to a ~~Transfer~~ Consolidation and subdivision of the premises comprised in Cer registered as Number ~~I.R.~~ 35659/2 and 35658/3 respectively is/are now registered proprietor(s) as Lessee(s)

from the Government of the Republic of Kenya for term of nine hundred ninety nine

years for the first day of October ~~Two~~ one thousand nine hundred

and fourty ine of ALL that piece of land situate Mombasa Municipality

in the Mombasa District containing by measurement one six five decimal one

~~hectares/acres (less road reserve of~~ (165.1)

hectares/~~acres~~) or thereabouts and being ~~Land Reference~~ Subdivision Number 4392

(Original Number 3545/2/2) Section III Mainland North)

as delineated on Land Survey Plan Number 254190

annexed ~~to the said Transfer~~ hereto

SUBJECT however to the revisable annual rent of Shillings

and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this First

day of September Two thousand and four

Registrar of Titles

MEMORANDUM

(1) The Government Lands Act (Chapter 280).
(2) The Special Conditions contained in a Grant registered as Number ~~I.R.~~ 30669/1 & 35658/1

GPK 6613—10m—11/2000 3) The Grant of Easement registered as No. C.R. 35658/2

LAND TITLES REGISTRY—MOMBASA, KENYA.
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 38222/I
Presented 1ST SEPTEMBER 2004
Date 9:30 AM
Registrar of Titles

REPUBLIC OF KENYA

DISTRICT OF *MOMBASA*

Locality *Mombasa Municipality*

Reference Map *South A·39 V·IV·d* /

Bearings	°	′	″	Distance Metres
A-B	284	34	57	554·67
B-C	13	47	28	9·00
C-D	104	34	57	554·79
E-F	290	00	34	19·02
G-H	290	29	17	324·37

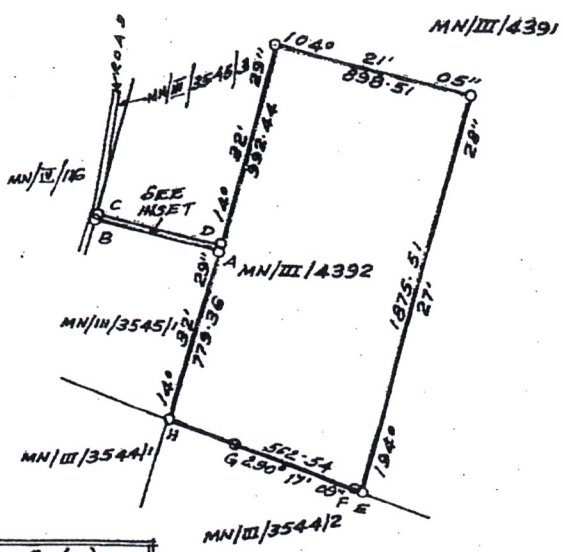
Land Reference No

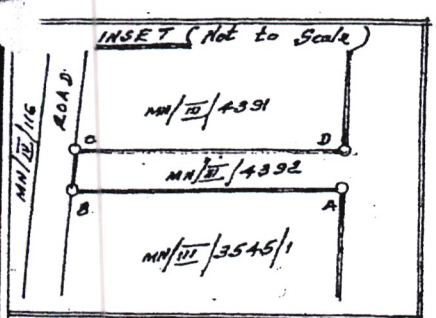
(Orig No.

Sub division No 4392 (Orig No. 3545/2/2)

of Section No. *III Mainland North*

Area = *165·68 Ha.* / *(Approx.)*





CR 38222

P.A. Zimmerlin
Licensed Surveyor.

for Director of Surveys

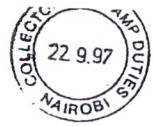
Nairobi 9TH July 2004

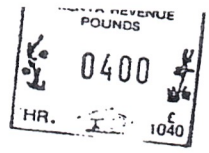
Traced by

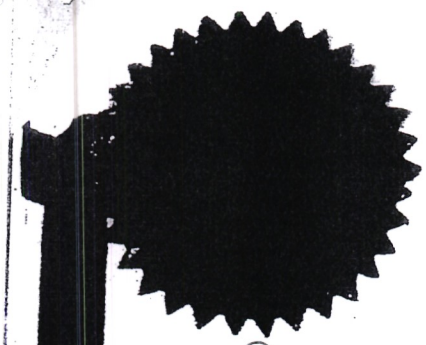
Compared by

Scale 1 in 25,000

DEED PLAN No. 254190







COLLECTOR OF STAMP DUTIES 22.9.97 NAIROBI

KENYA REVENUE POUNDS 0400 HR. £ 1040

NO. 2.

REPUBLIC OF KENYA

NO. 2

THE REGISTRATION OF TITLES ACT

(*Chapter* 281)

50/400
$18/9

GRANT NO.

ANNUAL RENT: Ksh.399,810/=

TERM: 999 years from 1.10.1949

KNOW ALL MEN BY THESE PRESENTS THAT THE PRESIDENT OF THE REPUBLIC OF KENYA hereby Grants Unto VIPINGO ESTATES LIMITED a limited liability Company having its registered office in Mombasa (Post Office Box Number 1 VIPINGO)

(hereinafter called "the Grantee") all that piece of land situate in South of Takaungu in KILIFI

District containing by measurement eight nought nine decimal nought (809.0)

hectare
~~xxxx~~ or thereabouts that is to say Land Reference Number MN/III/3545

which said piece of land with the dimensions abuttals and boundaries thereof is delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 214687 deposited in the Survey Records Office at Nairobi To HOLD for the term of nine hundred and ninety nine (999) years

from the first day of October One thousand nine hundred and forty nine
SUBJECT to (*a*) the payment in advance on the first day of January in each year of the annual rent of Shillings three hundred and ninety nine thousand eight hundred and ten (Ksh.399,810/=) (revisable) with effect from 1.9.1997
(*b*) the provisions of the Government Lands Act (Chapter 280)
(c) the following special conditions namely;-

GPK (L)

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality S. of Takaungu

Reference Map South. A.37 / V. IV. d.

Land Reference No.

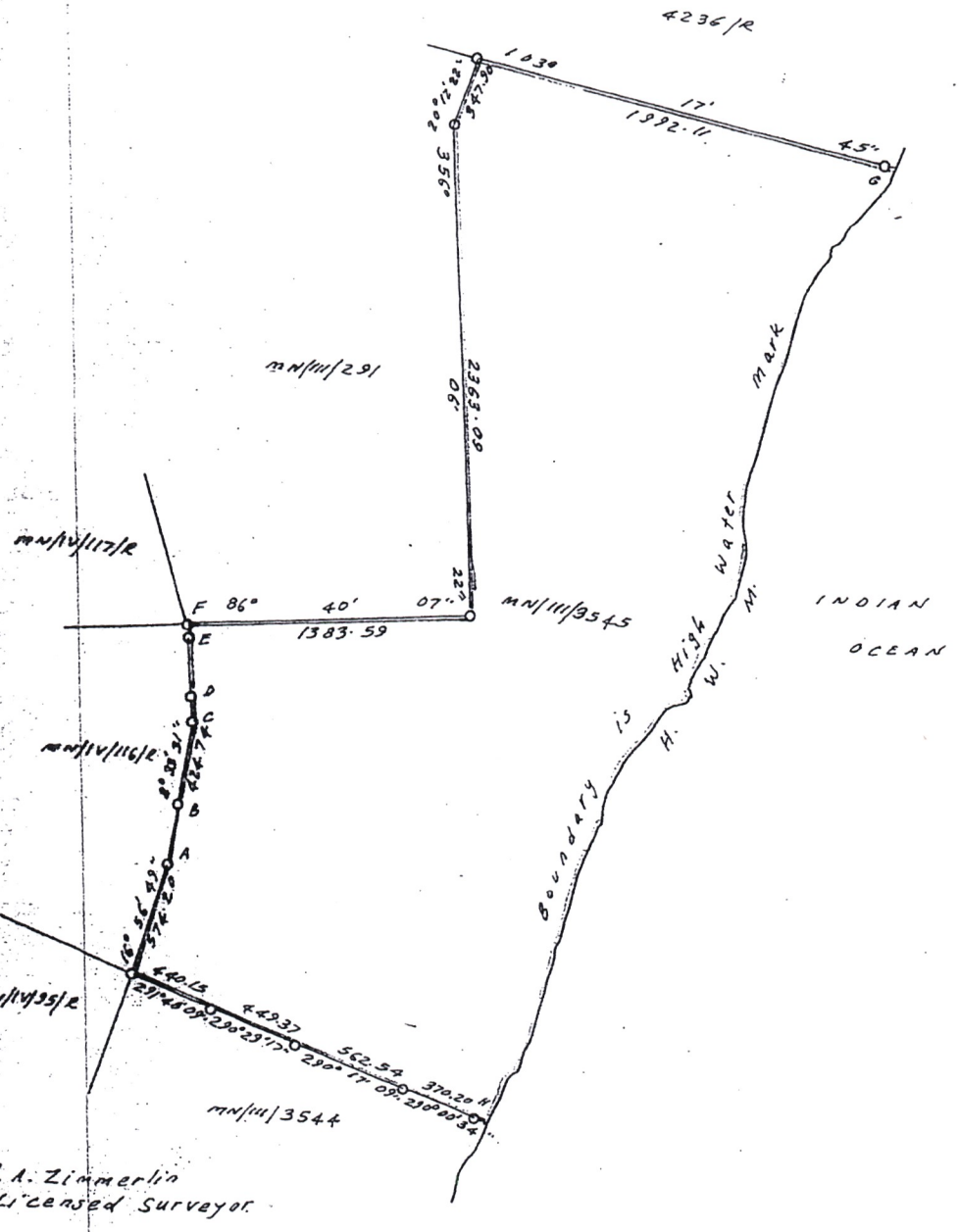
(Orig No.

Sub division No. 3545 (Orig No.

of Section No. III Mainland North

Area = 809.0 Ha. (Approx.)

Bearings °	'	"	Distances Metres
A–B	9	08	32	274·73
B–C	355	16	42	125·22
C–D	355	16	16	272·53
D–E	341	51	16	70·05
E–F	103	17	45	61 m.
F–Bdy H	290	00	34	61 m.



P. A. Zimmerlin
Licensed Surveyor

for Director of Surveys

Traced by

Compared by

Scale 1 in 25000

Nairobi 9TH SEPT. 1997

DEED PLAN No. 21687

IN WITNESS WHEREOF I WILSON GACANJA)
The Commissioner of Lands have by order)
of the President hereunto set my hand)
this 18TH day of SEPTEMBER)
One thousand nine hundred and ninety seven)
in the presence of:-)
)
)
)
)
)
)

REGISTRAR OF TITLES

No. 3

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(*Chapter* 281)

CERTIFICATE OF TITLE

TITLE NUMBER ~~I.R.~~ C.R. 38223

TERM: 999 YEARS FROM 1/10/1949

ANNUAL RENT SHILLINGS 136,617/= P.A. (REVISABLE)

(*Revisable*)

I HEREBY CERTIFY that VIPINGO ESTATES LIMITED a limited liability company having its registered office at 1 VIPINGO

of Consolidate & Subdiv. of the premises comprised in certificate of in the Republic of Kenya pursuant to a ~~Transfer~~ registered as Number ~~I.R.~~ C.R. 35658/3 and 35659/2 is/are now registered proprietor(s) as Lessee(s)

from the Government of the Republic of Kenya for term of nine hundred and ninety nine years for the first day of October ~~Two~~ one thousand nine hundred and fourty nine of ALL that piece of land situate Mombasa Municipality in the Mombasa District containing by measurement three two nine decimal three ~~hectares/acres (less road reserve of~~ (329.3) hectares hectares/~~acres~~) or thereabouts and being ~~Land Reference~~ Subdivision Number 4393 (Original Number 4392 & 3544/2) Section III Mainland North) as delineated on Land Survey Plan Number 254191 annexed ~~to the said Transfer~~ hereto

SUBJECT however to the revisable annual rent of Shillings one hundred threty six thousand six hundred and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this first day of September Two thousand and four

Registrar of Titles

MEMORANDUM

(1) The Government Lands Act (Chapter 280).
(2) The Special Conditions contained in a Grant registered as Number ~~I.R.~~ C.R. 30669/1 & 35658/1
3) Grant of Easement registered as NO. C.R. 35658/2

GPK 6613—10m—11/2000

LAND TITLES REGISTRY — MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 38223/1
Presented 1ST SEPTEMBER 2004
Date 9:30 AM
Registrar of Titles

REPUBLIC OF KENYA

DISTRICT OF *MOMBASA*

Locality *Mombasa Municipality*

Reference Map *South-A-37 / V. IV. d*

Land Reference No

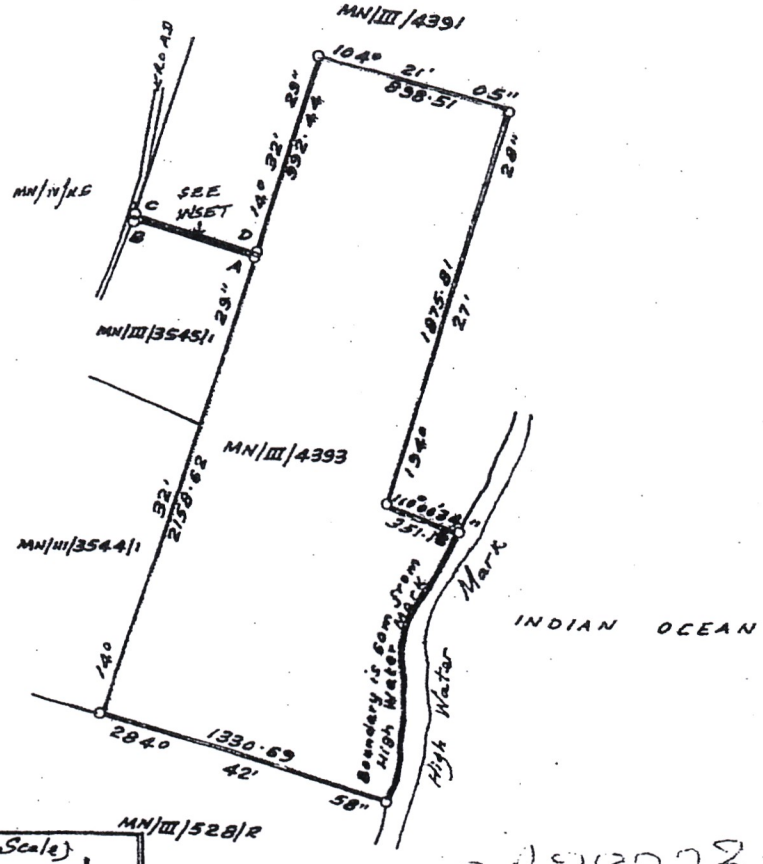
(Orig No.

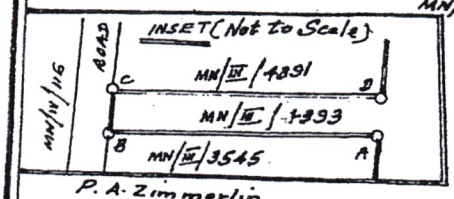
Sub division No *4393* (Orig No. *4392 & 3544/2*)

of Section No. *III Mainland North*

Area = *329.28* Ha. (Approx.)

Bearings				Distance Metres
	°	'	"	
A-B	284	34	57	554.67
B-C	13	47	28	9.00
C-D	104	34	57	554.79





P. A. Zimmerlin
Licensed Surveyor.

CR 35023

for Director of Surveys

Nairobi *9TH* July 2004

Traced by

Compared by

Scale 1 in *25,000*

DEED PLAN No. *254191*

No. 4

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(*Chapter* 281)

CERTIFICATE OF TITLE

TITLE NUMBER ~~L.R.~~ C.R. 38221

TERM: 999 YEARS FROM 1/10/1949

ANNUAL RENT SHILLINGS 205,500/= P.A. (REV) (*Revisable*)

I HEREBY CERTIFY that VIPINGO ESTATES LIMITED a limited liability company having its registered office at P.O. Box 1 VIPINGO

of Consolidation & Subdiv. of the premises comprised in Certificate of

in the Republic of Kenya pursuant to a ~~Transfer~~ registered as Number ~~L.R.~~ 35659/2 & 35658/3 respectively is/are now registered proprietor(s) as Lessee(s)

from the Government of the Republic of Kenya for term of nine hundred and ninety nine years for the first day of October ~~Two~~ one thousand nine hundred and fourty nine of ALL that piece of land situate Mombasa Municipality in the Mombasa District containing by measurement four hundred ninety nine decimal ~~hectares/acres (less road reserve of~~ nought (499.0) hectares/~~acres~~) or thereabouts and being ~~Land Reference~~ Subdivision Number 4391 (Original Number 3545/2/1) Section III Mainland North) as delineated on Land Survey Plan Number 254238 annexed to ~~the said Transfer~~ hereto

SUBJECT however to the revisable annual rent of Shillings two hundred and five thousand five hundred and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this first day of September Two thousand and four

Registrar of Titles

MEMORANDUM

(1) The Government Lands Act (Chapter 280).
(2) The Special Conditions contained in a Grant registered as Number ~~L.R.~~ C.R. 30669/1 & 35568/1
3) The Grant of Easement registered as No. C.R. 35658/2

GPK 6613—10m—11/2000

LAND TITLES REGISTRY—MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 38221/F
Presented 1ST SEPTEMBER 2004
at 9:30 AM
Registrar of Titles

REPUBLIC OF KENYA

DISTRICT OF MOMBASA

Locality Mombasa Municipality

Reference Map South. A. 37 / V. IV. d

Bearings	°	'	"	Distance Metres
A-B	290	00	34	351.18
C-D	284	34	57	554.79
D-E	13	47	28	1050.89

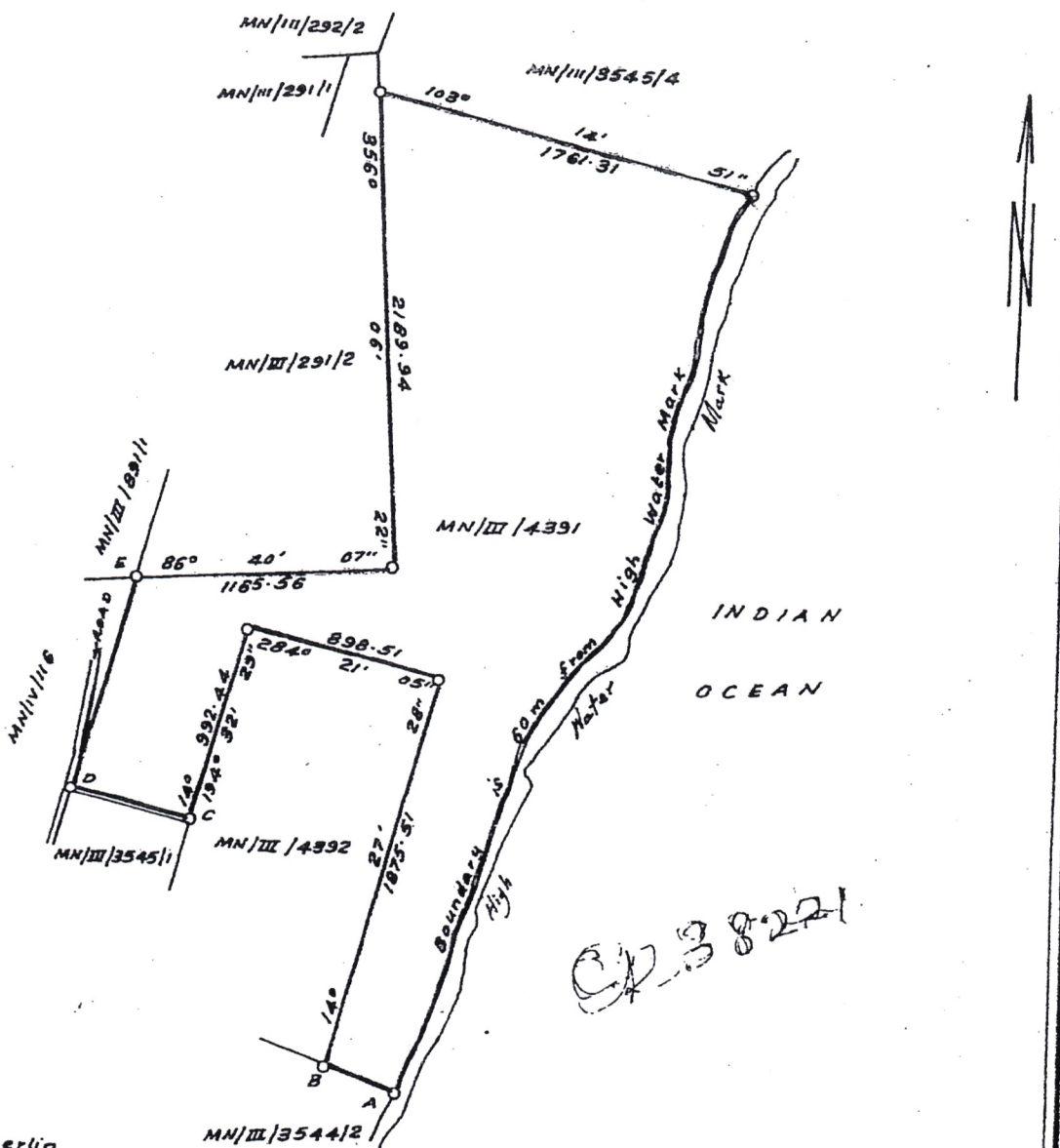
Land Reference No

(Orig No.

Sub division No 4391 (Orig No. 3545/2/1)

of Section No. III Mainland North

Area = 499.02 Ha. (Approx.)



CP 38221

P. A. Zimmerlin
Licensed Surveyor.

for Director of Surveys

Nairobi 9TH July 2004

DEED PLAN No. 254238

Traced by

Compared by

Scale 1 in 25,000

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(CHAPTER 281)

CERTIFICATE OF TITLE NUMBER C.R. 35659

ANNUAL RENT: K.SHS. 402,300/= (Revisable)
TERM: 999 YEARS FROM 1/10/1949

I HEREBY CERTIFY that **VIPINGO ESTATES LIMITED** a Limited Liability Company having its registered office at Post Office Box Number 1 Vipingo in the Republic of Kenya pursuant to a Subdivision registered as Number C.R. 30669/3 is registered as Lessee from the Government of Kenya for a term of Nine Hundred and Ninety Nine (999) years from the First day of October One Thousand Nine Hundred Forty Nine Subject to the payment of the Annual Rent of Four Hundred and TwoThousand Three Hundred Shillings (Revisable)(with effect from 11th May 2001) and to the Act Special Conditions Encumbrance and other matters specified in the Memorandum hereunder written of **ALL THAT** piece of land situated South of Takaungu in the Kilifi District containing by measurement Six Hundred and Sixty Four Decimal One (664.1) hectares or thereabouts being Land Reference Number 3545/2 of Section III Mainland North as delineated on Land Survey Plan Number 229518 annexed hereto.

IN WITNESS whereof I hereunto set my hand and seal this 15th day of May Two Thousand and Two.

.....
REGISTRAR OF TITLES

MEMORANDUM

1. The Government Lands Act (Chapter 280)
2. The Registration of Titles Act (Chapter 281)
3. The Special Conditions contained in the Grant Registered as C.R. 30669.

C.R. 35659/1
15th May 2002.
Time 10.00 Am.

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality South of Takaungu

Reference Map South A 37 / V IV d 1

Land Reference No

(Orig No. [redacted]

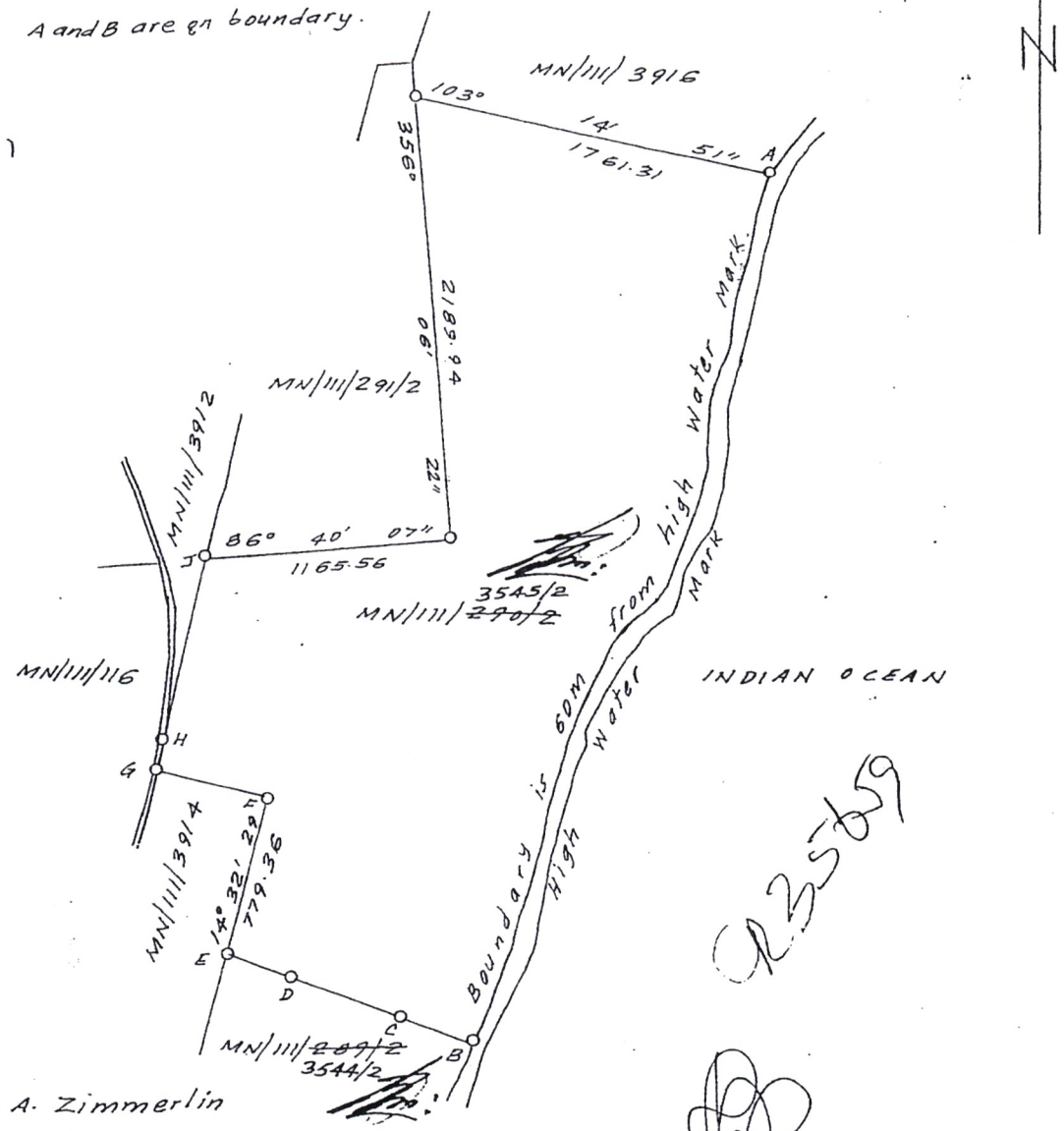
Sub division No ~~290/2~~ 3545/2 (Orig No.

of Section No. III Mainland North

Area = 664.1 Ha. (Approx)

Bearings °				Distance Metres
B-C	290	00	34	370.20
C-D	290	17	09	562.54
D-E	290	29	17	324.37
F-G	284	34	57	554.67
G-H	11	09	42	136.28
H-J	19	47	28	1059.90

A and B are on boundary.



P. A. Zimmerlin

Licenced Surveyor.

for Director of Surveys

Nairobi 28TH MARCH 2000

DEED PLAN No. 229518

Traced by

Compared by

Scale 1 in 25,000

NO. 5.

Dated the 17th day of February 2003

VIPINGO ESTATE LIMITED

and

KANJI PREMJI PATEL

AGREEMENT FOR SALE
in respect of Land Reference Number:
291/2 and a Subdivision of L.R. 3545/2
Section III Mainland North

Drawn by:
GHALIA & GHALIA
ADVOCATES
BANK OF INDIA BUILDING
NKURUMAH ROAD
P O BOX 90019
MOMBASA
(Ref: 2/V.920/2(B))

THIS AGREEMENT is made the 17th day of February 2004.

BETWEEN:

1. VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo (hereinafter called "the Vendor"); and

2. KANJI PREMJI PATEL of Post Office Box Number 83594, Mombasa (hereinafter called "the Purchaser").

IT IS AGREED AND DECLARED as follows:

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

(a) "Completion Date" means the date stipulated in or ascertained in accordance with the provisions of Condition 5.1 and being the date on which completion shall take place;

(b) "Deposit" means the sum of US Dollars One Hundred and Fifty Thousand (US$150,000.00);

(c) "Interest Rate" means 2% over one month's United States Dollars Libor interest per annum interest to be adjusted every month;

(d) "Incomings" means any rent receivable on the Property;

(e) "LSK Conditions" means the Law Society of Kenya Conditions of Sale (1989 Edition);

(f) "Outgoings" means Municipal or other local authority rates, ground rent or other leasehold rent;

(g) "Property" means:
Firstly: All that piece of land situated South of Takaungu in the Kilifi District and known as Subdivision Number 291/2 of Section III Mainland North comprising of 173.7 hectares ("the first Property"); and

Secondly: A portion being a subdivision comprising of 499.02 hectares being a portion of L.R. Number 3545/2 Section III Mainland North. The said subdivision marked "A" bordered in red as more particularly shown on the Plan attached thereto ("the second Property").

Both "the first Property" and "the second Property" collectively called "Property" and are more particularly described in the First Schedule hereto.

(h) "Purchase Price" means:

(a) The purchase price for the first property shall be United States Dollars One Hundred Seventy Five Thousand Nine Hundred Seventy Six (US$175;976.00).

(b) The purchase price for the second property which currently measures approximately 499.02 hectares will be United States Dollars Four Hundred and Ten (US$410.00) per acre which translates to United States Dollars Five Hundred Five Thousand Five Hundred Sixty Three (US$505,563.00). The exact price for this property shall be determined a least 7 days before the Completion Date after the Director of Surveys of Kenya has carried out the survey of the second property and has determined the exact area thereof;

(i) "Vendor's Advocates" means Ghalia & Ghalia, Advocates, Bank of India Building, Nkrumah Road, Post Office Box Number 90019, Mombasa - 80100; and

(j) "Purchaser's Advocates" means A.B. Patel & Patel, Advocates, Oriental Building, Nkrumah Road, Post Office Box Number 80274, Mombasa - 80100.

1.2 In this Agreement, unless the context otherwise requires, reference to:

(a) The "Vendor" includes the Vendor's successors in title and its permitted assigns and the "Purchaser" includes the Purchaser's nominee(s), personal representatives, heirs and assigns;

(b) Words importing the singular number only shall include the plural number also and vice versa and words importing the masculine gender includes the feminine gender and neuter and vice versa;

(c) Clauses, sub-clauses, Conditions and Sections shall be construed as references to clauses, sub-clauses, Conditions and Sections of this Agreement;

(d) The expression "person" shall include any legal or natural person, partnership, trust, company, joint venture, agency, government or local authority department or other body (whether corporate or un-incorporate);

(e) The expression "registration" means registration of the formal Instrument of Transfer in the Mombasa District Land Registry, in favour of the Purchaser;

(f) The word "taxes" shall be construed so as to include any tax, value added tax (VAT), levy, impost, assessment, duty or other charge of a similar nature (including without limitation, value added tax, stamp duty and any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) and "taxation" shall be construed accordingly and the expression "competent taxing authority" means, in respect of any state or administrative division thereof; any governmental or local authority, monetary agency or central bank having power to collect or levy taxes;

(g) Any statute or any provision of any statute shall be deemed to refer to any statutory modification or re-enactment thereof and to any statutory instrument, order or regulation made thereunder or under any such re-enactment;

(h) Indemnifying any person against any circumstance includes indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs and expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance; and

(i) The expression "month" means a calendar month.

1.3 Headings to Sections are for convenience only and shall not affect the construction or interpretation of this Agreement.

1.4 In this Agreement any reference to any document means that document as is supplemented, amended or varied in writing from time to time between the parties thereto in accordance with the terms (if applicable) hereof and thereof.

2. Law Society Conditions of Sale

2.1 The sale and purchase of the Property is subject to the LSK Conditions which shall be deemed incorporated herein in extenso save in so far as the LSK Conditions are not consistent with the provisions of this Agreement or are varied or excluded by the terms of this Agreement.

3. Agreement for Sale

3.1 The Vendor hereby agrees to sell as beneficial owner and the Purchaser hereby agrees to purchase the Property at the Purchase Price and upon the terms and conditions set out in this Agreement.

3.2 The interest sold in the Property is as set out in the First Schedule hereto.

3.3 The Purchase Price is inclusive of taxes.

4. Deposit

4.1 The Purchaser has paid on or before the date of this Agreement the Deposit to the Vendor's Advocates (receipt of which is hereby acknowledged by the Vendor).

4.2 The deposit as well as the balance of the purchase price to be held by the Vendor's Advocates as stakeholders up to a maximum of Fourteen (14) days after the Completion Date provided the Vendor has complied with all its obligations pursuant to the terms of this Agreement.

5. Completion

5.1 The Completion Date shall be the Seventh (7th) business day after the Purchaser's Advocates have received notification from the Vendor or its Advocates that the Vendor has obtained a separate deed plan and certificate of Title of the second property.

For the purposes of this Agreement, the term "business day" shall mean a day (other than a Saturday, Sunday or gazetted public holiday in Kenya) on which banking and financial institutions are generally open for the conduct of banking business in Kenya.

5.2 Completion shall, unless otherwise agreed in writing between the parties hereto take place at the offices of the Vendor's Advocates.

5.3 On or before the Completion Date:

(a) The Vendor or the Vendor's Advocates shall deliver to the Purchaser's Advocates the following:

(i) original documents of titles in respect of the Property;

(ii) the duly executed by the Vendor Instrument of Transfers (in triplicate) in respect of each of the Property in favour of the Purchaser;

(iii) Kilifi Council rates receipts in respect of the fully paid up rates in respect of the Property together with a Rates Clearance Certificate valid for at least thirty (30) days from the Completion Date; and

(iv) the Consent of the Land Control Board and the Consent of the District Land Officer for the second property and the first property.

(v) the Land Rent Clearance Certificate for the second property valid for at least thirty (30) days from the Completion Date.

(vi) extract of the Minutes of the Board of Directors of the Vendor in the form set out in the Second Schedule.

(vii) original registered instrument of Easement in respect of the access roads as provided in Clause 9 hereunder.

5.4 The Purchaser shall pay the balance of the Purchase Price to the Vendor's Advocates on receipt of the documents stated in Clause 5.3 above and 9.2 below.

5.5 The balance of he purchase price shall be held in terms of Clause 4.2 by the Vendor's Advocates.

6. Capacity

6.1 The Vendor sells as legal and beneficial owner.

7. Movables

7.1 The sale includes no movables.

8. Possession

8.1 The Property is sold in vacant possession.

8.2 Possession of the Property will be given on the Completion Date.

9. Access Roads

9.1 The Purchaser shall have the right of way from the main Mombasa/Malindi highway through Rea Vipingo Plantations Limited's land as more particularly stated and outlined in the Instrument of Easement attached hereto in the Third Schedule.

9.2 The Vendor's Advocates shall have the instrument of Easement registered against the relevant title documents and deliver the same to the Purchaser's Advocates on the Completion Date.

10. Matters affecting the Property

10.1 The Property is sold subject to the Acts, reservations, stipulations, conditions and other matters contained in the certificate of titles in respect of the Property but otherwise free from all encumbrances, charges, mortgages (legal or equitable), overriding interest and free of squatters.

11. Disclaimer

11.1 The Purchaser and the Vendor agree that this Agreement contains the entire agreement between the parties and supersedes any previous arrangements or agreements between the parties hereto, such agreements being rescinded by mutual agreement of the parties.

12. Outgoings and Incoming of the Property

12.1 All Outgoings and Incomings in respect of the Property shall be apportioned on the Completion Date.

13. Assignment

13.1 The formal Instrument of Transfer of the Property shall be drawn in favour of the Purchaser and/or such other person or persons or corporate body as the Purchaser shall or may nominate prior to the Completion Date.

14. Non-merger

14.1 The provisions of this Agreement shall not merge on completion of the sale and purchase of the Property in so far as they remain to be observed or performed by the Vendor.

15. Legal and Other Costs

15.1 Each party shall be responsible for the fees of its legal advisers in connection with this Agreement and the sale and purchase of the Property.

15.2 All Stamp Duty and registration fees payable on the transfer of the Property to the Purchaser shall be for the account of the Purchaser.

16. Special Conditions

16.1 The LSK Conditions shall be varied as follows:

(a) Conditions 8(3), 8(4), 11(4), 14(4), 14(5), 18(1), 19(3), 20, 23(3), 28(3) and 29 shall not apply to this Agreement.

(b) "interest" means interest at the Interest Rate.

16.2 Right of First Refusal

The Vendor hereby gives the Purchaser the right of first refusal to purchase the remainder of Portion Number L.R. 3545/2 Section III Mainland North at a price to be agreed at the time of offer and if no price is agreed within Thirty (30) days from the date of offer then the Vendor shall be at absolute liberty to sell the same to any third party.

17. General

17.1 All payments due to be made by the Purchaser hereunder and all costs, charges, expenses or remunerations are inclusive of taxes or similar tax charged or chargeable in respect thereof including, without limitation, any deduction for or on account of any present or future taxes.

17.2 No failure or delay to exercise any power, right or remedy by the parties shall operate as a waiver of the right, power or remedy and no single or partial exercise by the parties of any right, power or remedy shall preclude its further exercise all the exercise of any other right, power or remedy.

17.3 The rights and remedies of the parties hereto provided in this Agreement are cumulative and not exclusive of any rights of remedies provided by law.

17.4 If any term or condition of this Agreement shall to any extent be found or held to be invalid or unenforceable, the parties shall negotiate in good faith to amend such term or condition so as to be valid and enforceable and to be construed with the interests of the parties as contained herein.

17.5 If any term or condition of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected and each other term and condition shall be valid and enforceable to the fullest extent permitted by law.

17.6 No amendment change or addition to this Agreement shall be effectual or binding on the parties hereto unless it is in writing and duly executed by or on behalf of the parties hereto.

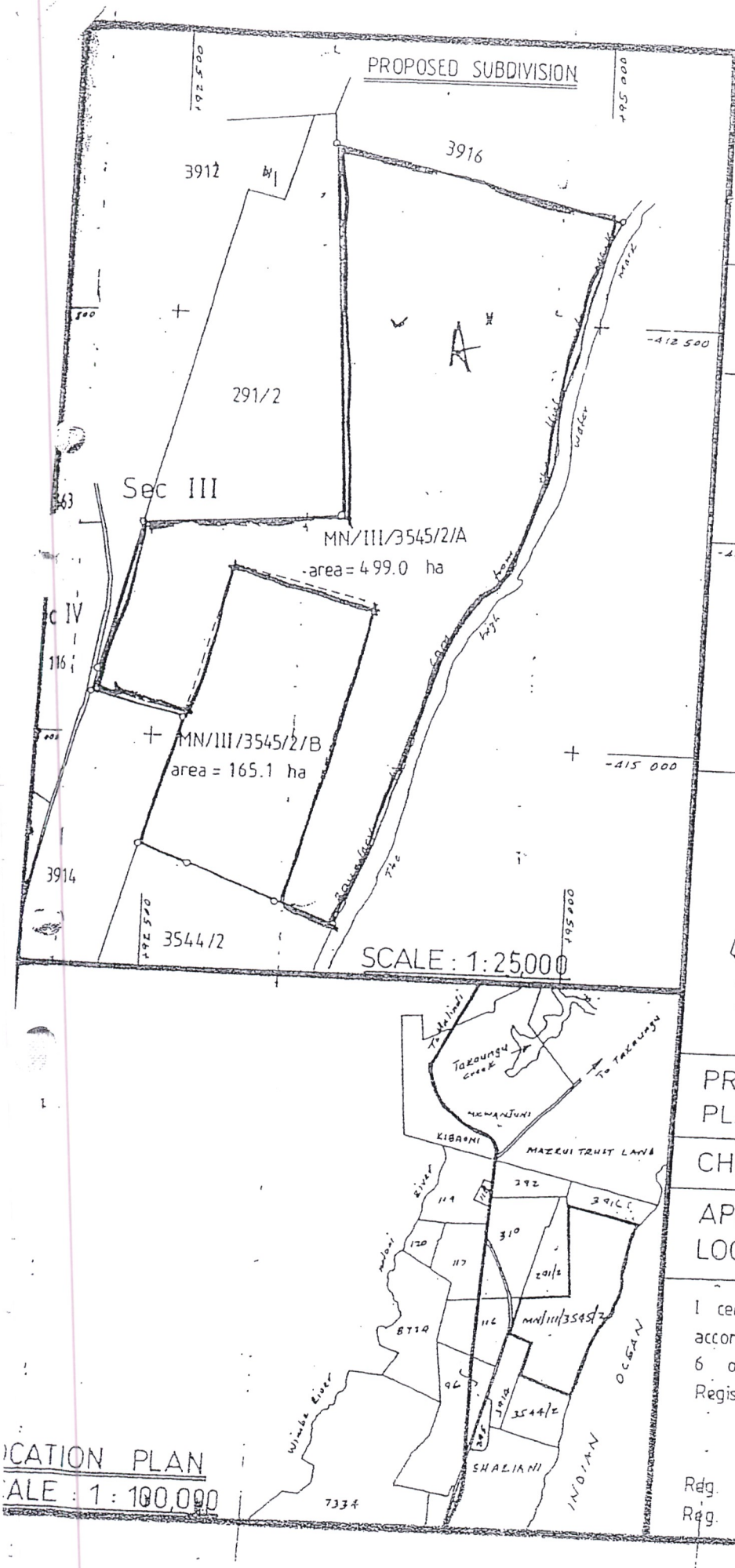
17.7 Time shall be of the essence in respect of all the obligations of both parties.

17.8 All warranties and confirmations contained in this Agreement shall remain in full force and effect not withstanding completion.

FIRST SCHEDULE

(1) All that freehold piece of land situate South of Takaungu in the Kilifi District containing by measurement One Seven Three decimal Seven (173.7) hectares or thereabouts known as Subdivision Number 291/2 of Section III Mainland North being a portion of Subdivision No.291 being the premises comprised in a Certificate of Title dated 8th day of November 2001 and delineated on the Land Survey Plan Number 229521 annexed thereto and deposited in the Survey Records Office at Nairobi and thereon bordered red and registered in the Land Titles Registry at Mombasa as Number C.R. 34869/1.

(2) All that portion of land being the subdivision marked "A" bordered in red on the plan annexed hereto of the leasehold piece of land situate South of Takaungu in the Kilifi District containing by measurement Four Nine Nine decimal Nought Two (499.02) hectares or thereabouts being a portion of Land Reference Number 3545/2 of Section III Mainland North being the premises held for a term of Nine Hundred and Ninety Nine (999) years from 1st day of October 1949 subject to the annual rent of Shs.402,300.00 (Revisable) payable from 11th May 2001 the dimensions abuttals and boundaries which is delineated and described on the Deed Plan Number 229518 annexed to the Certificate of Title dated 15th May 2002 and registered in the Land Titles Registry at Mombasa as Number C.R. 35659/1.



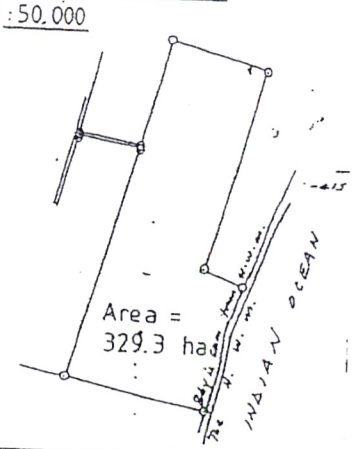
PROPOSED SUBDIVISION SCHEME FOR MN/III/354 & CONSOLIDATION WITH MN/III/3544/2 VIPINGO KILIFI DISTRICT

NOTE

1. Areas and dimensions subject to the final s

PROPOSED CONSOLIDATION

SCALE : 1:50,000



DRAWING No KL 0007-2003-08-b

PLANNING ASSISTANT

Name G. Nderitu

Sign _____ Date 26-08-03

OWNER / CLIENT

Name Vipingo Estates Ltd.

Sign _____ Date 25-8-03

PREPARED BY S.O. KIAYE
PLANNING CONSULTANT

CHECKED BY _____ D.P.P.

APPROVED BY _____
LOCAL AUTHORITY

I certify that this plan has been prepared in accordance with the Physical Planning Act No 6 of 1996 and the Physical Planning Registration Act No 3 of the 1996 Regurations

Reg. Physical Planner _____

Reg. No PP0021 Date 28/8/03

LOCATION PLAN
SCALE : 1 : 100,000

SECOND SCHEDULE

VIPINGO ESTATE LIMITED

(Company Number C.)

Minutes of a Meeting of the Board of Directors of the Above Company duly convened held and constituted At the registered office of the Company on the day of 200

Present: Director Chairman
Director

The Chairman reported that the Vendor had received an offer from Kanji Premji Patel (the "Purchaser") to purchase from the Vendor the Vendor's Properties comprised as follows:

(1) Under Certificate of Title Number 34869 being all the land known as Subdivision Number 291/2 of Section III Mainland North Mombasa.

(2) A subdivision comprising approximately 499.02 hectares of land being a portion of Certificate of Title Number 35659 being all that land known as Land Reference Number 3545/2 of Section III Mainland North Mombasa.

(hereinafter called the "Property"). The principal terms of the proposed sale were as follows:

1. Price:
   (a) The purchase price for the first property shall be United States Dollars One Hundred Seventy Five Thousand Nine Hundred Seventy Six (US$175,976.00).

   (b) The purchase price for the second property which measures approximately 499.02 hectares shall be United States Dollars Five Hundred Five Thousand Five Hundred Sixty Three (US$505,563.00) calculated at the rate of United States Dollars Four Hundred and Ten (US$410.00) per acre. The exact price for this property shall be determined after the Director of Surveys of Kenya has carried out the survey of the second property and has determined the exact area thereof;

2. Completion Date:
   The Completion Date shall be the Seventh (7th) business day after the Purchaser has received notification from the Vendor or its Advocates that the Vendor has obtained a separate deed plan and certificate of Title of the second property.

   For the purposes of this Agreement, the term "business day" shall mean a day (other than a Saturday, Sunday or gazetted public holiday in Kenya) on which banking and financial institutions are generally open for the conduct of banking business in Kenya.

3. The possession of the Property is to be handed over to the Purchaser on the Completion Date.

The above terms and other related matters were discussed by the Board in detail and the Chairman tabled the final draft of the Agreement for Sale (the "Agreement") was reviewed and discussed.

The Chairman reported that under the Memorandum and Articles of Association of the Vendor the directors present were empowered to implement the proposed arrangements.

It was reported that none of the Directors were interested in the proposed arrangements as Directors, Shareholders or otherwise.

IT WAS RESOLVED as follows:

1. That the sale of the Property on the terms stated in the Agreement be and is hereby approved and confirmed.

2. That the common seal of the Company be affixed to the Agreement and the Transfer and that two Directors or a Director and the Secretary of the Company be and are authorized to witness the affixing of the common seal of the Company to the Agreement and the Transfer.

IT IS HEREBY CERTIFIED that the above is the extract from the Minutes of the Meeting of the Board of Directors of the Vendor and that the resolutions set forth above were duly passed in accordance with and comply with the Memorandum and Articles of Association and regulations of the Vendor and the Companies Act (Cap.486).

.....

DATE:

V. Allen

.....

CHAIRMAN

.....

DIRECTOR

THIRD SCHEDULE

GRANT OF EASEMENT

DATED _____ 2003

REA VIPINGO PLANTATIONS LIMITED

- TO -

VIPINGO ESTATE LIMITED

SUBDIVISION NUMBERS MN/III/291/1, MN/IV/117/1
AND MN/III/291/2, KILIFI

KAPLAN & STRATTON
Advocates
P.O. Box 40111
Nairobi

REPUBLIC OF KENYA
THE REGISTRATION OF TITLES ACT
REGISTRY OF TITLES
(INLAND REGISTRY)
GRANT OF EASEMENT
TITLE NUMBERS: C.R. 7315
C.R. 7314
C.R. 34869

THIS GRANT OF EASEMENT is made on 2003 between:

(1) REA VIPINGO PLANTATIONS LIMITED a company incorporated in Kenya with a postal address P. O. Box 17648, Nairobi ("REA" which expression shall where the context so admits include its successors and assigns); and

(2) VIPINGO ESTATE LIMITED a company incorporated in Kenya with a postal address P.O. Box 1, Vipingo ("VEL" which expression shall where the context so admits include its successors and assigns).

WHEREAS:

(1) REA is registered as proprietor of ALL THOSE two pieces of land more particularly described in the first schedule hereto subject as mentioned therein but otherwise free from encumbrances (together the "REA Land").

(2) VEL is registered as proprietor of ALL THAT piece of land more particularly described in the second schedule hereto subject as mentioned therein but otherwise free from encumbrances (the "VEL Land").

(3) VEL at its own cost and expenses wishes to use the road (the "Road") situate on the northern boundary of the REA Land between points "A" and "B" shown on the plan annexed hereto (the "Plan") and for purposes of identification is bordered in red on the Plan.

(4) REA has at the request of VEL agreed to grant to VEL the rights set out in the third schedule (the "Rights").

NOW in consideration of the premises this Instrument witnesses that:

1. REA as beneficial owner grants to VEL the Rights to hold the Rights to VEL absolutely.

2. VEL so as to bind the VEL Land into whosoever hands it may come for the benefit of REA's interest in the REA Land COVENANTS with REA for itself its assigns and its successors in title to observe and perform at all times after the date of this Instrument the covenants in relation to the VEL Land.

3. VEL covenants with REA to keep REA indemnified from and against any acts loss and damage or liability suffered by REA in the exercise of the Rights.

4. All rights not specifically and expressly included in the Rights are reserved to REA.

5. VEL, covenants with REA that VEL will keep and maintain the Road in good repair at the expense and cost of VEL.

6. If there is a material breach or non-observance of any of the covenants contained in this Instrument on the part of VEL which is not remedied within twenty one (21) days after receipt by VEL of a written notice of it, REA may revoke the Rights but without prejudice to any then existing rights and remedies of REA under the provisions.

7. It is certified that the transmission effected by this Instrument does not form part of a larger transaction or series of transaction at any time, for any value.

8. All communication relative to this Instrument shall be addressed to REA and VEL at their respective addresses given above.

9. VEL will pay all the costs in connection with the preparation and completion of this Grant of Easement and a counterpart thereof together with the stamp duty and registration fees.

10. REA shall pay all existing and future taxes duties assessments charges impositions and outgoings which are now or may at any time after the date of this deed be assessed charged levied or imposed on and payable in respect of the right of way or on the REA Land.

IN WITNESS WHEREOF this Grant of Easement has been duly executed.

THE FIRST SCHEDULE

REA LAND

1. **ALL THAT** piece of land situate South of Takaungu in Kilifi District of Kenya containing by measurement two hundred and thirty decimal five (230.5) hectares or thereabouts that is to say Subdivision Number 291/1 of Section III Mainland North which said piece of land being a portion of the premises comprised in a Certificate of Ownership registered in the Land Titles Registry at Mombasa as Number C.R. 7315/1 is with the dimensions abuttals and boundaries delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 229520 deposited in the Survey Records Office at Nairobi and thereon bordered red **HELD** for an estate in fee simple subject to such Acts, charges, leases and encumbrances as are notified on the First Memorandum endorsed hereon.

2. **ALL THAT** piece of land situate South of Takaungu in Kilifi District of Kenya containing by measurement two hundred and twenty five decimal two (225.2) hectares or thereabouts that is to say Subdivision Number 117/1 of Section IV Mainland North which said piece of land being the premises comprised in a Certificate of Ownership registered as aforesaid as Number C.R. 7314/1 is with the dimensions abuttals and boundaries delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 229529 deposited in the Survey Records Office at Nairobi and thereon bordered red **HELD** for an estate in fee simple subject to such Acts, charges, leases and encumbrances as are notified on the Second Memorandum endorsed hereon.

THE SECOND SCHEDULE

VEL LAND

1. **ALL THAT** piece of land situate South of Takaungu in Kilifi District of Kenya containing by measurement one hundred and seventy three decimal seven (173.7) hectares or thereabouts

that is to say Subdivision Number 291/2 of Section III Mainland North which said piece of land being the premises comprised in the Certificate of Title registered as aforesaid as Number C.R. 34869/1 is with the dimensions abuttals and boundaries delineated on the plan annexed to a Transfer registered as C.R. 7315/17 and more particularly on Land Survey Plan Number 229521 deposited in the Survey Records Office at Nairobi and thereon bordered red **HELD** for an estate in fee simple subject to (a) the Land Titles Act (Chapter 282) Excepting Part III thereof (b) such Acts, charges, leases and encumbrances as are notified on the Third Memorandum endorsed hereon and (c) the Caveat by East African Power and Lighting Company Limited registered as C.R. 7315/6A.

THE THIRD SCHEDULE

The rights for VEL

VEL its successors in title, owners or occupiers or assigns for the time being of the VEL Land and their servants and all other persons authorised by them in common with REA, its successors in title owners or occupiers for the time being of the REA Land and its tenants and servants and all other persons authorised by REA or them at all times for all purposes whatsoever without limitation to pass and repass with or without vehicles or animals along the Road for all purposes.

Sealed with the common seal)
REA VIPINGO PLANTATIONS)
LIMITED in the presence of:)
)
)
)
Director)
)
)
)
)
)
~~Director~~/Secretary)

Sealed with the common seal of)
VIPINGO ESTATE LIMITED)
in the presence of:)
)
)
)
)
Director)
)
)
)
)
Director/~~Secretary~~)

First Memorandum

Nil

Second Memorandum

Nil

Third Memorandum

Nil

REA

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality South of Takaungu

Reference Map South A 37 / I IV d

Land Reference No

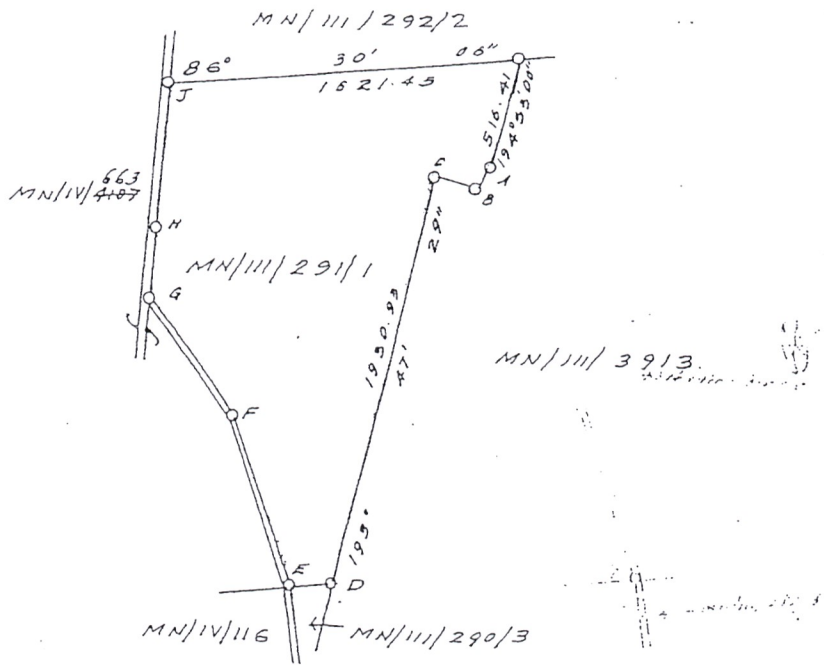
(Orig No. [illegible])

Sub division No 291/1 (Orig No.

of Section No. III Mainland North

Area = 230.5 Ha. (ARP Plot)

Bearings °	′	″	Distance Metres
A-B	210	12	07	99.89
B-C	283	34	43	194.81
D-E	266	40	07	218.04
E-F	341	51	16	835.68
F-G	324	24	50	668.11
G-H		4	19	25	394.96
H-J		4	48	55	659.54



P.A. Zimmerlin
Licensed Surveyor

for Director of Surveys

Nairobi 28TH MARCH 2000

Traced by

Compared by Kaberi

Scale 1 in 25000

DEED PLAN No. 229520

NA

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality South of Takaungu

Reference Map South A. 37 / V IV d

Land Reference No

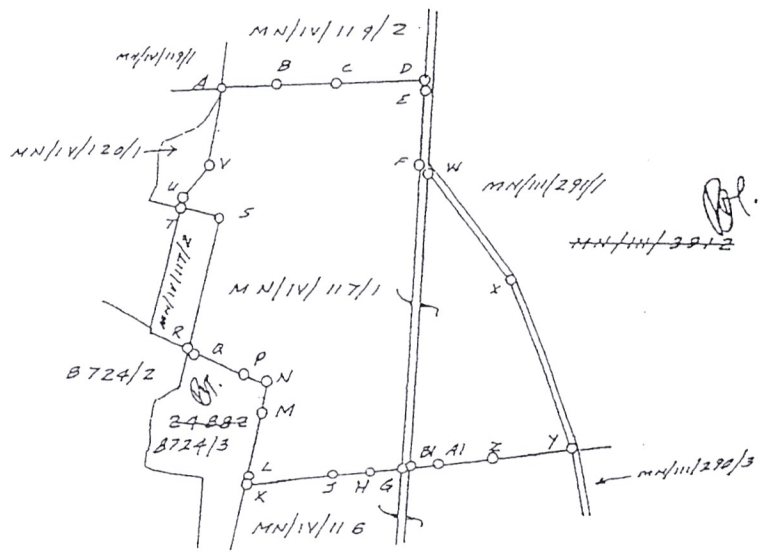
(Orig No.

Sub division No 117/1 (Orig No.

of Section No. IV Mainland North

Area = ~~1.6~~ 225.2 Ha. (Approx)

Bearings °	'		Distance Metres
A-B	89	03 08	240.40
B-C	90	38 25	307.46
C-D	91	46 30	404.03
D-E	184	48 55	64.22
E-F	184	19 25	334.91
F-G	184	56 51	1406.97
G-H	266	04 35	149.74
H-J	266	19 35	173.49
J-K	266	49 35	398.44
K-L	12	26 44	27.81
L-M	13	21 26	306.66
M-N	11	41 14	141.31
N-P	292	08 18	102.95
P-Q	293	38 46	270.98
Q-R	298	30 31	27.82
R-S	14	31 36	659.98
S-T	285	17 24	191.99
T-U	14	23 03	19.11
U-V	40	31 59	179.45
V-A	11	47 41	394.75
W-X	144	24 50	647.95
X-Y	161	51 16	829.52
Y-Z	265	19 35	367.55
Z-A1	265	49 35	257.37
A1-B1	266	04 35	131.53
B1-W	4	56 51	1378.01



P. A. Zimmerlin
Licensed surveyor

for Director of Surveys

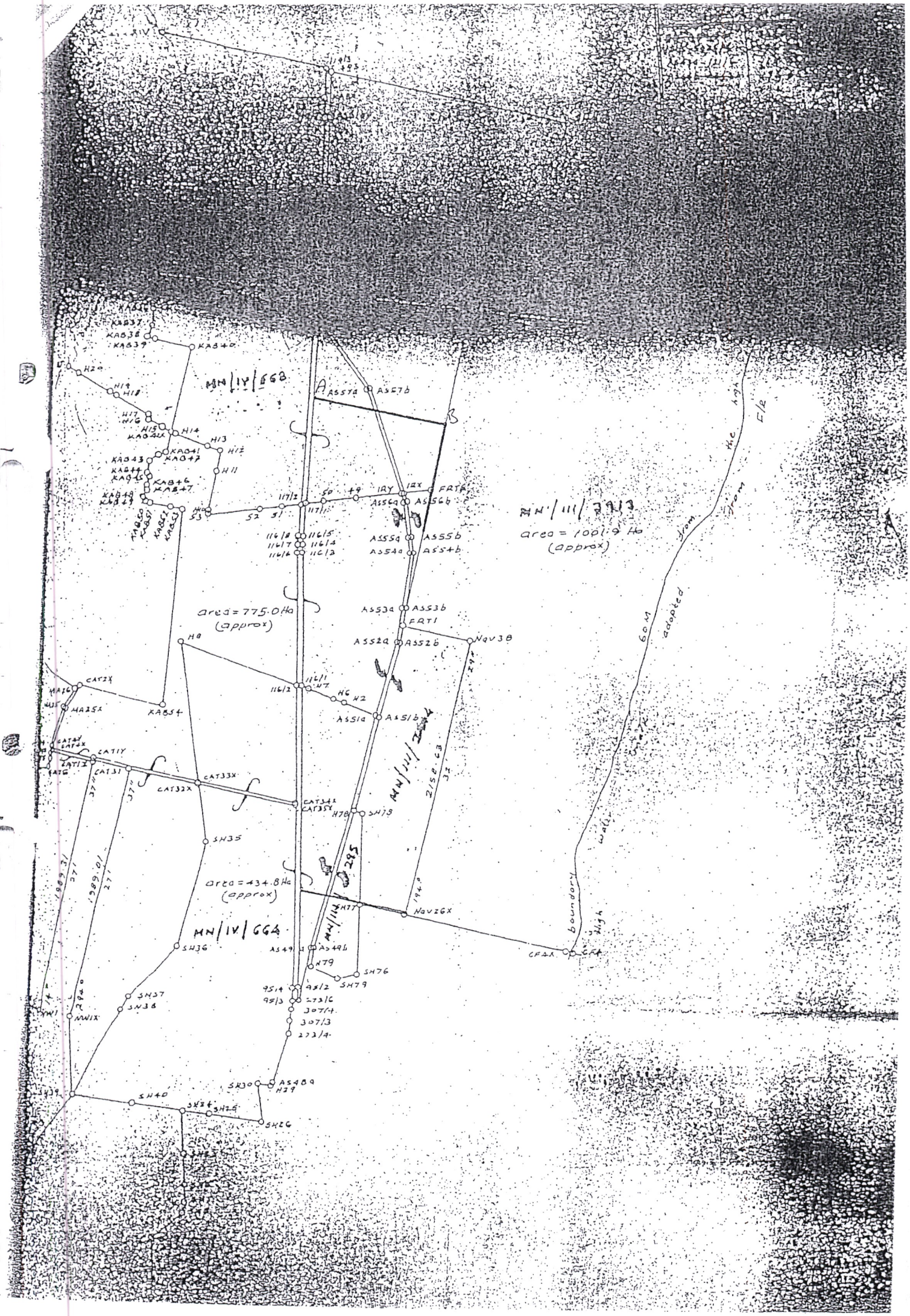
Nairobi 28TH MARCH 19~~20~~65

DEED PLAN No. 229529

Traced by

Compared by

Scale 1 in 25000


MN/IV/668
MN/III/3913
area = 1001.9 Ha
(approx)
area = 775.0 Ha
(approx)
area = 434.8 Ha
(approx)
MN/IV/664
MN/III/2614
MN/III/295
60 M
adopted
from
the
high
F/R
boundary
High
water
KAB37
KAB38
KAB39
KAB40
H20
H19
H18
H17
H16
H15
H14
H13
H12
H11
KAB41
KAB42
KAB43
KAB44
KAB45
KAB46
KAB47
KAB48
KAB49
KAB50
KAB51
KAB52
KAB53
H10
53
52
51
117/2
117/1
50
49
IRY
IRX
FRT6
AS56a
AS56b
AS55a
AS55b
AS54a
AS54b
116/8
116/7
116/6
116/5
116/4
116/3
AS53a
AS53b
FRT1
AS52a
AS52b
Nav38
H8
116/2
116/1
H7
H6
H2
AS51a
AS51b
CAT2X
MA26
MA25X
KAB54
CAT4Y
CAT4X
CAT1Y
CAT1Z
CAT6
CAT31
CAT33X
CAT32X
CAT34X
CAT35X
H78
SH78
SH35
SH77
Nav26X
CF4X
CF4
SH36
AS49
AS49b
H79
SH76
SH79
95/4
95/2
95/3
273/6
307/4
307/3
273/4
SH37
SH38
NW1X
SH30
AS48a
H29
SH39
SH40
SH24
SH25
SH26
1989.31
1989.01
2158.63
1940
2940
37"
27'

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto as of the day and year first above written.

THE COMMON SEAL of)
VIPINGO ESTATE LIMITED)
the Vendor was affixed in the presence)
of:)
V. Alben)
DIRECTOR)
)
T. Lasti)
DIRECTOR/~~SECRETARY~~)

SIGNED by KANJI PREMJI PATEL)
the Purchaser in the presence of:)
)
C. K. KANJI)
ADVOCATE)
P.O. BOX 80274)
MOMBASA, KENYA)
)

KP Patel

Drawn by:
Ghalia & Ghalia
Advocates
Bank of India Building
Nkrumah Road
P O Box 90019
MOMBASA
(Ref: 2/V.920/2(B))

NO. 6.

TRANSFER OF LAND

VIPINGO ESTATE LIMITED

TO

MOMBASA CEMENT LIMITED

Subdivision No.291/2
of Section III MN Mombasa

A. B. PATEL & PATEL
ADVOCATES & NOTARIES
P.O. BOX 80274
ORIENTAL BUILDING
NKRUMAH ROAD
MOMBASA

TEL: 226518/9/225992
FAX: 228864
E-MAIL: law@abpp-kenya.com

DISTRICT LAND REGISTRY
MOMBASA
9 MAR 2005
TIME 10:30 AM/PM
D. A. No. 61

SA £ 1700
SD £ 17000.1
Copy 5/-
Mutta
1/3/05

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(CHAPTER 281)

CERTITIFICATE OF TITLE NUMBER C.R. 34869

TRANSFER OF LAND

I certify that the stamps on this document were embossed on 04-03-2005
COLLECTOR OF STAMP DUTY

VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo in the Republic of Kenya (hereinafter called the "Transferor" which expression where the context so admits shall be deemed to include its successors and assigns) is registered as proprietor for an estate in fee simple of ALL THAT piece of land situate South of Takaungu in the Kilifi District containing by measurement One Seven Three decimal Seven (173.7) hectares or thereabouts known as Subdivision Number 291/2 of Section III Mainland North the premises comprised in a Certificate of Title dated 8th day of November 2001 and delineated on the Land Survey Plan Number 229521 annexed to the Transfer registered in the Land Titles Registry at Mombasa as No. C.R. 7315/17 subject however to the such charges encumbrances and other matters specified in the Memorandum hereunder written together with the buildings and improvements erected and being thereon (the said land together with the building and improvements thereon is hereinafter called "the Property") IN CONSIDERATION of the sum of **US$.175,976.00 (United States Dollars One Hundred Seventy Five Thousand Nine Hundred and Seventy Six)** paid to the Transferor by **MOMBASA CEMENT LIMITED** a limited liability company incorporated in the Republic of Kenya having its registered office at Mombasa in the Republic of Kenya and whose postal address is Post Office Box Number 90394 Mombasa aforesaid (hereinafter called "the Transferee" which expression shall where the context so admits shall be deemed to include its successors and assigns) on or before the execution of these presents (the receipt of which sum by the Transferee is hereby acknowledged by the Transferor) DO HEREBY TRANSFER all its right title and interest in the Property.

IN WITNESS WHEREOF the Transferor and the Transferee hereto have hereunto caused their respective Common Seals to be affixed hereto this 1st day of MARCH 2005

THE COMMON SEAL of the said **VIPINGO ESTATE LIMITED** the **TRANSFEROR** was hereunto affixed in the presence of:-

V. Alhen

DIRECTOR

F. [illegible]

DIRECTOR/~~SECRETARY~~

THE COMMON SEAL of the said **MOMBASA CEMENT LIMITED** the **TRANSFEREE** was hereunto affixed in the presence of:-

X KP Patel

DIRECTOR

DIRECTOR/SECRETARY

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

1) The Registration of Titles Act (Chapter 281).
2) The Land Titles Act (Chapter 282) Except Part III thereof.
3) Caveat by East African Power and Lighting Company Limited registered as C.R. 7315/6A.

DRAWN BY:-
A B PATEL & PATEL
ADVOCATES & NOTARIES
P O BOX 80274
MOMBASA

C:rta transfer of land

LAND TITLES REGISTRY—MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. CR 34869/3
9th March 2005

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED

TO

MOMBASA CEMENT LIMITED

In respect of the land and buildings comprised in
Subdivision No.4391 (Original No. 3545/2/1)
of Section III MN

A. B. PATEL & PATEL
ADVOCATES & NOTARIES
P.O. BOX 80274
ORIENTAL BUILDING
NKRUMAH ROAD
MOMBASA

TEL: 226518/9/225992
FAX: 228864
E-MAIL: law@abpp-kenya.com

C: RTA – TRANSFER – LEASE

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(CHAPTER 281)

CERTIFICATE OF TITLE NUMBER C.R. 38221

ANNUAL RENT: SHILLINGS 493,200.00 (REVISABLE)

TERM: 999 YEARS FROM 1.10.1949

I certify that the stamps on this document were embossed on 04-03-05 20.....

COLLECTOR OF STAMP DUTY

9 MAR 2005

10.35

64

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo in the Republic of Kenya (hereinafter called "the Transferor" which expression where the context so admits shall include its successors and assigns) is registered as proprietor as Lessee from the Government of Kenya for a term of nine hundred and ninety nine (999) years from the first day of October One Thousand Nine Hundred and Forty Nine of ALL THAT piece of land situate South of Takaungu in the Kilifi District of the said Republic containing by measurement Four Nine Nine decimal nought (499.0) hectares or thereabouts and being Subdivision Number 4391 (Original Number 3545/2/1) of Section III Mainland North which said piece or parcel of land is more particularly delineated on Land Survey Plan No.254238 annexed to the Certificate of Title registered in the Land Titles Registry at Mombasa as Number C.R.38221/1 subject however to the such charges leases encumbrances and other matters specified in the Memorandum hereunder written together with the buildings and improvements erected and being thereon (the said land together with the building and improvements thereon is hereinafter called "the Property") IN CONSIDERATION of the sum of **US$.505,563.00 (United States Dollars Five Hundred and Five Thousand Five Hundred and Sixty Three)** paid to the Transferor by MOMBASA CEMENT LIMITED a limited liability company incorporated in the Republic of Kenya having its registered office at Mombasa in the Republic of Kenya and whose postal address is Post Office Box Number 90394 Mombasa aforesaid (hereinafter called "the Transferee" which expression where the context so admits shall include its successors and assigns) on or before the execution of these presents (the receipt of which sum the Transferor hereby acknowledges) DOTH HEREBY TRANSFER all its right title and interest in and to the Property to the Transferee.

IN WITNESS WHEREOF the Transferor and the Transferee hereto have hereunto caused their respective common seals to be affixed hereto this 1 ST day of MARCH Two Thousand and ~~Four~~ FIVE

THE COMMON SEAL of the said
VIPINGO ESTATE LIMITED
the **TRANSFEROR** was hereunto
affixed in the presence of:-

V. Alhan

DIRECTOR

DIRECTOR/~~SECRETARY~~

THE COMMON SEAL of the said
MOMBASA CEMENT LIMITED
the **TRANSFEREE** was hereunto
affixed in the presence of:-

KP Patel

DIRECTOR

DIRECTOR/SECRETARY

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

1) The Government Land Act (Chapter 280).
2) The Registration of Titles Act (Chapter 281).
3) The Special Conditions contained in a Grant registered as Numbers C.R. 30669/1 and 35568/2.
4) The Grant of Easement registered as Number C.R. 35658/2.

DRAWN BY:-
A B PATEL & PATEL
ADVOCATES & NOTARIES
P O BOX 80274
MOMBASA
C:RTA TRANSFER OF LEASE

[illegible] TITLES REGISTRY — MOMBASA [illegible]
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 38221/2
9TH MARCH 2005
TIMES 10:30 A.M.

NO. 7.

(13)

MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

KFI/CR/268/VOL.VI/102.
Email: surveykilifi@yahoo.com

COUNTY SURVEY OFFICE
P.O BOX 238
KILIFI
17/03/2014

THE NATIONAL LAND COMMISSION,
P.O BOX 44417,
NAIROBI.

RE: L.R NO. MN/111/290 AND L.R NO. MN/111/291

Reference is made to your letter Ref NO.134678 30th January 2014 on the above matter. A survey team from this office visited the site on 14th Feb 2014 and observed the following.

i. Mombasa cement is utilizing both Plot Nos. MN/111/290 and 291.
ii. The boundaries of MN/11/289, 290 & 291 are intact.
iii. Several Surveys have been done on MN/111/291 and their authenticity can be a certain by the director of Surveys.

COUNTY SURVEYOR
P. O. Box 238 - 80100,
KILIFI
KILIFI COUNTY

C.S KUMAYA
COUNTY SURVEYOR
KILIFI.

NATIONAL LAND COMMISSION

Tel.0202718050
Email.info@nlc.or.ke
Website:www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

REF: NLC/CHAIRMAN/VOL.XI/149

Date: 23rd June, 2015

Chairman
Departmental Committee on Lands
National Assembly

DEPARTMENTAL COMMITTEE ON LANDS

This is to inform that the National Land Commission has so far not received the information necessary to address the issues raised in the letter of 10th June, 2015.

Enclosed are the letters we sent to request for the needed information.

Thank you.

MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

NATIONAL LAND COMMISSION
DIRECTORATE OF LAND ADMINISTRATION

INTERNAL MEMO

To: Director Land Administration

From: Mr. S.K. Mburugu - PLAO

Ref: 36735/11

Date: 19th June, 2015

RE: DEPARTMENTAL COMMITTEE ON LANDS: SUBMISSION OF INFORMATION ON VARIOUS ISSUES BEFORE THE COMMITTEE.

Your letter LandAdm/GEN/109 dated 18th June 2015 and received by me on 19th June 2015 please refer.

This is to inform you that I will not be available to accompany Chairman to Parliament on 23rd as I had done before because of a Court Case which I will attend in Nyeri High Court on 23rd June 2015.

Further note the required information is not available because the letterS we wrote to Director of Surveys, Director of land Adjudication & Settlement and to Chief Land Registrar copies attached herewith have not been responded to.

S.K. MBURUGU
PLAO - LEGAL

RECEIVED
05 MAY 2015
...OF SURVEYS
...30046, NAIROBI

NATIONAL LAND COMMISSION

Tel.0202718050
Email.info@nlc.or.ke
Website:www.nlc.or.ke

RECEIVED
05 MAY 2015

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

REF: 36735/11/79

Date: 30th April, 2015

Chief Land Registrar
Ministry of Lands, Housing and Urban Development
Ardhi Hse

MEETING WITH THE PARLIAMENT DEPARTMENTAL COMMITTEE OF LAND

We appeared before the above said Committee and were told to produce copies of titles for the following LR.NOs.MN/III/3545,4391, 4392, 4393 and 3544.

This is to urgently ask you to forward copies of the above said titles which will form part of our report to Parliament on 14th May, 2015. Ensure the said documents are received in this office by 8th May, 2015.

MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

c.c.

Hon. Alex Muiru
The Chairman
Departmental Committee of Lands
National Assembly

DIRECTOR OF SURVEYS
RECEIVED
05 MAY 2015
P.O. Box 30046, NAIROBI

NATIONAL LAND COMMISSION
Our Land, Our Wealth, Our Heritage

NATIONAL LAND COMMISSION

Tel.0202718050
Email.info@nlc.or.ke
Website:www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

REF: 36735/11/78

Date: 30th April, 2015

Mr. Cesare Mbaria
Director of Surveys
Ministry of Lands, Housing and Urban Development
Ardhi Hse

MEETING WITH THE PARLIAMENT DEPARTMENTAL COMMITTEE OF LAND

Further to our letter Ref.No.36735/II/76 dated 16th April, 2015 copy attached, we appeared before above said Committee today 30th April, 2015 and could not provide sufficient information because you had not responded to our above quoted letter.

We are appearing again before the said Committee on 14th May, 2015. This is therefore to urgently ask you to provide the following information on or before 8th May, 2015 to be compiled together with other reports ready for presentation to Parliament on 14th May, 2015.

1) Survey Plan for MN/III/3545 in Kilifi County.

2) Part Development Plan which was used to survey the said land.

3) Survey plan for MN/III/3544.

4) Subsequent Survey Plans after subdivision of MN/III/3545 (i.e. Sub plot No.4391, 4392, 4393, 3916).

5) The relevant approvals/recommendations by commenting authorities before the said sub division.

6) Survey plan for 3545/4(3916) and the subsequent plan produced when it became Boyani Settlement Scheme.

MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

c.c.

Hon. Alex Muiru
Chairman
Departmental Committee of Lands
National Assembly

DIRECTOR OF SURVEYS
RECEIVED
05 MAY 2015
P.O. Box 30046, NAIROBI

NATIONAL LAND COMMISSION
Our Land, Our Wealth, Our Heritage

NATIONAL LAND COMMISSION

Tel.0202718050
Email.info@nlc.or.ke
Website:www.nlc.or.ke

ARDHI HOUSE
1st NGONG AVENUE
P.O. Box 44417
NAIROBI

REF: 36735/11/77

Date: 30th April, 2015

Director
Land Adjudication and Settlement
Ministry of Lands, Housing and Urban Development
Ardhi Hse

MEETING WITH THE PARLIAMENT DEPARTMENTAL COMMITTEE OF LAND

We appeared before Parliamentary Committee of Land on 30th May, 2015 and were told to provide the list of beneficiaries of Boyani Settlement Settlement in Kilifi County.

This is therefore to urgently ask you to favour us with the same list which will form part of our report to be presented in Parliament on **14th May, 2015**. The Committee also requested for information on acreage of the said scheme, how many titles have been issued so far and drawings of the scheme area.

Kindly provide this information on or before **8th of May, 2015.**

MUHAMMAD A. SWAZURI, PhD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

c.c.

Hon. Alex Muiru
Chairman
Departmental Committee of Lands
National Assembly

Telegrams "MINILANDS", Nairobi
Telephone: Nairobi 2718050
When replying please quote

ARDHI HOUSE
1st NGONG AVENUE
OFF NGONG ROAD
P.O. BOX 44417
NAIROBI

Ref: 36736/II/76

16th April 2014

Director of Survey,
Ministry of Land, Housing & Urban Development,
NAIROBI.

MEETING WITH THE DEPARTMENTAL COMMITTEE ON LANDS

I appeared before the Parliamentary Committee on Land on 9th April 2015 to shed light on the ownership of Parcel No. MN/III/292/2, MN/III/4391, 289 and 290.

From available records, land parcel No. MN/III/4391 is a subplot of MN/III/3545 and L.R. No. 3545 seems to be an amalgamation of 289R and 290 though the history is not clear.

This is therefore to request you to provide us with the history on how parcel No. MN/III/3545 came about, how it was subdivided into 4391, 4392 and 4393 and also favour us with a certified copy of FR and deed plan which will form part of my documents which I will present again to the Parliamentary Committee on Land on 30th April 2015.

Muhammad A. Swazuri, PhD, OGW,
CHAIRMAN, NATIONAL LAND COMMISSION

NATIONAL LAND COMMISSION
Our Land, Our Wealth, Our Heritage

VICE – CHAIR'S OFFICE

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: **NLC/GEN. ADM. /VOL. I**

Date: 10TH **JULY, 2014**

Clerk of the National Assembly
Clerk's Chambers
Parliament Buildings
P. O. BOX 41842-00100
NAIROBI

Dear Sir

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON LANDS

Please refer to your letter Ref. No. KNA/DCL/CORR/2015(169) dated 7th July, 2015 on the above subject matter, which we only received yesterday evening, the 9th of July, 2015 and have not been able to address the issues therein. In addition the Chief Executive Officer and the Chairman are out of the Country till 16th July, 2015.

The purpose of this letter is to kindly request you for more time to enable us address the issues therein comprehensively.

We regret the inconvenience caused therein.

Yours faithfully

ABIGAEL MBAGAYA MUKOLWE (MRS.)
VICE CHAIRPERSON
NATIONAL LAND COMMISSION

MOMBASA CEMENT LIMITED

P.O.Box 83594 MOMBASA - 80100 Tel nos: +254 - 020 - 2024020/2023860
Fax nos: +254 - 020 - 2023862 Mobile nos: +254 - (0722) 204848/(0733) 615465/(0727) 605899
Email: nyumba@africaonline.co.ke, csl@nyumba.com

Nairobi Office: P.O. Box 39020-00623, Addis Ababa Rd. Off Enterprise Rd. Nairobi
Tel: +254 (020) 559860/61, 555150/56 Fax: +254 (020) 558790
Email: cslnairobi@africaonline.co.ke

Date: 19th March'2015

The Clerk of the National Assembly

P.O Box 41842 – 00100

Nairobi.

Attention: Mr. Justin Bundi, CBS

Dear Sir

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON LANDS

We acknowledge receipt of your letter Ref: KNA/DCL/CORR/2015(126), dated 11th March 2015, inviting us to appear before **"The Departmental Committee on Lands"** at 11:30am on the morning of 24th March 2015 at Protection House.

We would like to confirm our availability as requested and our representatives will be in attendance.

Yours faithfully

MANAGING DIRECTOR

Hasmukh Patel

MOMBASA CEMENT LTD.

DIRECTORS:- Mr. A.K. Patel (British), MR. H. K. Patel (Kenyan), Mr. B.T Shah (Kenyan), Mr. Vikram Kanji (Kenyan) Mr. H.C. Patel (British)

MOMBASA CEMENT LIMITED

P.O.Box 88564 MOMBASA - 80100 Tel nos: +254 - 020 - 2024020/2023860
Fax nos: +254 - 020 - 2023852 Mobile nos: +254 - (0722) 204848 (0733) 815483 (0727) 805888
Email: nyumba@africaonline.co.ke ps@nyumba.com

Nairobi Office: P.O. Box 38020-00623, Addis Ababa Rd. Off Enterprise Rd. Nairobi
Tel: +254 (020) 559860/61, 555150/59 Fax: +254 (020) 559790
Email: pslnairobi@africaonline.co.ke

Our Ref No. MCL-092/15/KB-mh

19th March 2015

The Clerk of the National Assembly
P.O Box 41842 – 00100
NAIROBI

ATTENTION: MR. JUSTIN BUNDI. CBS

Dear Sir,

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON LANDS AUTHORISATION OF REPRESENTATION

With reference to your letter Ref. KNA/DCL/CORR/2015(126), dated 11th March 2015 we have been invited for a meeting with "The Departmental Committee on Lands" on the 24th March 2015.

I the undersigned would like to delegate and authorize the following to represent me and Mombasa Cement Ltd. for this meeting.

1. Mr. Hemant D Desaj: ID No. 9989209 — Civil Works Manager, and
2. Mr. Kinuthia Bere: ID No. 3357784 — Plant Electrical Manager

Kindly accord them your corporation in this regard.

Yours faithfully,
MOMBASA CEMENT LTD

HASMUKH K. PATEL
MANAGING DIRECTOR

DIRECTORS:- Mr. A.K. Patel (British), MR. H. K. Patel (Kenyan), Mr. B.T Shah (Kenyan), Mr. Vikram Kanji (Kenyan) Mr. H.C. Patel (British)

REPUBLIC OF KENYA

Telegraphic Address
"Bunge", Nairobi
Telephone 2221291, 2848000
Fax: 2243623
E-mail: clerk@parliament.go.ke
When replying please quote



National Assembly
Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
NAIROBI, Kenya

KNA/DCL/CORR/2015(126)

11th March, 2015

The Managing Director
Mombasa Cement Limited,
P.O. Box 83594 – 80100,
New Mombasa - Nairobi Road, Mikindani.
MOMBASA

Dear M.D.

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE ON LANDS

The Departmental Committee on Lands is constituted pursuant to the provisions of the Standing Order 216 (1) and (5) of the National Assembly and is mandated amongst other things; **"to investigate and inquire into all matters relating to the assigned Ministries and Departments as they may deem necessary, and as they may be referred to them by the House"**

During a field visit to Kilifi held between February 5th and 6th 2015, the Committee visited the land known as LR No.MN/III/289 and 290,MN/III/291 and 4391/MN/III, and received views from the residents. The Committee was informed that Mombasa Cement acquired the land while the residents who had allotment leters from the Ministry were still in the land without their consent.

The Committee thereafter resolved to invite the Director, Mombasa Cement to appear before the Committee to shed light on the aforementioned land currently being used by Mombasa Cement and specifically address the issues relating to;

a) Transfer documents and any subdivisions on the said land;
b) Provide a copy of the title deed to the land;
c) How the Company acquired the land;
d) Information regarding the aforementioned pieces of land specifically acquisition and transfer of plot no. 4391/MN/III;
e) Any other information that may be relevant to the matter

This is therefore to request you to attend a meeting which will be held on **24th March, 2015 in Committee Room on 4th Floor Protection House at 11.30 am.**

Yours

JUSTIN BUNDI, CBS
CLERK OF THE NATIONAL ASSEMBLY

REPUBLIC OF KENYA

MINISTRY OF LAND, HOUSING AND URBAN DEVELOPMENT
SURVEY OF KENYA

All correspondence
Should be addressed to -
Director of Surveys

Telegrams: "Surveys
Head Office: Ardhi House
Telephone: 2718050
Fax: 2717553
E-mail sok@gt.co.ke

Field Headquarters, Ruaraka
Telephone: 8562902/8562968

Survey of Kenya,
P.O. Box 30046,
00100 - NAIROBI.

Date: 6th August, 2014

Our Ref: CR 271/Vol.59/201

The Director
Mombasa Cement Ltd
P.O. Box 83594-80100
MOMBASA

RE: **CONFIRMATION OF DEED PLAN NO. 254238 MN/III/4391 & DP NO. 229521 – MN/III/291/2**

Your unreferenced letter dated 23rd July, 2014 refers.

According to our records, the following are the facts:

1. Deed Plan No. 229521 was indeed prepared for Land Reference MN/III/291/2 by our department. This was a sub division survey carried out by P.A. Zimmerlin Licensed Surveyor.

2. Deed Plan No. 254238 was prepared for Land Reference MN/III/4391by our office. It was carried out by P.A. Zimmerlin Licensed Surveyor. as reflected on FR 434/109; being a sub division survey for **Vipingo Estates Ltd.**

You may get in touch with P.A. Zimmerlin Licensed Surveyor to assist and clarify the ground situation.

For the current registration/proprietorship you may get in touch with the Chief Land Registrar or Registrar of Titles in Mombasa for confirmation of the same.

Be advised accordingly.

Benjamin M. Siro
FOR: DIRECTOR OF SURVEYS

REPUBLIC OF KENYA

MINISTRY OF LANDS, HOUSING AND URBAN DEVELOPMENT

Telegrams "Lands", Nairobi
Telephone: Nairobi 02718050
When replying please quote

DEPARTMENT OF LANDS
1st NGONG AVENUE
OFF NGONG ROAD
P.O. Box 30089
NAIROBI

Ref.MSA/A/24/VOL.XIII/56

Date: 6th August 2014

The Director
Mombasa Cement Ltd
P O Box 83594 – 80100
MOMBASA

Ref: CONFIRMATION OF MN/III/4391 &MN/III/291/2 CR NO. 34869 AND 38221

The above parcel of land refers.

According to our records the parcels were registered and there are searches to confirm the same.

The searches confirms the current owners and if the party/parties wish to do another search they are at liberty.

Yours faithfully,

S.N. MWENDA
For: CHIEF LAND REGISTRAR

PHYSICAL PLANNING ACT

No.6 of 1996 S.23 (1)(a)

Form P.P.A.2 Registered Number : **KTC/3/2006**

NOTIFICATION OF APROVAL/REFUSAL/DEFERMENT OF DEVELOPMENT PERMISSION

To: The Commissioner of Lands
P O Box 30006
NAIROBI

Your application number as above, submitted on 1st **February, 2006** for permission to **Charge of User from Agricultural to Industry** on L.R. Parcel No. **Plot MN/III, 4391 & MN 29/2** situate in **Kilifi District** Road **Mombasa – Malindi** has been **Approved** (date) **3rd November, 2006** by the **Town Council of Kilifi**

For the following reasons/subject to the following conditions:

(a) The Physical Planning Office has no objection

(b) The District Lands Office has no objection

(c) The District Works Office has no objection

(d) The District Surveyor Office has no objection

(e) The Town Council has approved

Date : 3rd November,2006 Signed: .....

TOWN CLERK

CC: The Commissioner of Lands, Nairobi
The Lands Registrar
The Town Council of Kilifi
The Director of Public Works & Housing , Nairobi
The Director of Physical Planning, Nairobi
The Director of Surveys, Nairobi

THE NATIONAL LAND COMMISSION

To: **The Chairman, National Land Commission**

From: **Mr. Mburugu**

Ref: **36735/Vol. II/72**

Date: **17th September 2014**

RE: LAND REFERENCE NO. MN/III/4391 – MOMBASA CEMENT LTD KILIFI

The history of land parcel MN/III/4319 is long and complex as it resulted from several sub-divisions and consolidation of various parcels of land. From the records, the very original plot numbers of this parcel among others was L.R. NO. MN/III/289 and 290 (see attached plan).

The original parcel No. MN/III/289 was sub-divided into two (2) portion in 1920's and a portion of 422 acres was allocated by the crown Government to Khamis Bin Rashid Bin Sood who later sold the same to Claud Pierp Robertson – Dunn and Yusufali Gulamhusein Datoo and the land was later surrendered to Government on 22nd September 1971 (copy of title endorsed with surrender attached)

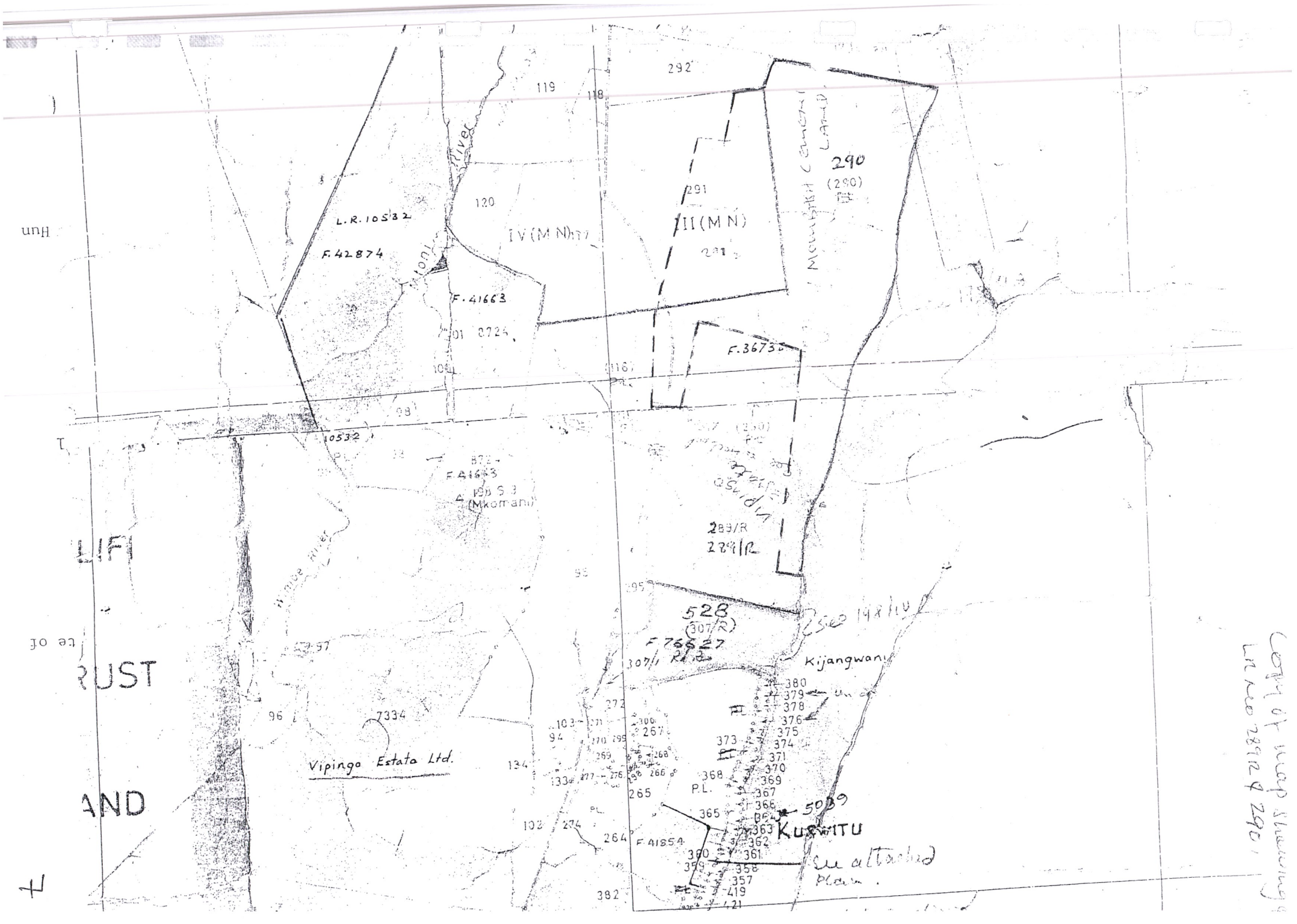
The reminder of MN/III/289 which had remained as Government land, together with L.R. No. MN/III/290 in 1949, it was allocated to Vipingo Estate Limited, subject to certain conditions and in 1951 upon complying with the allocations conditions, they were issued with letter of allotment (copy attached).

When an amalgamation was done for MN/III/290 and the remainder of 289R, the Parcel Number changed to MN/III/3545 (see the attached plan), later it was sub-divided into three (3) portions to become MN/III/4391, 4392 and 4393. Parcel Number MN/III/4391 on 9th March 2005, it was transferred by Vipingo estate Limited to Mombasa Cement Limited (Copy of transfer documents attached).

The transfer to Mombasa Cement Limited had met all the requirements i.e. Commissioner of Land consent, land rent clearance certificate up to year 2005, valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under day book number 64 of 9th March 2005 (all the above documents are attached herein).

Under section 24 of the Land Control Act vide Kenya Gazette Supplement Number 5 of 3rd March 1995, copy attached, the President of the Republic of Kenya by then exempted Vipingo Estate Limited land from the provision of Land Control Board Act and I am of the view that if there was a transfer/sub-division by Vipingo Estate without consent of Land Control Board it was appropriate as long as all the legal fees to the Government were paid.

S.K. Mburugu
LEGAL OFFICER



Copy of map showing L.R. No 289R & 290.

Copy of portion of [illegible]
289 allocated to Y.G. Datoo & [illegible] another which later was surrendered to Government in 1971.

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12 NOV 1966 AM
LAND TITLES REGISTRY

KENYA

REGISTRY OF TITLES

(COAST DISTRICT)

TITLE NUMBER C. R. 7619

I, KHAMIS BIN RASHID BIN SOOD, of Post Office Box Number 254, Mombasa Coast Province, Kenya being registered as proprietor (subject however to such charges leases and encumbrances as are notified by the Memorandum endorsed hereon) of ALL THAT piece or parcel of land containing four hundred forty two (442.0) acres or thereabouts known as subdivision no.307 of Sec. III Mainland North of Meridional District South A 37 (V IV d) situate in the District of Malindi at Kirwitu (south of Takaungu) more particularly -- delineated and described on Deed Plan No. 22039 attached to the Certificate of Ownership no.8794 dated the 9th June 1924 registered at the Coast Registry Mombasa as no.7619 IN CONSIDERATION of the sum of shillings forty five thousand (Shs.45,000/=) only paid to me by (1) Claude Piere Robertson-Dunn and (2) Yusufali Gulamhusein Datoo, both of Post Office Box Number 9873, Mombasa aforesaid (the receipt of which sum I hereby acknowledge) DO HEREBY - TRANSFER to the said (1) CLAUDE PIERE ROBERTSON-DUNN and (2) -- YUSUFALI GULAMHUSEIN DATOO as tenants in common in equal shares all my right title and interest in the pieces of land above --- described together with all the improvements thereon.

IN WITNESS WHEREOF I have hereunto set my hand this 16th day of November One thousand nine hundred and sixty six.

SIGNED by the said KHAMIS BIN RASHID BIN SOOD in the presence of:-
L. J. Maughman
Advocate
Mombasa

R
i
m

Khamis Bin Rashid Bin Sood

MEMORANDUM OF CHARGES LEASES & ENCUMBRANCES
NIL

DRAWN BY:
SACHDEVA & CO,
ADVOCATES, MOMBASA

LAND TITLES REGISTRY - MOMBASA - KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 7619/4
Presented 22-11-1966
Time 11.40 a.m.
Registrar of Titles

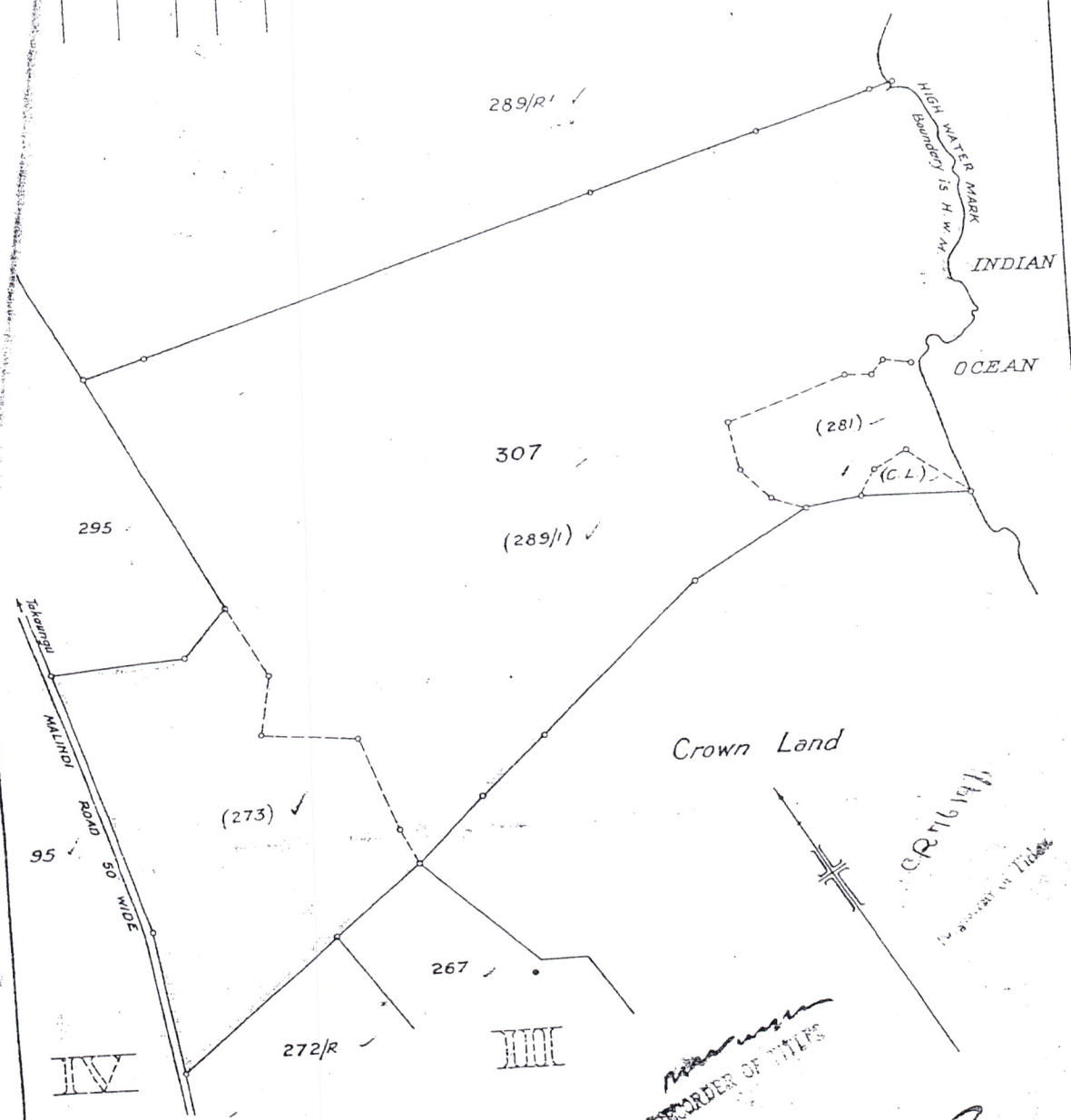
8

COLONY & PROTECTORATE OF KENYA

PROVINCE OF COAST ✓
DISTRICT OF MALINDI ✓
Locality: Kirwitu (South of Takaungu) ✓
Scale: 1 in. 10,000 or 833·33 Feet to 1 Inch

Land Office Reference No.
Re-Subdivision No.
of Subdivision No. 307 (Orig. Nos 273, 281, 289/1 & C.L.) ✓
of Section No. III Mainland North ✓
of Portion No. —
of Meridional District South A 37 / V. IV. d 1 ✓
Area = 442·0 Acres (Approx) ✓

Bearings °	'	"	Distances Feet



RECORDER OF TITLES

J. J. Gordon
for Director of Land Surveys
Nairobi May 26th 1924

Please quote this PLAN No. 22035

Traced by
Compared by

9

6. THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Caveat dated 27th January 1971
By Baron George De Souza claiming
purchaser's interest

Presentation No 69 Date of Registration 22/3/71 REGISTRAR OF TITLES

7 THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Withdrawal of Caveat dated 19th August
1971 of No. 6 above

Presentation No 208 Date of Registration 22-9-71 REGISTRAR OF TITLES

8 THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Surrender to the Government of the Republic
of Kenya.

Presentation No 206 Date of Registration 22-9-71 REGISTRAR OF TITLES

Letter of allotment to Vipingo Estate Ltd in 1951.

P.O. Box 89,
Telephone No.3921
Telegrams "LANDS"

In reply please quote No.
36735/176.
and date

Stamp of the Royal Arms.

DEPARTMENT OF LANDS,
NAIROBI.

28th August, 1951.

REGISTERED

The Manager,
Vipingo Estate Ltd.,
P.O. Box 572,
MOMBASA.

Sir,

LETTER OF ALLOTMENT OF AGRICULTURAL LAND

Crown Land - Kilifi District

Further to my letter Ref.No.36735/166 dated 26th September, 1950, I have the honour to confirm that a portion of the above area has been allocated to you for the term subject to the payments and upon the conditions as set out hereunder:-

AREA: 2,690 acres approximately as illustrated on the attached plan and thereon edged red. A reservation of 200 ft. inland from high-water mark or cliff edge shall be made when survey is effected and excluded from the Grant. Government can accept no liability from any variation in acreage which may well be found upon final survey other than the necessary adjustment of annual rent.

RENT: Twenty cents per acre per annum until 31st December, 1960, then revisable in accordance with the Crown Lands Ordinance (Cap.155).

2690 · 0.20 = Shs 538/-

TENURE: Leasehold under the ordinary agricultrual conditions of the Crown Lands Ordinance (Cap.155).

TERM: 999 years from 1st October, 1949.

DEVELOPMENT ETC: Ordinary conditions applicable to grants of this nature save as may hereinafter be specified.

SPECIAL: (a) No transfer within five years from the commencement of the term.

(b) Personal occupation for three years out of the first five years of the Grant by a responsible representative of your Company.

(c) Within a period of two years from the commencement of the term of the Grant at least one-twelfth of the area must be put under cultivation and so maintained.

(d) Within a further period of two years an additional one-twelfth part of the area must be put under cultivation and so maintained.

/Within

Within a further period of five years an additional one-sixth part of the area must be put under cultivation and so maintained.

(f) For ten years after the commencement of the term of the Grant the Grantee shall in the month of January each year forward to the Commissioner of Lands a Progress Report accompanied by a plan both of which shall be dated and signed. In the Report the Grantee shall certify the area under cultivation and on the plan shall indicate the position of cultivation and all other improvements temporary or permanent. The statement and plan should be certified by Affidavit.

(g) Without prejudice to the ordinary agricultural conditions of the Crown Lands Ordinance (Cap.155) the Grantee shall manage the whole area in a good and husbandlike manner and maintain the same in a good state of fertility and in good condition and so leave it on the expiration of the term hereby granted.

COSTS: Title, survey and other incidental costs to be borne by you.

2. The sum of Shgs.1,211/60 in respect of the approximate annual rent from the 1st October, 1949, to the 31st December, 1951, together with your formal acceptance of the offer contained herein should be forwarded to this office.

3. If acceptance and payment respectively is not made within one month from the date hereof the offer herein contained will be considered to have lapsed.

4. Survey and issue of the Crown Grant will be undertaken as soon as circumstances will permit.

I have the honour to be,
Sir,
Your obedient servant,

(Signed) J.K. Hill.

for SPECIAL COMMISSIONER AND
AG. COMMISSIONER OF LANDS

JKH/IK.
Enc:

Copy to: The Director of Surveys, Nairobi.
The Commissioner of Inland Revenue, Nairobi.
The Provincial Commissioner, Coast Province, Mombasa.
The Registrar of Titles, Mombasa.
O.C. Records.
Records Draughtsman.

Certified to be a true copy of the Original

Richard H. Crosby
Advocate Mombasa

Letter from Special Commissioner allowing Vipingo Estate to enter into the land.

Government
SEAL

P.O. Box 89,
Telephone No. 3921
Telegrams: "LANDS"

DEPARTMENT OF LANDS,
NAIROBI

In reply please quote No.
36735/179
and date

13th September, 1951.

The Manager,
Vipingo Estate Limited,
P.O. Box 572,
MOMBASA.

Sir,

LETTER OF ALLOTMENT OF AGRICULTURAL LAND

Crown Land - Kilifi District.

I have the honour to acknowledge receipt of your letter dated 5th September, 1951, enclosing cheque value Shgs.1211.60 in respect of annual rent on this area from 1st October, 1949 to 31st December, 1951, together with a Progress Report and plan of this area certified by Affidavit. I hereby authorise your formal entry into possession of the land with effect from the 1st October, 1949.

I have the honour to be,
Sir,
Your obedient servant,

(Signed) J.K. Hill.

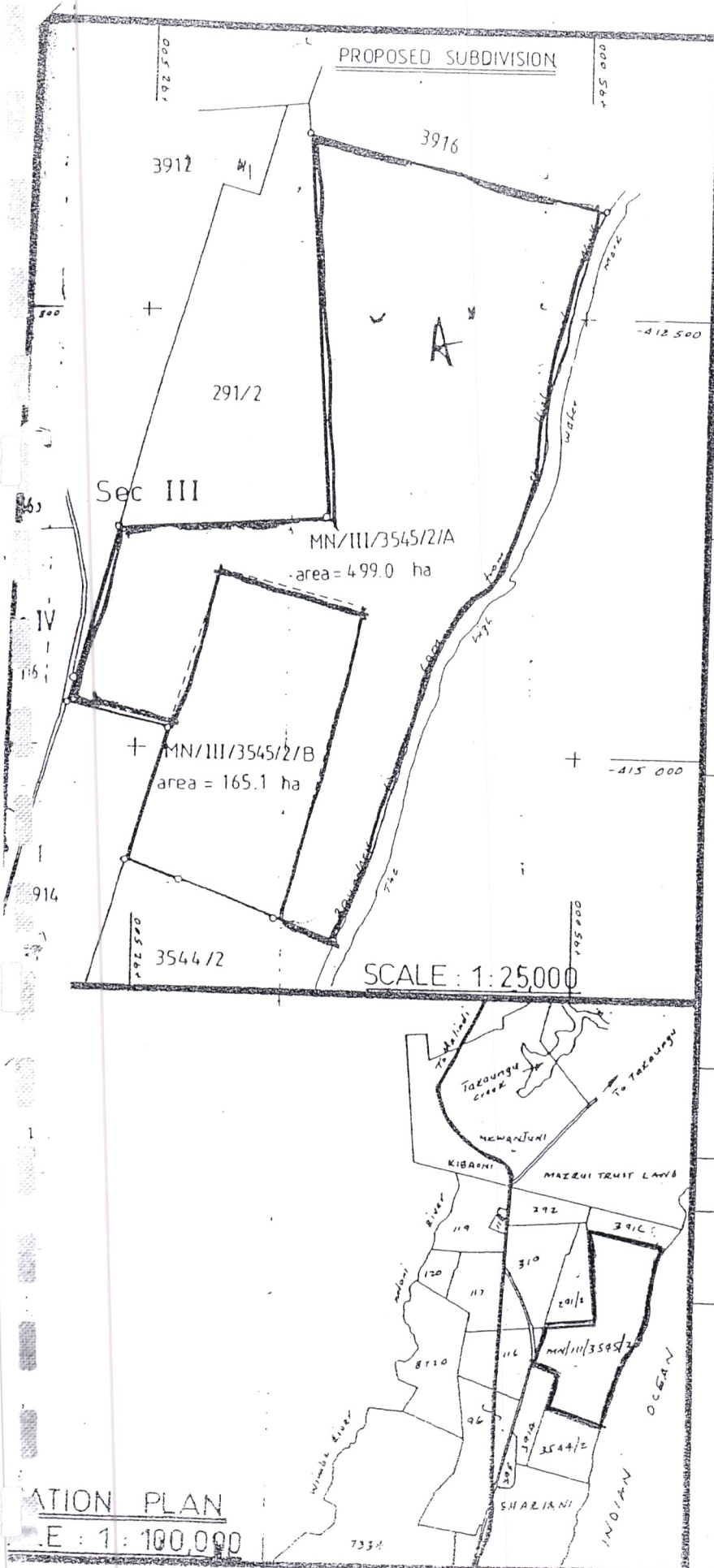
for SPECIAL COMMISSIONER AND
AG. COMMISSIONER OF LANDS

JKH/IK.

I hereby certify that this is a true and correct copy of the original document Dated at Mombasa this 5th October 1951.

Richard P. Crosby
Advocate Mombasa

13



PROPOSED SUBDIVISION SCHEME FOR MN/III/3545/2 & CONSOLIDATION WITH MN/III/3544/2 VIPINGO KILIFI DISTRICT

NOTE

1. Areas and dimensions subject to the final survey

PROPOSED CONSOLIDATION
SCALE : 1:50,000



N

DRAWING No KL 0007-2003-08-28

PLANNING ASSISTANT
Name G. Ndeithe
Sign _____ Date 26-08-03

OWNER / CLIENT
Name Vipingo Estates Ltd.
Sign _____ Date 26-8-03

PREPARED BY S.O. KIAYE
PLANNING CONSULTANT

CHECKED BY _____ D.P.P.

APPROVED BY _____
LOCAL AUTHORITY

I certify that this plan has been prepared in accordance with the Physical Planning Act No 6 of 1996 and the Physical Planning Registration Act No 3 of the 1996 Regurations

Reg Physical Planner _____
Reg. No PP0021 Date 28/8/03

ATION PLAN
E : 1 : 100,000

ERZ/1/78/43

REPUBLIC OF KENYA

DISTRICT OF ~~MOMBASA~~ KILIFI

Locality ~~Mombasa Municipality~~ S. of Takaungu Town

Land Reference No

(Orig No.

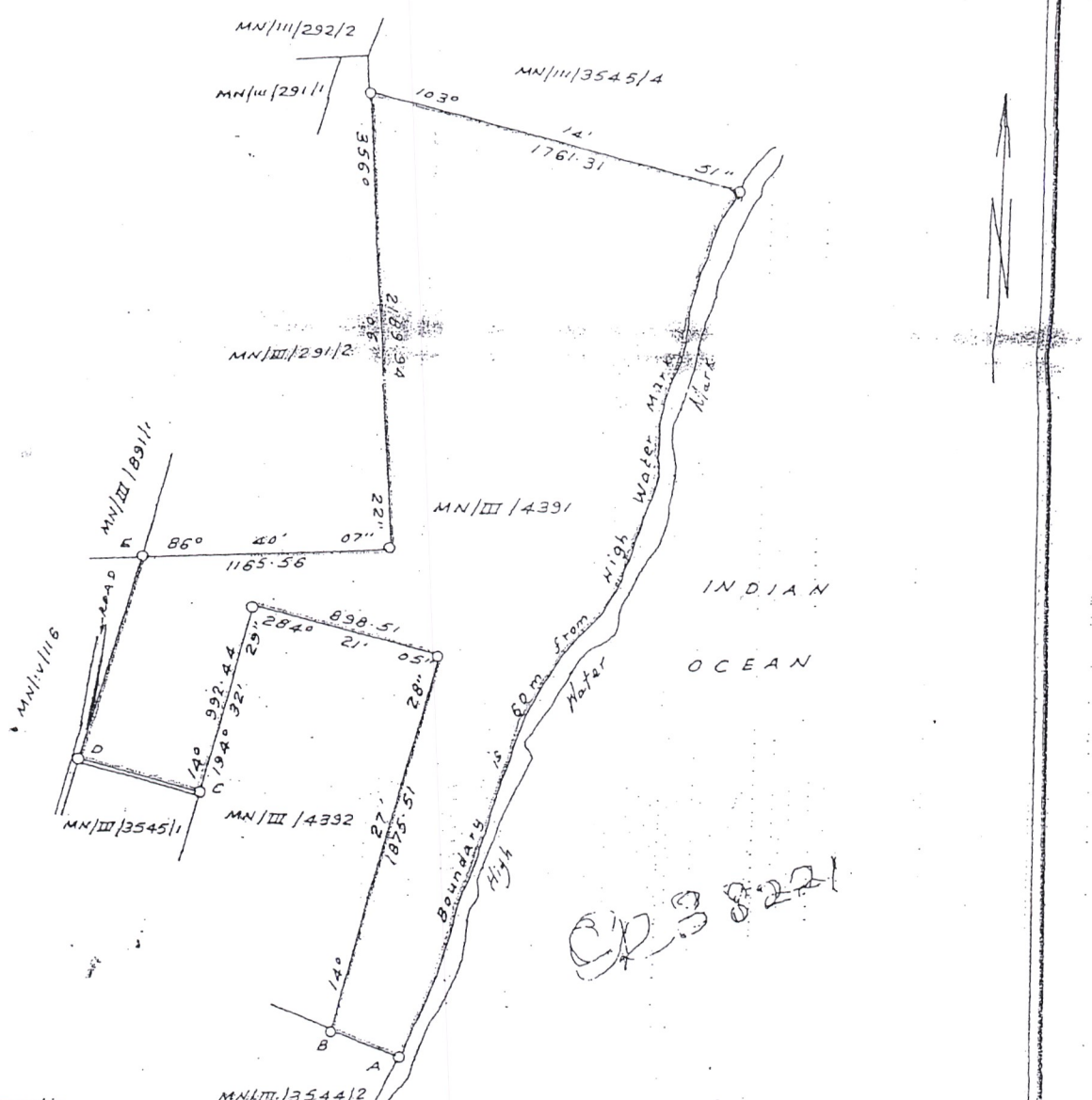
Reference Map South A 37 / V IV d

Sub division No 4391 (Orig No. 3545/2/1)

of Section No. III Mainland North

Area = 499.02 Ha (approx.)

Bearings °	'	"	Distance Metres
A-B 290	00	34	351.18
C-D 284	34	57	554.79
D-E 13	47	28	1050.89



A. Zimmerlin
Licensed Surveyor.

for Director of Surveys

Nairobi 9 TH [illegible] 2004

Transfer document of LR No 4391 from Vipingo Estate to Mombasa Cement Ltd.

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED

TO

MOMBASA CEMENT LIMITED

In respect of the land and buildings comprised in
Subdivision No.4391 (Original No. 3545/2/1)
of Section III MN

A. B. PATEL & PATEL
ADVOCATES & NOTARIES
P.O. BOX 80274
ORIENTAL BUILDING
NKRUMAH ROAD
MOMBASA

TEL: 226518/9/225992
FAX: 228864
E-MAIL: law@abpp-kenya.com

C: RTA – TRANSFER – LEASE

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(CHAPTER 281)

CERTIFICATE OF TITLE NUMBER C.R. 38221

ANNUAL RENT: SHILLINGS 493,200.00 (REVISABLE)

TERM: 999 YEARS FROM 1.10.1949

I certify that the stamps on this document were embossed on 27-03-95

COLLECTOR OF STAMP DUTY

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo in the Republic of Kenya (hereinafter called "the Transferor" which expression where the context so admits shall include its successors and assigns) is registered as proprietor as Lessee from the Government of Kenya for a term of nine hundred and ninety nine (999) years from the first day of October One Thousand Nine Hundred and Forty Nine of ALL THAT piece of land situate South of Takaungu in the Kilifi District of the said Republic containing by measurement Four Nine Nine decimal nought (499.0) hectares or thereabouts and being Subdivision Number 4391 (Original Number 3545/2/1) of Section III Mainland North which said piece or parcel of land is more particularly delineated on Land Survey Plan No.254238 annexed to the Certificate of Title registered in the Land Titles Registry at Mombasa as Number C.R.38221/1 subject however to the such charges leases encumbrances and other matters specified in the Memorandum hereunder written together with the buildings and improvements erected and being thereon (the said land together with the building and improvements thereon is hereinafter called "the Property") IN CONSIDERATION of the sum of **US$.505,563.00 (United States Dollars Five Hundred and Five Thousand Five Hundred and Sixty Three)** paid to the Transferor by **MOMBASA CEMENT LIMITED** a limited liability company incorporated in the Republic of Kenya having its registered office at Mombasa in the Republic of Kenya and whose postal address is Post Office Box Number 90394 Mombasa aforesaid (hereinafter called "the Transferee" which expression where the context so admits shall include its successors and assigns) on or before the execution of these presents (the receipt of which sum the Transferor hereby acknowledges) DOTH HEREBY TRANSFER all its right title and interest in and to the Property to the Transferee.

IN WITNESS WHEREOF the Transferor and the Transferee hereto have hereunto caused their respective common seals to be affixed hereto this 1 ST day of MARCH Two Thousand and FIVE

THE COMMON SEAL of the said
VIPINGO ESTATE LIMITED
the **TRANSFEROR** was hereunto
affixed in the presence of:-

V Alhan

DIRECTOR

DIRECTOR/~~SECRETARY~~

THE COMMON SEAL of the said
MOMBASA CEMENT LIMITED
the **TRANSFEREE** was hereunto
affixed in the presence of:-

KP Patel

DIRECTOR

DIRECTOR/SECRETARY

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

1) The Government Land Act (Chapter 280).
2) The Registration of Titles Act (Chapter 281).
3) The Special Conditions contained in a Grant registered as Numbers C.R. 30669/1 and 35568/2.
4) The Grant of Easement registered as Number C.R. 35658/2.

DRAWN BY:-
A B PATEL & PATEL
ADVOCATES & NOTARIES
P O BOX 80274
MOMBASA
C:RTA TRANSFER OF LEASE

LAW TITLES REGISTRY — MOMBASA — PATEL
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 38221/2
9TH MARCH 2005
TIME: 10:30 A.M.

Commissioner of Lands Consent

REPUBLIC OF KENYA

ORIGINAL

Nº 097372

Serial No. LO/18348/50

Ref. No. 4391

DEPARTMENT OF LANDS,
P.O. Box 30089,
NAIROBI.

23/12/54

Viphugo Estates Ltd

Sir/Madam,

Letter of Consent

Nature of Transaction Transfer

Plot No. 4391/III/M.N.

With reference to your letter dated 22/12/54

hereby give consent in respect of the above-mentioned transactions.

Yours faithfully,

DISTRICT LAND OFFICER NAIROBI

for Commissioner of Lands

This letter is issued without erasure or alteration.

PK 6540—500 Bks.—9/94

Land rent
Clearance
Certificate

ORIGINAL

REPUBLIC OF KENYA

Serial No. 943

GOVERNMENT LANDS ACT

No 088659

RENT CLEARANCE CERTIFICATE

This is to certify that the Land Rent in respect of Plot No. Mn/III/4391

registered in the name of VIPingo Estates Ltd

has been paid up to and including 31st December, 20 05

18th Aug

17/2/2005

for Commissioner of Lands

This certificate is issued without erasure or alteration.

GPK 6170—200—11/2003

Valuation for Stamp duty forms,

MINISTRY OF LANDS AND SETTLEMENT

MOMBASA LANDS REGISTRY
P. O. Box 80053
MOMBASA

Date 22/12/..... 2004....

VALUATION OFFICER
KILIFI

VALUATION REQUISITION FOR STAMP DUTY

Please arrange to undertake valuation for stamp duty for the property below.

1. Location (State Town and Estate (E.g. Malindi – Casuarina, Mtwapa-Opp. Post office, e.t.c)..... South of Takaungu Kilifi District
2. Land (i) L.R. Number. (ii) Area (Ha) 4391 (Orig No III M.N. Area 499.0 Hect
3. Buildings (i) Number ..... (ii) Plinth area (Sq. Ft) .....
4. If Lease of Building, state type, plinth area and number of bedrooms
   i) Type (e.g. Apartment)..... Plinth Area(s) .....
   ii) iii) No. of Bedrooms.....
5. Names of Plot Owner and Purchaser. Vipingo Estate Limited to Mombasa Cement Limited
6. Advocates address (Incl. Tel. number). Ghalia & Ghalia, Advocates, Mombasa
7. Value of Property i) Land. US$ 50,000 ii) Buildings .....
8. Date of Transfer (W. e. f) ..... December 2004 .....

REGISTRAR OF TITLES

COMMENTS OF THE VALUER

Raise to Kshs. 50,000,000/= Duly.

SIGNED..... Date: 22/12/04

EDWIN O. ODUOR MISK
DISTRICT LANDS OFFICER/VALUER
KILIFI/MALINDI/LAMU/TANA RIVER DISTRICT

NB. ...

Payment to KRA

SD1

Serial No. 0017933

Kenya Revenue Authority

DOMESTIC TAXES DEPARTMENT

P.O BOX 30165 NAIROBI (00100) TEL. 310900 FAX: 253532

STAMP DUTY DECLARATION, ASSESSMENT & PAYMENT FORM

PART I: TO BE COMPLETED BY THE STAMP DUTY PAYER

NAME OF DOCUMENT

(1) TRANSFER OF LEASE

MOL/H- FILE NO.

(2)

PARTICULARS OF OWNER/TRANSFEROR/VENDOR

(3)	Name	VIPINGO ESTATE LTD
(4)	PIN	P000618337A
(5)	Postal Address	PO BOX 1 · VIPINGO
(6)	Tel. No.	041 32259

PARTICULARS OF TRANSFEREE

(7)	Name	MOMBASA CEMENT
(8)	PIN	P051159492
(9)	Postal Address	P.O BOX 90394 M
(10)	Tel. No.	041 433726/82

DESCRIPTION OF PROPERTY/DOCUMENT

(11)	LR No.	4391/111/MN
(12)	Title No.	CR 38221
(13)	Location/Town/Street	SOUTH OF TAKAUNGU
(14)	Area/Size	499.0 HECTARES.
(15)	Declared Value	Kshs. US$ 505,563.00 @ 76 US$ 38,422,790/-

PARTICULARS OF AGENT/ADVOCATE

(16)	Name	A.B. PATEL & PATE
(17)	PIN	P000618843D
(18)	Postal Address	PO BOX 80274 M
(19)	Tel. No.	226519/8

PART II: TO BE COMPLETED BY THE REGISTRAR

AMOUNT OF DUTY ASSESSED (20) Kshs. 768,465/=

VALUATION AMOUNT (21) Kshs. ~~N/A~~ 50,000,000/=

ADDITIONAL DUTY ASSESSED (22) Kshs. 231,545/=

REGISTRAR'S STAMP

M. A. Kai 047

AMOUNT OF DUTY ASSESSED IN WORDS: ONE MILLION AND TEN SHILLINGS

RECOMMENDATION ON DUTY ASSESSED: *(Tick as Appropriate)*: FINAL (23) ✓ DUE FOR RE-ASSESSMENT (24) N/A

NAME OF REGISTRAR/ASSESSOR: MARY · N · KAI *(Examined & Certified by)* DESIGNATION: L/R SIGNATURE: [signature] DATE: 1-3-05

PART III: PAYMENT DETAILS

BANK TELLER'S STAMP & INITIALS

		Cash/Cheque Number	Drawer's Bank Name & Branch	Amount (Kshs.)
(25)	Amount of Duty Paid	507414	BANK OF BARODA	1000,010
(26)	Bank Charges		(K) LTD DIGO RD	100
(27)	Total Amount Paid			1000,110

AMOUNT PAID IN WORDS: ONE MILLION ONE HUNDRED TEN ONLY

JOSEPH BARASA (AMOUNT PAID BY) [signature] (SIGNATURE) 1/3/05 (DATE)

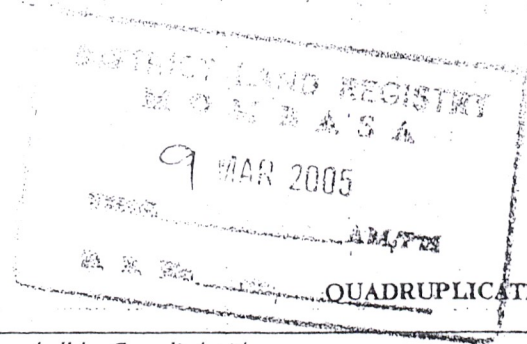
Form to be filled in Quadruplicate:

White - Duty Payer's Copy
Blue - Commissioner of Domestic Taxes Copy
Green - District Registrar's Copy
Yellow - Bank's Copy

(Please turn overleaf for instructions)

Transfer Booking form.

TO BE RETAINED BY THE PRESENTOR



The Conditions on the Back of this Form shall be Complied with

REPUBLIC OF KENYA

APPLICATION FOR REGISTRATION

of the undermentioned documents in the following order of priority:

Date of Documents	Description (1)	Land Reference Number (2)	Title Deed File Number (3)	Fee (4)	For Official Use only
				Sh.	
5 March 2005	Transfer of Lease in triplicate. Vipingo Estate Limited and Mombasa Cement Limited	4391/III/MN South of Takaungu in Kilifi.	CR.38221	250.00	64

Number of new certificates of title required at Sh. 125 each .. ..

Adhesive revenue stamps affixed hereto to the value of 250.00

The following documents are enclosed for endorsement: (5)

Grant No._____ Certificate of Title No. CR. 38221 Lease No._____

The following supporting documents are also enclosed: (6)

Clearance Certificate .. .. .. ☐ Land Rent Certificate .. .. ☐
"Registration Copy" of Divisional Land Board Consent .. .. ☐
"Registration Copy" of the County Council's/Commissioner's Consent .. .. ☐
Valuation forms .. .. .. ☐ .. W. 70 .. .. ☐

The following consents are enclosed on the documents:

Commissioner of Lands or the Chief Engineer, Kenya Railways under the terms of the Grant .. .. .. ☐
Chargee to surrender of lease under section 44 of the Registration of Titles Act (Cap. 281) ... . ☐

Special instructions, including, if necessary, the name and address of the persons to whom the documents are to be sent if other than the presentor: The documents enclosed are to be registered in the order stated. If any one document is not registered or is rejected for registration then no document should be registered.

Signature _____

Name in Block Capitals A. B. PATEL & PATEL

Postal Address ADVOCATES & NOTARIES
P. O. Box 80274
MOMBASA-80100
KENYA

Date 9.2.2005 19__

TO BE SUBMITTED IN TRIPLICATE

12

Transfer Booking
payment Recei

TRIPLICATE

F 997053

DEPARTMENT OF LANDS

FEE RECEIPT

Station Mombasa 7/03/05 20

Received from A. B. Patel
Spatel Adv
of

By Cash / Cheque the sum of

Shillings Seven hundred
Fifty

cents

As per marginal statement nature of transaction

Reg fees
by (1) Transfer
(2) postal search

Title Number

NATURE OF FEE	Sh.	cts.
Certificate of Title ✓		
Registration	750	2
Search Certificate		
Opening New Register		
Attestation		
Inspection		
Copying		
Conveying/Preparation		
Survey Fees		
Rent		
Stand Premium		
Stamp Duty		
Land Adjudication Fees		
Deposits		
Total Rs.	750	2

CU 38227
7/03/05

for COMMISSIONER OF LANDS

24

Exemption from provisions of Land Control Board

VIPINGO ESTATE LTD
15 MAR 1995
RECEIVED

LEGAL NOTICE No. 89

THE LAND CONTROL ACT

(*Cap.* 302)

EXEMPTION

IN EXERCISE of the powers conferred by section 24 of the Land Control Act, I, Daniel Toroitich arap Moi, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, exempt the controlled transactions, details of which are set out in the Schedule, from all the provisions of the Act.

SCHEDULE

Transactions	*Description of Land*
1. Proposed sale and transfer from Vipingo Estate Limited to Mkonge Estates Limited.	Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292 and 295 of Section III Mainland North and Subdivisions 95, 116, 117, 119, 120, 132, 137 and 159 of Section IV Mainland North, all situated in the Kilifi District.
2. Proposed division of land as shown on the plan prepared by Hime & Zimmerlin, chartered and licensed land surveyors, registered in the Registry of Documents at Mombasa on 30th January, 1995, in Volume B13 II Folio 589/852 (File 1637) (the "subdivision plan").	Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292 and 295 of Section III Mainland North and Subdivisions 95, 117, 119, 120 and 137 of Section IV Mainland North, all situated in the Kilifi District.
3. Proposed declaration of trust and transfers by Mkonge Estates Limited to Vipingo Estate Limited.	All those portions of Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292, and 295 of Section III Mainland North and Subdivisions 95, 117, 119, 120 and 137 of Section IV Mainland North, all situated in the Kilifi District and delineated in red on the subdivision plan.

25

SCHEDULE—(*Contd.*)

Transactions	*Description of Land*
4. Grants of all easements, way-leaves, rights of access and ancillary rights as may be considered necessary or desirable for the purposes of the proposed division or for the benefit of adjoining land owners.	Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292 and 295 of Section III Mainland North and Subdivisions 95, 117, 119, 120 and 137 of Section IV Mainland North, all situated in the Kilifi District.
5. Proposed leases of 4 houses until 30th September, 2010 by Vipingo Estate Limited to Mkonge Estates Limited.	Land Reference Number 5025.
6. Proposed issue of shares in Mkonge Estates Limited to Vipingo Estate Limited.	

Dated the 21st February, 1995.

D. T. ARAP MOI,
President.

LEGAL NOTICE No. 90

THE STANDARDS ACT

(*Cap.* 496)

IN EXERCISE of the powers conferred by section 20 of the Standards Act, the Minister for Commerce and Industry makes the following Regulations:—

THE STANDARDS (NATIONAL SCHEME FOR THE REGISTRATION OF ASSESSORS) REGULATIONS, 1995

Citation.

1. These Regulations may be cited as the Standards (National Scheme for the Registration of Assessors) Regulations, 1995.

Interpretation.

2. In these Regulations unless the context otherwise requires—

"assessors" means any person qualified and authorized by the Committee to perform all or any part of the quality assessment;

Dated the 17th day of February 2003

VIPINGO ESTATE LIMITED

and

KANJI PREMJI PATEL

AGREEMENT FOR SALE
in respect of Land Reference Number:
291/2 and a Subdivision of L.R. 3545/2
Section III Mainland North

Drawn by:
GHALIA & GHALIA
ADVOCATES
BANK OF INDIA BUILDING
NKURUMAH ROAD
P O BOX 90019
MOMBASA
(Ref: 2/V.920/2(B))

THIS AGREEMENT is made the 17th day of February 2004.

BETWEEN:

1. VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo (hereinafter called "the Vendor"); and

2. KANJI PREMJI PATEL of Post Office Box Number 83594, Mombasa (hereinafter called "the Purchaser").

IT IS AGREED AND DECLARED as follows:

1. Definitions and Interpretation

1.1 In this Agreement, unless the context otherwise requires, the following expressions shall have the following meanings:

(a) "Completion Date" means the date stipulated in or ascertained in accordance with the provisions of Condition 5.1 and being the date on which completion shall take place;

(b) "Deposit" means the sum of US Dollars One Hundred and Fifty Thousand (US$150,000.00);

(c) "Interest Rate" means 2% over one month's United States Dollars Libor interest per annum interest to be adjusted every month;

(d) "Incomings" means any rent receivable on the Property;

(e) "LSK Conditions" means the Law Society of Kenya Conditions of Sale (1989 Edition);

(f) "Outgoings" means Municipal or other local authority rates, ground rent or other leasehold rent;

(g) "Property" means:
Firstly: All that piece of land situated South of Takaungu in the Kilifi District and known as Subdivision Number 291/2 of Section III Mainland North comprising of 173.7 hectares ("the first Property"); and

Secondly: A portion being a subdivision comprising of 499.02 hectares being a portion of L.R. Number 3545/2 Section III Mainland North. The said subdivision marked "A" bordered in red as more particularly shown on the Plan attached thereto ("the second Property").

Both "the first Property" and "the second Property" collectively called "Property" and are more particularly described in the First Schedule hereto.

(h) "Purchase Price" means:

(a) The purchase price for the first property shall be United States Dollars One Hundred Seventy Five Thousand Nine Hundred Seventy Six (US$175;976.00).

(b) The purchase price for the second property which currently measures approximately 499.02 hectares will be United States Dollars Four Hundred and Ten (US$410.00) per acre which translates to United States Dollars Five Hundred Five Thousand Five Hundred Sixty Three (US$505,563.00). The exact price for this property shall be determined a least 7 days before the Completion Date after the Director of Surveys of Kenya has carried out the survey of the second property and has determined the exact area thereof;

(i) "Vendor's Advocates" means Ghalia & Ghalia, Advocates, Bank of India Building, Nkrumah Road, Post Office Box Number 90019, Mombasa - 80100; and

(j) "Purchaser's Advocates" means A.B. Patel & Patel, Advocates, Oriental Building, Nkrumah Road, Post Office Box Number 80274, Mombasa - 80100.

1.2 In this Agreement, unless the context otherwise requires, reference to:

(a) The "Vendor" includes the Vendor's successors in title and its permitted assigns and the "Purchaser" includes the Purchaser's nominee(s), personal representatives, heirs and assigns;

(b) Words importing the singular number only shall include the plural number also and vice versa and words importing the masculine gender includes the feminine gender and neuter and vice versa;

(c) Clauses, sub-clauses, Conditions and Sections shall be construed as references to clauses, sub-clauses, Conditions and Sections of this Agreement;

(d) The expression "person" shall include any legal or natural person, partnership, trust, company, joint venture, agency, government or local authority department or other body (whether corporate or un-incorporate);

(e) The expression "registration" means registration of the formal Instrument of Transfer in the Mombasa District Land Registry, in favour of the Purchaser;

(f) The word "taxes" shall be construed so as to include any tax, value added tax (VAT), levy, impost, assessment, duty or other charge of a similar nature (including without limitation, value added tax, stamp duty and any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same) and "taxation" shall be construed accordingly and the expression "competent taxing authority" means, in respect of any state or administrative division thereof; any governmental or local authority, monetary agency or central bank having power to collect or levy taxes;

(g) Any statute or any provision of any statute shall be deemed to refer to any statutory modification or re-enactment thereof and to any statutory instrument, order or regulation made thereunder or under any such re-enactment;

(h) Indemnifying any person against any circumstance includes indemnifying and keeping him harmless from all actions, claims and proceedings from time to time made against that person and all loss or damage and all payments, costs and expenses made or incurred by that person as a consequence of or which would not have arisen but for that circumstance; and

(i) The expression "month" means a calendar month.

1.3 Headings to Sections are for convenience only and shall not affect the construction or interpretation of this Agreement.

1.4 In this Agreement any reference to any document means that document as is supplemented, amended or varied in writing from time to time between the parties thereto in accordance with the terms (if applicable) hereof and thereof.

2. Law Society Conditions of Sale

2.1 The sale and purchase of the Property is subject to the LSK Conditions which shall be deemed incorporated herein in extenso save in so far as the LSK Conditions are not consistent with the provisions of this Agreement or are varied or excluded by the terms of this Agreement.

3. Agreement for Sale

3.1 The Vendor hereby agrees to sell as beneficial owner and the Purchaser hereby agrees to purchase the Property at the Purchase Price and upon the terms and conditions set out in this Agreement.

3.2 The interest sold in the Property is as set out in the First Schedule hereto.

3.3 The Purchase Price is inclusive of taxes.

4. Deposit

4.1 The Purchaser has paid on or before the date of this Agreement the Deposit to the Vendor's Advocates (receipt of which is hereby acknowledged by the Vendor).

4.2 The deposit as well as the balance of the purchase price to be held by the Vendor's Advocates as stakeholders up to a maximum of Fourteen (14) days after the Completion Date provided the Vendor has complied with all its obligations pursuant to the terms of this Agreement.

5. Completion

5.1 The Completion Date shall be the Seventh (7th) business day after the Purchaser's Advocates have received notification from the Vendor or its Advocates that the Vendor has obtained a separate deed plan and certificate of Title of the second property.

For the purposes of this Agreement, the term "business day" shall mean a day (other than a Saturday, Sunday or gazetted public holiday in Kenya) on which banking and financial institutions are generally open for the conduct of banking business in Kenya.

5.2 Completion shall, unless otherwise agreed in writing between the parties hereto take place at the offices of the Vendor's Advocates.

5.3 On or before the Completion Date:

(a) The Vendor or the Vendor's Advocates shall deliver to the Purchaser's Advocates the following:

(i) original documents of titles in respect of the Property;

(ii) the duly executed by the Vendor Instrument of Transfers (in triplicate) in respect of each of the Property in favour of the Purchaser;

(iii) Kilifi Council rates receipts in respect of the fully paid up rates in respect of the Property together with a Rates Clearance Certificate valid for at least thirty (30) days from the Completion Date; and

(iv) the Consent of the Land Control Board and the Consent of the District Land Officer for the second property and the first property.

(v) the Land Rent Clearance Certificate for the second property valid for at least thirty (30) days from the Completion Date.

(vi) extract of the Minutes of the Board of Directors of the Vendor in the form set out in the Second Schedule.

(vii) original registered instrument of Easement in respect of the access roads as provided in Clause 9 hereunder.

5.4 The Purchaser shall pay the balance of the Purchase Price to the Vendor's Advocates on receipt of the documents stated in Clause 5.3 above and 9.2 below.

5.5 The balance of he purchase price shall be held in terms of Clause 4.2 by the Vendor's Advocates.

6. Capacity

6.1 The Vendor sells as legal and beneficial owner.

7. Movables

7.1 The sale includes no movables.

8. Possession

8.1 The Property is sold in vacant possession.

8.2 Possession of the Property will be given on the Completion Date.

9. Access Roads

9.1 The Purchaser shall have the right of way from the main Mombasa/Malindi highway through Rea Vipingo Plantations Limited's land as more particularly stated and outlined in the Instrument of Easement attached hereto in the Third Schedule.

9.2 The Vendor's Advocates shall have the instrument of Easement registered against the relevant title documents and deliver the same to the Purchaser's Advocates on the Completion Date.

10. Matters affecting the Property

10.1 The Property is sold subject to the Acts, reservations, stipulations, conditions and other matters contained in the certificate of titles in respect of the Property but otherwise free from all encumbrances, charges, mortgages (legal or equitable), overriding interest and free of squatters.

11. Disclaimer

11.1 The Purchaser and the Vendor agree that this Agreement contains the entire agreement between the parties and supersedes any previous arrangements or agreements between the parties hereto, such agreements being rescinded by mutual agreement of the parties.

12. Outgoings and Incoming of the Property

12.1 All Outgoings and Incomings in respect of the Property shall be apportioned on the Completion Date.

13. Assignment

13.1 The formal Instrument of Transfer of the Property shall be drawn in favour of the Purchaser and/or such other person or persons or corporate body as the Purchaser shall or may nominate prior to the Completion Date.

14. Non-merger

14.1 The provisions of this Agreement shall not merge on completion of the sale and purchase of the Property in so far as they remain to be observed or performed by the Vendor.

15. Legal and Other Costs

15.1 Each party shall be responsible for the fees of its legal advisers in connection with this Agreement and the sale and purchase of the Property.

15.2 All Stamp Duty and registration fees payable on the transfer of the Property to the Purchaser shall be for the account of the Purchaser.

16. Special Conditions

16.1 The LSK Conditions shall be varied as follows:

(a) Conditions 8(3), 8(4), 11(4), 14(4), 14(5), 18(1), 19(3), 20, 23(3), 28(3) and 29 shall not apply to this Agreement.

(b) "interest" means interest at the Interest Rate.

16.2 Right of First Refusal

The Vendor hereby gives the Purchaser the right of first refusal to purchase the remainder of Portion Number L.R. 3545/2 Section III Mainland North at a price to be agreed at the time of offer and if no price is agreed within Thirty (30) days from the date of offer then the Vendor shall be at absolute liberty to sell the same to any third party.

17. General

17.1 All payments due to be made by the Purchaser hereunder and all costs, charges, expenses or remunerations are inclusive of taxes or similar tax charged or chargeable in respect thereof including, without limitation, any deduction for or on account of any present or future taxes.

17.2 No failure or delay to exercise any power, right or remedy by the parties shall operate as a waiver of the right, power or remedy and no single or partial exercise by the parties of any right, power or remedy shall preclude its further exercise all the exercise of any other right, power or remedy.

17.3 The rights and remedies of the parties hereto provided in this Agreement are cumulative and not exclusive of any rights of remedies provided by law.

17.4 If any term or condition of this Agreement shall to any extent be found or held to be invalid or unenforceable, the parties shall negotiate in good faith to amend such term or condition so as to be valid and enforceable and to be construed with the interests of the parties as contained herein.

17.5 If any term or condition of this Agreement shall to any extent be invalid or unenforceable, the remainder of this Agreement shall not be affected and each other term and condition shall be valid and enforceable to the fullest extent permitted by law.

17.6 No amendment change or addition to this Agreement shall be effectual or binding on the parties hereto unless it is in writing and duly executed by or on behalf of the parties hereto.

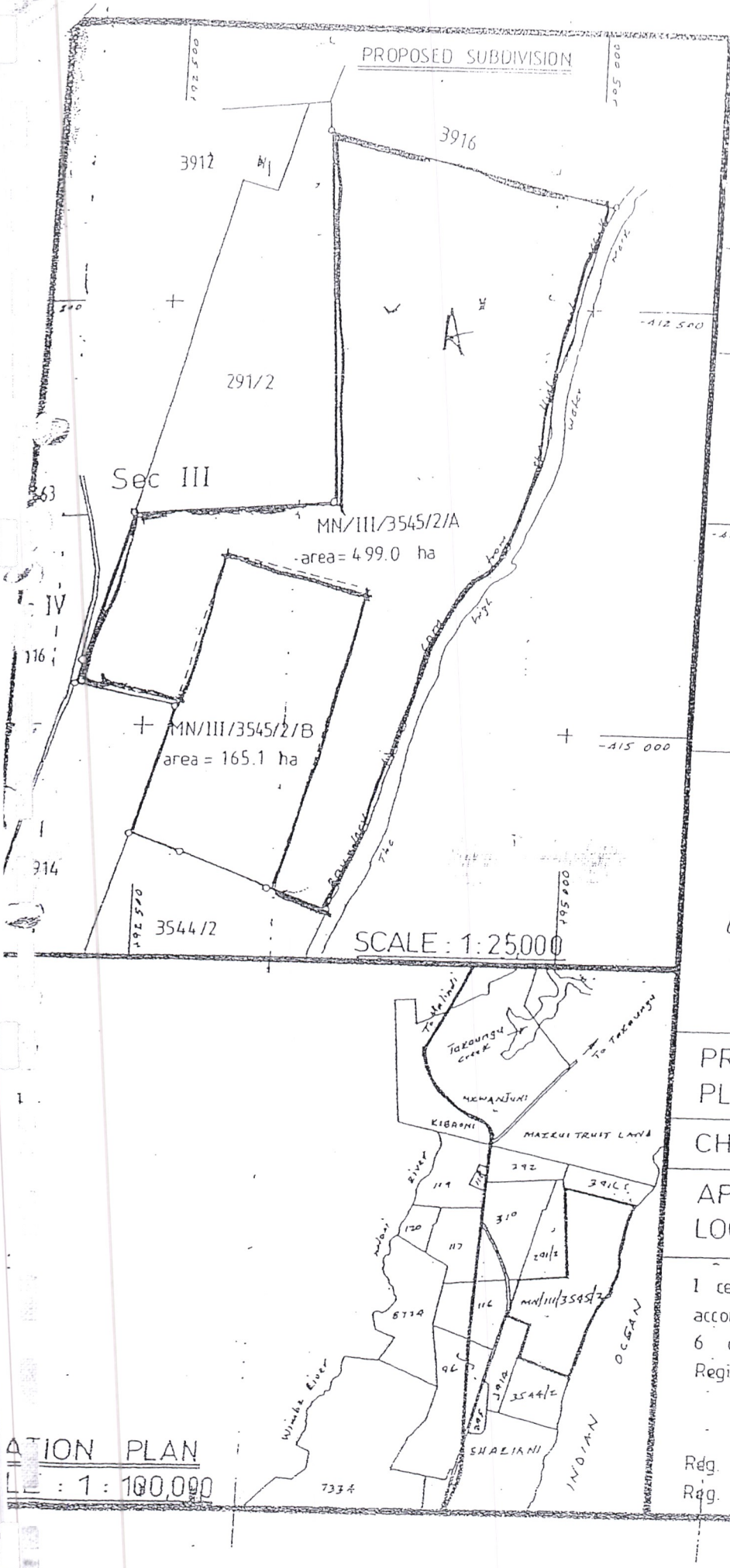
17.7 Time shall be of the essence in respect of all the obligations of both parties.

17.8 All warranties and confirmations contained in this Agreement shall remain in full force and effect not withstanding completion.

FIRST SCHEDULE

(1) All that freehold piece of land situate South of Takaungu in the Kilifi District containing by measurement One Seven Three decimal Seven (173.7) hectares or thereabouts known as Subdivision Number 291/2 of Section III Mainland North being a portion of Subdivision No.291 being the premises comprised in a Certificate of Title dated 8th day of November 2001 and delineated on the Land Survey Plan Number 229521 annexed thereto and deposited in the Survey Records Office at Nairobi and thereon bordered red and registered in the Land Titles Registry at Mombasa as Number C.R. 34869/1.

(2) All that portion of land being the subdivision marked "A" bordered in red on the plan annexed hereto of the leasehold piece of land situate South of Takaungu in the Kilifi District containing by measurement Four Nine Nine decimal Nought Two (499.02) hectares or thereabouts being a portion of Land Reference Number 3545/2 of Section III Mainland North being the premises held for a term of Nine Hundred and Ninety Nine (999) years from 1st day of October 1949 subject to the annual rent of Shs.402,300.00 (Revisable) payable from 11th May 2001 the dimensions abuttals and boundaries which is delineated and described on the Deed Plan Number 229518 annexed to the Certificate of Title dated 15th May 2002 and registered in the Land Titles Registry at Mombasa as Number C.R. 35659/1.



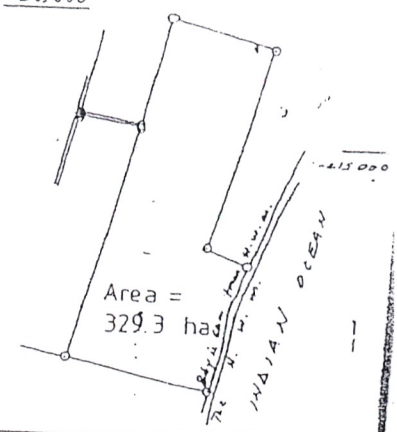
ATION PLAN
LE : 1 : 100,000

PROPOSED SUBDIVISION SCHEME FOR MN/III/3545 & CONSOLIDATION WITH MN/III/3544/2 VIPINGO KILIFI DISTRICT

NOTE

1. Areas and dimensions subject to the final surv

PROPOSED CONSOLIDATION
SCALE : 1:50,000



DRAWING No KL 0007-2003-08-28

PLANNING ASSISTANT
Name G. Nderitu
Sign _____ Date 25-08-03

OWNER / CLIENT
Name Vipingo Estates Ltd.
Sign _____ Date 25-8-03

PREPARED BY S.O. KIAYE
PLANNING CONSULTANT

CHECKED BY _____ D.P.P.

APPROVED BY _____
LOCAL AUTHORITY

I certify that this plan has been prepared in accordance with the Physical Planning Act No 6 of 1996 and the Physical Planning Registration Act No 3 of the 1996 Regurations.

Rgd. Physical Planner _____
Rgd. No PP0021 Date 28/8/03

31
30

SECOND SCHEDULE

VIPINGO ESTATE LIMITED

(Company Number C.)

Minutes of a Meeting of the Board of Directors of the Above Company duly convened held and constituted At the registered office of the Company on the day of 200

Present: Director Chairman
Director

The Chairman reported that the Vendor had received an offer from Kanji Premji Patel (the "Purchaser") to purchase from the Vendor the Vendor's Properties comprised as follows:

(1) Under Certificate of Title Number 34869 being all the land known as Subdivision Number 291/2 of Section III Mainland North Mombasa.

(2) A subdivision comprising approximately 499.02 hectares of land being a portion of Certificate of Title Number 35659 being all that land known as Land Reference Number 3545/2 of Section III Mainland North Mombasa.

(hereinafter called the "Property"). The principal terms of the proposed sale were as follows:

1. Price:
   (a) The purchase price for the first property shall be United States Dollars One Hundred Seventy Five Thousand Nine Hundred Seventy Six (US$175,976.00).

   (b) The purchase price for the second property which measures approximately 499.02 hectares shall be United States Dollars Five Hundred Five Thousand Five Hundred Sixty Three (US$505,563.00) calculated at the rate of United States Dollars Four Hundred and Ten (US$410.00) per acre. The exact price for this property shall be determined after the Director of Surveys of Kenya has carried out the survey of the second property and has determined the exact area thereof;

2. Completion Date:
   The Completion Date shall be the Seventh (7th) business day after the Purchaser has received notification from the Vendor or its Advocates that the Vendor has obtained a separate deed plan and certificate of Title of the second property.

   For the purposes of this Agreement, the term "business day" shall mean a day (other than a Saturday, Sunday or gazetted public holiday in Kenya) on which banking and financial institutions are generally open for the conduct of banking business in Kenya.

3. The possession of the Property is to be handed over to the Purchaser on the Completion Date.

The above terms and other related matters were discussed by the Board in detail and the Chairman tabled the final draft of the Agreement for Sale (the "Agreement") was reviewed and discussed.

The Chairman reported that under the Memorandum and Articles of Association of the Vendor the directors present were empowered to implement the proposed arrangements.

It was reported that none of the Directors were interested in the proposed arrangements as Directors, Shareholders or otherwise.

IT WAS RESOLVED as follows:

1. That the sale of the Property on the terms stated in the Agreement be and is hereby approved and confirmed.

2. That the common seal of the Company be affixed to the Agreement and the Transfer and that two Directors or a Director and the Secretary of the Company be and are authorized to witness the affixing of the common seal of the Company to the Agreement and the Transfer.

IT IS HEREBY CERTIFIED that the above is the extract from the Minutes of the Meeting of the Board of Directors of the Vendor and that the resolutions set forth above were duly passed in accordance with and comply with the Memorandum and Articles of Association and regulations of the Vendor and the Companies Act (Cap.486).

.....

DATE:

V. Allen

.....

CHAIRMAN

.....

DIRECTOR

THIRD SCHEDULE

GRANT OF EASEMENT

DATED _____ 2003

REA VIPINGO PLANTATIONS LIMITED

- TO -

VIPINGO ESTATE LIMITED

SUBDIVISION NUMBERS MN/III/291/1, MN/IV/117/1
AND MN/III/291/2, KILIFI

KAPLAN & STRATTON
Advocates
P.O. Box 40111
Nairobi

REPUBLIC OF KENYA
THE REGISTRATION OF TITLES ACT
REGISTRY OF TITLES
(INLAND REGISTRY)
GRANT OF EASEMENT
TITLE NUMBERS: C.R. 7315
C.R. 7314
C.R. 34869

THIS GRANT OF EASEMENT is made on 2003 between:

(1) REA VIPINGO PLANTATIONS LIMITED a company incorporated in Kenya with a postal address P. O. Box 17648, Nairobi ("REA" which expression shall where the context so admits include its successors and assigns); and

(2) VIPINGO ESTATE LIMITED a company incorporated in Kenya with a postal address P.O. Box 1, Vipingo ("VEL" which expression shall where the context so admits include its successors and assigns).

WHEREAS:

(1) REA is registered as proprietor of **ALL THOSE** two pieces of land more particularly described in the first schedule hereto subject as mentioned therein but otherwise free from encumbrances (together the "**REA Land**").

(2) VEL is registered as proprietor of **ALL THAT** piece of land more particularly described in the second schedule hereto subject as mentioned therein but otherwise free from encumbrances (the "**VEL Land**").

(3) VEL at its own cost and expenses wishes to use the road (the "**Road**") situate on the northern boundary of the REA Land between points "A" and "B" shown on the plan annexed hereto (the "**Plan**") and for purposes of identification is bordered in red on the Plan.

(4) REA has at the request of VEL agreed to grant to VEL the rights set out in the third schedule (the "**Rights**").

NOW in consideration of the premises this Instrument witnesses that:

1. REA as beneficial owner grants to VEL the Rights to hold the Rights to VEL absolutely.

2. VEL so as to bind the VEL Land into whosoever hands it may come for the benefit of REA's interest in the REA Land **COVENANTS** with REA for itself its assigns and its successors in title to observe and perform at all times after the date of this Instrument the covenants in relation to the VEL Land.

3. VEL covenants with REA to keep REA indemnified from and against any acts loss and damage or liability suffered by REA in the exercise of the Rights.

4. All rights not specifically and expressly included in the Rights are reserved to REA.

VEL, covenants with REA that VEL will keep and maintain the Road in good repair at the expense and cost of VEL.

86

6. If there is a material breach or non-observance of any of the covenants contained in this Instrument on the part of VEL which is not remedied within twenty one (21) days after receipt by VEL of a written notice of it, REA may revoke the Rights but without prejudice to any then existing rights and remedies of REA under the provisions.

7. It is certified that the transmission effected by this Instrument does not form part of a larger transaction or series of transaction at any time, for any value.

8. All communication relative to this Instrument shall be addressed to REA and VEL at their respective addresses given above.

9. VEL will pay all the costs in connection with the preparation and completion of this Grant of Easement and a counterpart thereof together with the stamp duty and registration fees.

10. REA shall pay all existing and future taxes duties assessments charges impositions and outgoings which are now or may at any time after the date of this deed be assessed charged levied or imposed on and payable in respect of the right of way or on the REA Land.

IN WITNESS WHEREOF this Grant of Easement has been duly executed.

THE FIRST SCHEDULE

REA LAND

1. ALL THAT piece of land situate South of Takaungu in Kilifi District of Kenya containing by measurement two hundred and thirty decimal five (230.5) hectares or thereabouts that is to say Subdivision Number 291/1 of Section III Mainland North which said piece of land being a portion of the premises comprised in a Certificate of Ownership registered in the Land Titles Registry at Mombasa as Number C.R. 7315/1 is with the dimensions abuttals and boundaries delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 229520 deposited in the Survey Records Office at Nairobi and thereon bordered red **HELD** for an estate in fee simple subject to such Acts, charges, leases and encumbrances as are notified on the First Memorandum endorsed hereon.

2. ALL THAT piece of land situate South of Takaungu in Kilifi District of Kenya containing by measurement two hundred and twenty five decimal two (225.2) hectares or thereabouts that is to say Subdivision Number 117/1 of Section IV Mainland North which said piece of land being the premises comprised in a Certificate of Ownership registered as aforesaid as Number C.R. 7314/1 is with the dimensions abuttals and boundaries delineated on the plan annexed hereto and more particularly on Land Survey Plan Number 229529 deposited in the Survey Records Office at Nairobi and thereon bordered red **HELD** for an estate in fee simple subject to such Acts, charges, leases and encumbrances as are notified on the Second Memorandum endorsed hereon.

THE SECOND SCHEDULE

VEL LAND

1. ALL THAT piece of land situate South of Takaungu in Kilifi District of Kenya containing by measurement one hundred and seventy three decimal seven (173.7) hectares or thereabouts

that is to say Subdivision Number 291/2 of Section III Mainland North which said piece of land being the premises comprised in the Certificate of Title registered as aforesaid as Number C.R. 34869/1 is with the dimensions abuttals and boundaries delineated on the plan annexed to a Transfer registered as C.R. 7315/17 and more particularly on Land Survey Plan Number 229521 deposited in the Survey Records Office at Nairobi and thereon bordered red HELD for an estate in fee simple subject to (a) the Land Titles Act (Chapter 282) Excepting Part III thereof (b) such Acts, charges, leases and encumbrances as are notified on the Third Memorandum endorsed hereon and (c) the Caveat by East African Power and Lighting Company Limited registered as C.R. 7315/6A.

THE THIRD SCHEDULE

The rights for VEL

VEL its successors in title, owners or occupiers or assigns for the time being of the VEL Land and their servants and all other persons authorised by them in common with REA, its successors in title owners or occupiers for the time being of the REA Land and its tenants and servants and all other persons authorised by REA or them at all times for all purposes whatsoever without limitation to pass and repass with or without vehicles or animals along the Road for all purposes.

Sealed with the common seal)
REA VIPINGO PLANTATIONS)
LIMITED in the presence of:)
)
)
)
Director)
)
)
)
)
)
)
~~Director~~/Secretary)

Sealed with the common seal of)
VIPINGO ESTATE LIMITED)
in the presence of:)
)
)
)
Director)
)
)
)
)
)
Director/~~Secretary~~)

First Memorandum

Nil

Second Memorandum

Nil

Third Memorandum

Nil

REA

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality South of Takaungu

Reference Map South A 37 / V IV A

Land Reference No

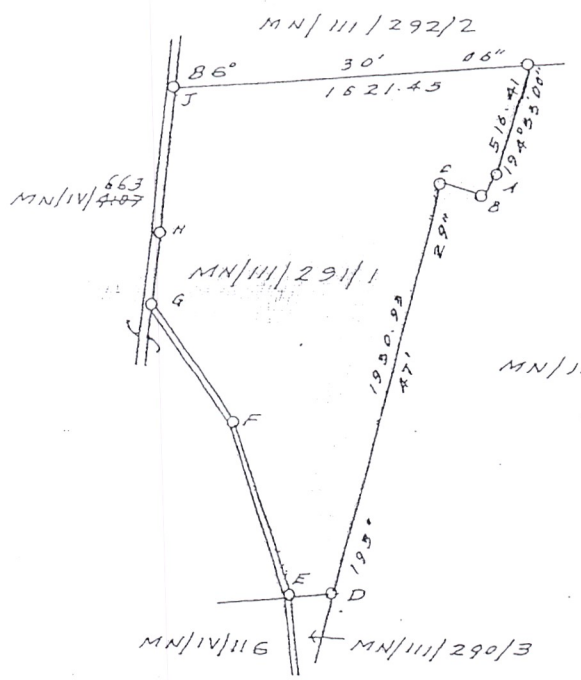
(Orig No.)

Sub division No 291/1 (Orig No.)

of Section No. III Mainland North

Area = 230.5 Ha. (Approx)

Bearings °	'	"	Distance Metres
A-B 210	12	07	99.89
B-C 283	34	43	194.81
D-E 268	40	07	218.04
E-F 341	51	16	835.68
F-G 324	24	50	668.11
G-H 4	19	25	394.96
H-J 4	48	55	659.54



P.A. Zimmerlin
Licensed Surveyor.

for Director of Surveys

Nairobi 28TH MARCH 2000

Traced by

Compared by Kaberi

Scale 1 in 25000

DEED PLAN No. 229522

40

20

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality South of Takaungu

Reference Map South A. 37 / V IV d

Land Reference No

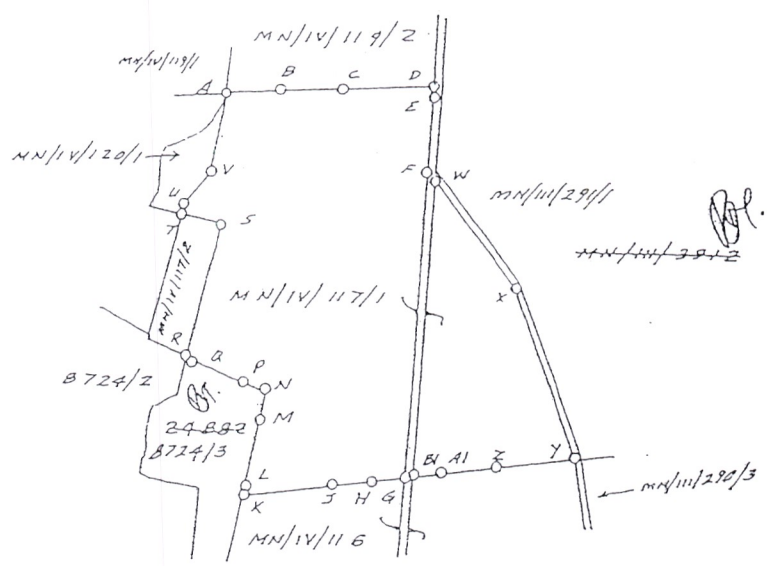
(Orig No.

Sub division No 117/1 (Orig No.

of Section No. Mainland North

Area = ~~161.7~~ 225.2 Ha. (Approx)

Bearings	°	'		Distance Metres
A-B	89	03	08	240.40
B-C	90	38	25	307.46
C-D	91	46	30	404.03
D-E	184	48	55	64.22
E-F	184	19	25	334.91
F-G	184	56	51	1406.97
G-H	266	04	35	149.74
H-J	266	19	35	173.49
J-K	266	49	35	398.44
K-L	12	26	44	27.81
L-M	13	21	26	306.66
M-N	11	41	14	141.31
N-P	292	08	18	102.95
P-Q	293	38	46	270.08
Q-R	298	30	31	27.82
R-S	14	31	36	659.98
S-T	285	17	24	191.99
T-U	14	23	03	19.11
U-V	40	31	59	179.45
V-A	11	47	41	394.75
W-X	144	24	50	647.95
X-Y	161	51	16	829.52
Y-Z	265	19	35	367.55
Z-A1	265	49	35	257.37
A1-B1	266	04	35	131.53
B1-W	4	56	51	1378.01



P. A. Zimmerlin
Licensed Surveyor

for Director of Surveys

Nairobi 28TH MARCH ~~19~~2000

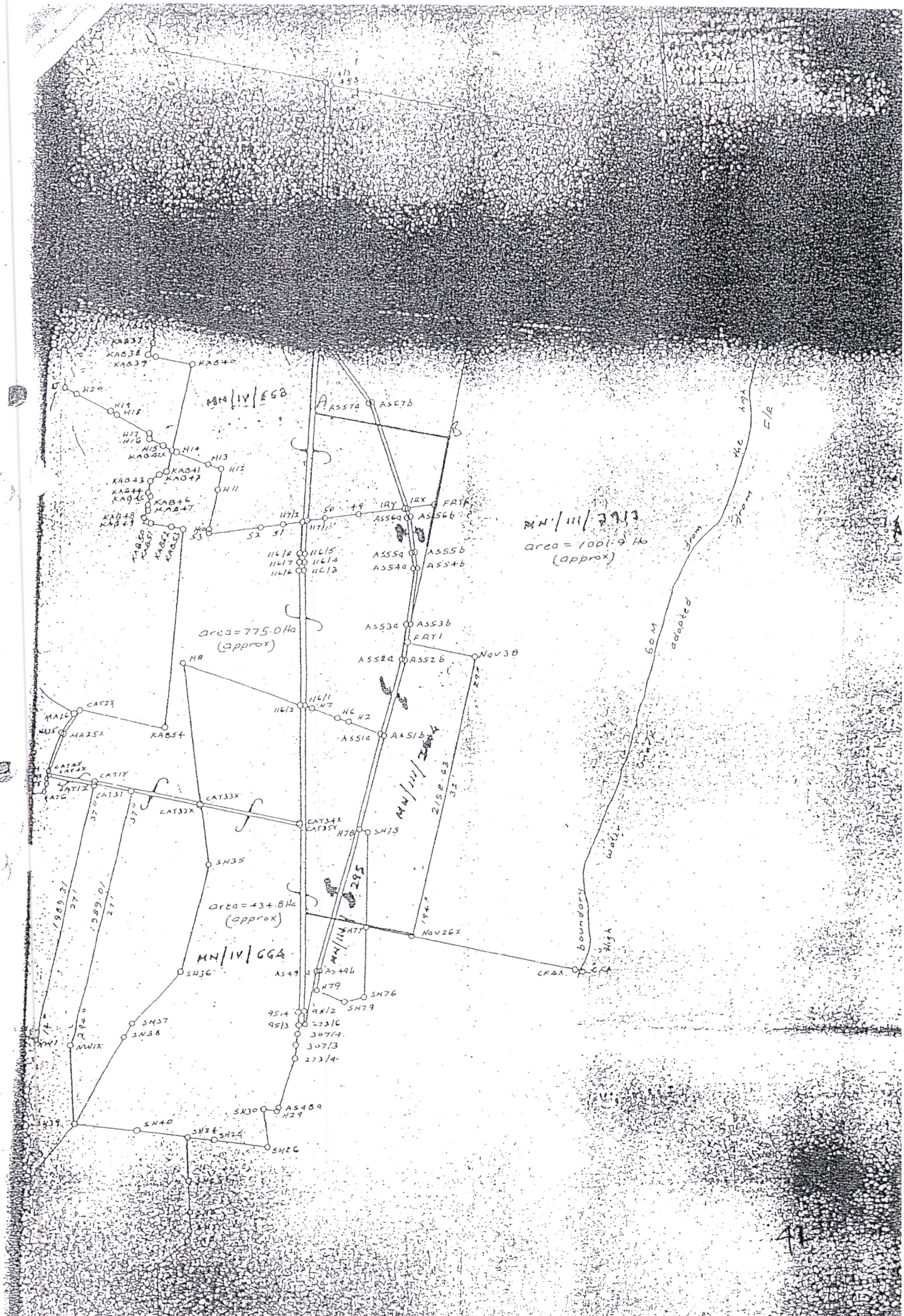
DEED PLAN No. 229529

Traced by

Compared by

Scale 1 in 25000

41


MN/IV/668
MN/III/3913
area = 1001.9 Ha
(approx)
area = 775.0 Ha
(approx)
area = 434.8 Ha
(approx)
MN/III/2944
MN/IV/664
60 M adopted
boundary
High
295
2158.63
1989.31
1989.01
1940
Nav38
Nav26x
CA26x
CFA2
CFA
KAB54
KAB40
KAB37
KAB38
KAB39
HZ0
H18
H17
H16
H15
KAB41
KAB42
H14
H13
H12
KAB43
KAB44
KAB45
KAB46
KAB47
H11
KAB48
KAB49
KAB50
KAB51
KAB52
H10
S3
S2
S1
117/2
117/1
116/10
116/7
116/6
116/5
116/4
116/3
S9
S8
IAY
IAX
FRT1
AS55a
AS55b
AS54a
AS54b
AS53a
AS53b
AS52a
AS52b
AS51a
AS51b
H8
116/2
116/1
H7
H6
H2
MA26
MA25
MA25x
CAT2Y
CAT2x
CAT1Y
CAT1Z
CAT1C
CAT31
CAT33x
CAT33x
CAT33x
H78
SH79
SH35
SH36
AS49
AS49b
H79
SH76
SH79
95/4
95/3
95/2
273/6
307/4
307/3
273/4
SH30
AS48a
H29
SH39
SH40
SH41
SH42
SH26
SH37
SH38
MW1
MW1x
H77
NAV1
NAV2
NAV3
NAV4
NAV5
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NAV98
NAV99
NAV100

IN WITNESS WHEREOF this Agreement has been duly executed by the parties hereto as of the day and year first above written.

THE COMMON SEAL of)
VIPINGO ESTATE LIMITED)
the Vendor was affixed in the presence)
of:)
V. Alben)
DIRECTOR)
)
T. Gaatt)
DIRECTOR/~~SECRETARY~~)

SIGNED by KANJI PREMJI PATEL)
the Purchaser in the presence of:)
)
C. K. KANJI)
ADVOCATE)
P.O. BOX 80274)
MOMBASA, KENYA)
)

KP Patel

Drawn by:
Ghalia & Ghalia
Advocates
Bank of India Building
Nkrumah Road
P O Box 90019
MOMBASA
(Ref: 2/V.920/2(B))

MOMBASA CEMENTS LTD.
PROPERTY AS AT 31-12-2005
Incorporaled on 11th November 2003

DATE	CHQ NO.	PAYMENT TO	REF NO	DETAILS	AMOUNT	TOTAL	REMARKS
	PLOT SUB DIV.291/2 KILIFI & 3545/2 MINLAND NORTH		1st Property	Deposit for the plot at Vipingo, Land south of Takangu in Kilifi District Subdivision Number 291/2,Section III Mainland North; 173.7 hectres			
				Purchase price	$175,976.00		
			2nd Property	Subdivision comprising 499.02 hectres,portion of L.R. Number 3545/2 Section III Mainland North. Both belonging to Vipingo Estates Ltd.			
				Purchase price	$505,563.00		
				Total purchase price for both properties	$681,539.00		
16-12-03	CSL Chq.400706	Ghalia & Ghalia Advocate		Deposit for the plot at Vipingo,	$150,000.00	11,947,500.00	$ rate 79.65
				Balance pending fot the properties	$531,539.00		
10-09-04	CSL Chq.400963	Ghalia & Ghalia Advocate		Balance payment	$513,539.00	41,442,597.30	$ rate 80.70
24-09-04	CSL Chq.400975	Ghalia & Ghalia Advocate		Final balance	$18,000.00	1,455,300.00	$ rate 80.85
				Balance pending	$0.00		
	PLOT 11895/19		PLOT 11895/19 LR 27159	Land reference 11895/19 Purchased from National Security Fund-Board of Trustees, P.O.Box 30599 Nairobi			
				Purchase price	41,000,000.00		
22-01-04	CSL Chq.417299	N.S.S.F.			4,100,000.00	4,100,000.00	
25-09-04	CSL Chq.419607	National Social Security Fund Board of Trustees		Balance pending	36,900,000.00		
					36,900,000.00	36,900,000.00	
				Balance pending	0.00		
						95,845,397.30	

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MOMBASA CEMENT LIMITED

STANDARDCHARTERED BANK PAYMENT

PLOT NO 3545/2

	PURCAHSE PRICE	505,563.00
10/9/2001	CHEQUE NO. 400963	513,539.00

45

Date 10 - 9 - 2004.

Standard Chartered

Standard Chartered Bank Kenya Limited

KENYA DUTY PAID

02-004

Treasury Square Branch
P.O. Box 90170, Mombasa

USD 513539/=

Pay Ghalia & Ghalia Advocate or Order

US Dollars Five hundred thirteen thousand

Five hundred thirty Nine only

A/C Payee

CORRUGATED SHEETS LTD

For and on behalf of:-
CORRUGATED SHEETS LTD.

..... Director

CORRUGATED SHEETS LTD 8704047550900

10/09/02

Cheque Number Bank Code Account Number

400963

MOMBASA CEMENT LIMITED

STANDARDCHARTERED BANK PAYMENT

PLOT NO. 291/2

		USD
	PURCAHSE PRICE	175,976.00
16-12-2003	CHEQUE NO.400706	150,000.00
24-09-2004	CHEQUE NO.400975	18,000.00
	TOTAL	168,000.00

47

Standard Chartered

Standard Chartered Bank Kenya Limited

KENYA DUTY PAID

Date 24-9-2004

Treasury Square Branch
P.O. Box 90170, Mombasa

02-0(

Pay Ghalia & Ghalia Advocate or Order

USD 18000/=

US Dollars Eighteen thousand only

A/C Payee

Do La Rue

CORRUGATED SHEETS LT

For and on behalf of
CORRUGATED SHEETS LTD

Directo

CORRUGATED SHEETS LTD

30/09/02

8704047550900

Cheque Number Bank Code Account Number

400975

48

TRANSFER OF LAND

VIPINGO ESTATE LIMITED

TO

MOMBASA CEMENT LIMITED

Subdivision No.291/2
of Section III MN Mombasa

A. B. PATEL & PATEL
ADVOCATES & NOTARIES
P.O. BOX 80274
ORIENTAL BUILDING
NKRUMAH ROAD
MOMBASA

TEL: 226518/9/225992
FAX: 228864
E-MAIL: law@abpp-kenya.com

DISTRICT LAND REGISTRY
MOMBASA
9 MAR 2005
10:30 AM/PM
B.A.No. 61

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(CHAPTER 281)

CERTITIFICATE OF TITLE NUMBER C.R. 34869

SA £170
SD £ 17000.
Copy 5/-
Lumbe
1/3/05

TRANSFER OF LAND

I certify that the stamps on this document were embossed on 04-03-2005
COLLECTOR OF STAMP DUTY

VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo in the Republic of Kenya (hereinafter called the "Transferor" which expression where the context so admits shall be deemed to include its successors and assigns) is registered as proprietor for an estate in fee simple of ALL THAT piece of land situate South of Takaungu in the Kilifi District containing by measurement One Seven Three decimal Seven (173.7) hectares or thereabouts known as Subdivision Number 291/2 of Section III Mainland North the premises comprised in a Certificate of Title dated 8th day of November 2001 and delineated on the Land Survey Plan Number 229521 annexed to the Transfer registered in the Land Titles Registry at Mombasa as No. C.R. 7315/17 subject however to the such charges encumbrances and other matters specified in the Memorandum hereunder written together with the buildings and improvements erected and being thereon (the said land together with the building and improvements thereon is hereinafter called "the Property") IN CONSIDERATION of the sum of **US$.175,976.00 (United States Dollars One Hundred Seventy Five Thousand Nine Hundred and Seventy Six)** paid to the Transferor by **MOMBASA CEMENT LIMITED** a limited liability company incorporated in the Republic of Kenya having its registered office at Mombasa in the Republic of Kenya and whose postal address is Post Office Box Number 90394 Mombasa aforesaid (hereinafter called "the Transferee" which expression shall where the context so admits shall be deemed to include its successors and assigns) on or before the execution of these presents (the receipt of which sum by the Transferee is hereby acknowledged by the Transferor) DO HEREBY TRANSFER all its right title and interest in the Property.

IN WITNESS WHEREOF the Transferor and the Transferee hereto have hereunto caused their respective Common Seals to be affixed hereto this 1st day of MARCH 2005

50

49

THE COMMON SEAL of the said VIPINGO ESTATE LIMITED the TRANSFEROR was hereunto affixed in the presence of:-

V. Alhen

DIRECTOR

F. [illegible]

DIRECTOR/~~SECRETARY~~

THE COMMON SEAL of the said MOMBASA CEMENT LIMITED the TRANSFEREE was hereunto affixed in the presence of:-

X KP Patel

DIRECTOR

DIRECTOR/SECRETARY

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

1) The Registration of Titles Act (Chapter 281).
2) The Land Titles Act (Chapter 282) Except Part III thereof.
3) Caveat by East African Power and Lighting Company Limited registered as C.R. 7315/6A.

DRAWN BY:-
A B PATEL & PATEL
ADVOCATES & NOTARIES
P O BOX 80274
MOMBASA

LAND TITLES REGISTRY—MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. CR 34869/3
9th March 2005

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED

TO

MOMBASA CEMENT LIMITED

In respect of the land and buildings comprised in
Subdivision No.4391 (Original No. 3545/2/1)
of Section III MN

A. B. PATEL & PATEL
ADVOCATES & NOTARIES
P.O. BOX 80274
ORIENTAL BUILDING
NKRUMAH ROAD
MOMBASA

TEL: 226518/9/225992
FAX: 228864
E-MAIL: law@abpp-kenya.com

C: RTA – TRANSFER – LEASE

52

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REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(CHAPTER 281)

CERTIFICATE OF TITLE NUMBER C.R. 38221

ANNUAL RENT: SHILLINGS 493,200:00 (REVISABLE)

TERM: 999 YEARS FROM 1.10.1949

I certify that the stamps on this document were embossed on 24-03-05

COLLECTOR OF STAMP DUTY

9 MAR 2005

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo in the Republic of Kenya (hereinafter called "the Transferor" which expression where the context so admits shall include its successors and assigns) is registered as proprietor as Lessee from the Government of Kenya for a term of nine hundred and ninety nine (999) years from the first day of October One Thousand Nine Hundred and Forty Nine of ALL THAT piece of land situate South of Takaungu in the Kilifi District of the said Republic containing by measurement Four Nine Nine decimal nought (499.0) hectares or thereabouts and being Subdivision Number 4391 (Original Number 3545/2/1) of Section III Mainland North which said piece or parcel of land is more particularly delineated on Land Survey Plan No.254238 annexed to the Certificate of Title registered in the Land Titles Registry at Mombasa as Number C.R.38221/1 subject however to the such charges leases encumbrances and other matters specified in the Memorandum hereunder written together with the buildings and improvements erected and being thereon (the said land together with the building and improvements thereon is hereinafter called "the Property") IN CONSIDERATION of the sum of US$.505,563.00 (United States Dollars Five Hundred and Five Thousand Five Hundred and Sixty Three) paid to the Transferor by MOMBASA CEMENT LIMITED a limited liability company incorporated in the Republic of Kenya having its registered office at Mombasa in the Republic of Kenya and whose postal address is Post Office Box Number 90394 Mombasa aforesaid (hereinafter called "the Transferee" which expression where the context so admits shall include its successors and assigns) on or before the execution of these presents (the receipt of which sum the Transferor hereby acknowledges) DOTH HEREBY TRANSFER all its right title and interest in and to the Property to the Transferee.

IN WITNESS WHEREOF the Transferor and the Transferee hereto have hereunto caused their respective common seals to be affixed hereto this 1ST day of MARCH Two Thousand and FIVE

THE COMMON SEAL of the said
VIPINGO ESTATE LIMITED
the TRANSFEROR was hereunto
affixed in the presence of:-

V. Alhan

DIRECTOR

F. [illegible]

DIRECTOR/~~SECRETARY~~

THE COMMON SEAL of the said
MOMBASA CEMENT LIMITED
the TRANSFEREE was hereunto
affixed in the presence of:-

KP Patel

DIRECTOR

DIRECTOR/SECRETARY

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

1) The Government Land Act (Chapter 280).
2) The Registration of Titles Act (Chapter 281).
3) The Special Conditions contained in a Grant registered as Numbers C.R. 30669/1 and 35568/2.
4) The Grant of Easement registered as Number C.R. 35658/2.

DRAWN BY:-
A B PATEL & PATEL
ADVOCATES & NOTARIES
P O BOX 80274
MOMBASA
C:RTA TRANSFER OF LEASE

LAND TITLES REGISTRY — MOMBASA - [illegible]
REGISTRATION OF TITLES A.R.
REGISTERED AS No. C.R. 38221/2
9TH MARCH 2005
TIMES 10.30 A.M.

54

52

ORIGINAL (Registrar's Copy)

FORM 2(A)

REPUBLIC OF KENYA No. 66927

THE LAND CONTROL REGULATIONS, 1968

The BAHARI Land Control Board
BOX 29
KILIFI.

To: VIPINGO ESTATE LIMITED
BOX 1, VIPINGO

Date 29.07.04
Reg. No.
L.C.R. No. B/122/2004

SIR/MADAM,

LETTER OF CONSENT

1. With reference to your application dated the 7TH JULY, 20 04 the Board gave its consent to the following controlled transaction at its 4TH meeting held on the 29TH JULY, 20 04

2. Nature of Transaction:
   (a) L.R. or Parcel No. SUBDIVISION NO. 291/2 & 3545/2
   (b) Locality SEC. III M.N.
   (c) Sale, lease, subdivision, mortgage, charge, etc. SALE
   (d) Names of parties—
      (i) from VIPINGO ESTATE LIMITED
      (ii) to MOMBASA CEMENT LIMITED
   (e) Length of term
   (f) Consideration US $ 175,996.00 & US $ 509,563.00

3. Special conditions of approval of subdivision:
   (a)
   (b)
   (c)
   (d)
   (e)

I am, Sir/Madam,
Your obedient servant,

Chairman,
DISTRICT COMMISSIONER
KILIFI Land Control Board

Copy to:
The Commissioner of Lands, Nairobi.
The Central Agricultural Board.

GPK 5936—3m—7/2002

55

SL

ORIGINAL

REPUBLIC OF KENYA

Serial No. 10076

GOVERNMENT LANDS ACT

Nº 092341

RENT CLEARANCE CERTIFICATE

This is to certify that the Land Rent in respect of Plot No. MSA MN/III/4391 & registered in the name of Vipingo Estates Ltd 4393 has been paid up to and including 31st December, 2004

19/8/2004

for Commissioner of Lands

This certificate is issued without erasure or alteration.

₹ 6170—200—11/2003

56

55

ORIGINAL

~~COUNTY~~ TOWN COUNCIL

OF KILIFI

0886829

MISCELLANEOUS INCOME

15/1/ 2004

RECEIVED from VIPINGO ESTATE LTD - KILIFI.

the sum of Shillings NINETY NINE THOUSAND AND THIRTY SIX ONLY. on account of AREA RATES FOR 2004 FOR PLOT MN/111/29/2

MN/111/3544/2

MN/111/3545/2

Shillings 99036/- cents

CHQ NO. 401656.

of 8/1/04.

MMB.

Cashier of the Council

57

COUNTY COUNCIL OF KILIFI
CLEARANCE CERTIFICATE

This is to Certify that all Sums due to the County Council of Kilifi in respect of Plot No ....MN/111/291/2.....Place..VIPINGO.....
In ...VIPINGO.....Location, Registered in the name of
.....VIPINGO ESTATE LIMITED.....
Of P.O.Box..1,..VIPINGO..... have been paid to the Council.

This certificate is valid upto ...31ST DECEMBER, 2004.....
Given under my hand this.....23rd.....day of.....January, 2004 XX.....
Ksh:....3,000/=..... Site Value Ksh:.....

(A.K. PERU)
.....
For. COUNTY CLERK,
KILIFI COUNTY.

.....

COUNTY COUNCIL OF KILIFI
CLEARANCE CERTIFICATE

This is to Certify that all Sums due to the County Council of Kilifi in respect of Plot No ....MN/III/3545/2.....Place...VIPINGO.....
In .....VIPINGO....Location, Registered in the name of
.....VIPINGO ESTATE LIMITED.....
Of P.O.Box..1,..VIPINGO..... have been paid to the Council.

This certificate is valid upto ...31ST DECEMBER, 2004.....
Given under my hand this.....23rd.....day of.....January,.....20.04.....
Ksh:....3,000/=..... Site Value Ksh:.....

(..A.K. PERU..)
.....
For. COUNTY CLERK,
KILIFI COUNTY.

ORIGINAL
REPUBLIC OF KENYA

OFFICIAL RECEIPT 0581787

Station N31 Date 16-8-2004

RECEIVED from Vipingo Estates Ltd.

Shillings Three hundred forty two thousand one hundred seventeen only MN/III/4393

on account of 205,500/- & MN/III/4393 - 136,617/-

Vote Head R-36

Sub-Head

Item

Sh. 342,117/-

Ac.

No. 631-7

Cash Cheque No. 798184

Signature of Officer receiving remittance.

FORM 6

GPK 237—19,980 Bks.—12/2003

59

57

SD1

Serial No. 0017934

Kenya Revenue Authority

DOMESTIC TAXES DEPARTMENT

P.O BOX 30165 NAIROBI (00100) TEL. 310900 FAX: 253532

STAMP DUTY DECLARATION, ASSESSMENT & PAYMENT FORM

PART I: TO BE COMPLETED BY THE STAMP DUTY PAYER

NAME OF DOCUMENT (1) TRANSFER OF LAND

MOL/H- FILE NO. (2)

PARTICULARS OF OWNER/TRANSFEROR/VENDOR

(3)	Name	VIPINGO ESTATES LTD
(4)	PIN	P000618337A
	Postal Address	POBOX 1 VIPINGO
(6)	Tel. No.	041.32259

PARTICULARS OF TRANSFEREE

(7)	Name	MOMBASA CEMENT LTD
(8)	PIN	P051159492Z
(9)	Postal Address	POBOX 90394 MSA
(10)	Tel. No.	041.433726/829

DESCRIPTION OF PROPERTY/DOCUMENT

(11)	LR No.	291/2/111/MN
(12)	Title No.	OR. 34869
(13)	Location/Town/Street	SOUTH OF TAKAUNGU KILA
(14)	Area/Size	173.7 HECTARES
(15)	Declared Value	Kshs. US$175,976.00

PARTICULARS OF AGENT/ADVOCATE

(16)	Name	A.B. PATEL & PATEL
(17)	PIN	P000618843D
(18)	Postal Address	POBOX 80274 MSA
(19)	Tel. No.	226519/8.

PART II: TO BE COMPLETED BY THE REGISTRAR

AMOUNT OF DUTY ASSESSED (20) Kshs. 267,495/= VALUATION AMOUNT (21) Kshs. 17,000,000/=

ADDITIONAL DUTY ASSESSED (22) Kshs. 72,520/=

REGISTRAR'S STAMP

AMOUNT OF DUTY ASSESSED IN WORDS: THREE HUNDRED AND FOURTY THOUSAND FIFTEEN SHILLINGS.

RECOMMENDATION ON DUTY ASSESSED: (Tick as Appropriate): FINAL (23) ✓ DUE FOR RE-ASSESSMENT (24) N/A

NAME OF REGISTRAR/ASSESSOR: MARY N. KAI DESIGNATION: L/R SIGNATURE: [signature] DATE: 1-3-05

(Examined & Certified by)

PART III: PAYMENT DETAILS

BANK TELLERS STAMP & INITIALS

		Cash/Cheque Number	Drawer's Bank Name & Branch	Amount (Kshs.)
(25)	Amount of Duty Paid	507415	BANK OF BARODA	340,015/
(26)	Bank Charges		(K) LTD DILIGO AD	100/-
(27)	Total Amount Paid			340,115/=

AMOUNT PAID IN WORDS: THREE HUNDRED FORTY THOUSAND ONE HUNDRED FIFTEEN ONLY

(AMOUNT PAID BY) J. BARASA (SIGNATURE) 1/3/05 (DATE)

Form to be filled in Quadruplicate:

White – Duty Payer's Copy
Blue – Commissioner of Domestic Taxes Copy
Green – District Registrar's Copy
Yellow – Bank's Copy

(Please turn overleaf for instructions)

60

59

Serial No. 0017933

Kenya Revenue Authority

DOMESTIC TAXES DEPARTMENT

P.O BOX 30165 NAIROBI (00100) TEL. 310900 FAX: 253532

STAMP DUTY DECLARATION, ASSESSMENT & PAYMENT FORM

PART I: TO BE COMPLETED BY THE STAMP DUTY PAYER

NAME OF DOCUMENT

(1) TRANSFER OF LEASE

MOL/H- FILE NO.

(2)

PARTICULARS OF OWNER/TRANSFEROR/VENDOR

(3)	Name	VIPINGO ESTATE LTD
(4)	PIN	P000618337A
	Postal Address	POBOX 1. VIPINGO
(6)	Tel. No.	041 32259

PARTICULARS OF TRANSFEREE

(7)	Name	MOMBASA CEMENT LTD
(8)	PIN	P051159492Z
(9)	Postal Address	P.O BOX 90394 MSA
(10)	Tel. No.	041 433726/829

DESCRIPTION OF PROPERTY/DOCUMENT

(11)	LR No.	4391/III/MN
(12)	Title No.	CR 38221
(13)	Location/Town/Street	SOUTH OF TAKAUNGU
(14)	Area/Size	499.0 HECTARES.
(15)	Declared Value	Kshs. US$ 505,563.00 @ 76 US$ 38,422,790/-

PARTICULARS OF AGENT/ADVOCATE

(16)	Name	A.B. PATEL & PATEL
(17)	PIN	P000618843D
(18)	Postal Address	POBOX 80274 MSA
(19)	Tel. No.	2265198

PART II: TO BE COMPLETED BY THE REGISTRAR

AMOUNT OF DUTY ASSESSED (20) Kshs. 768,465/=

VALUATION AMOUNT (21) Kshs. ~~N/A~~ 50,000,000/=

ADDITIONAL DUTY ASSESSED (22) Kshs. 231,545/=

REGISTRAR'S STAMP

AMOUNT OF DUTY ASSESSED IN WORDS: ONE MILLION AND TEN SHILLINGS

RECOMMENDATION ON DUTY ASSESSED: (Tick as Appropriate): FINAL (23) ✓ DUE FOR RE-ASSESSMENT (24) N/A

NAME OF REGISTRAR/ASSESSOR: MARY N. KAI DESIGNATION: L/R SIGNATURE: [signature] DATE: 1-3-05

(Examined & Certified by)

PART III: PAYMENT DETAILS

BANK TELLERS STAMP & INITIALS

		Cash/Cheque Number	Drawer's Bank Name & Branch	Amount (Kshs.)
(25)	Amount of Duty Paid	507414	BANK OF BARODA	1000,010/-
(26)	Bank Charges		(K) LTD DIGO RD	100/-
(27)	Total Amount Paid			1000,110/-

AMOUNT PAID IN WORDS: ONE MILLION ONE HUNDRED TEN ONLY

JOSEPH BARASA (AMOUNT PAID BY) [signature] (SIGNATURE) 1/3/05 (DATE)

Form to be filled in Quadruplicate:

White – Duty Payer's Copy
Blue – Commissioner of Domestic Taxes Copy
Green – District Registrar's Copy
Yellow – Bank's Copy

(Please turn overleaf for instructions)

61

60

425 Acres

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(CHAPTER-281)

CERTIFICATE OF TITLE NUMBER C.R.34869

I HEREBY CERTIFY that VIPINGO ESTATE LIMITED a company incorporated in the R.public of Kenya and having as its place of business at Post Office Box - N nber 1 Vipingo in the Republic of Kenya pursuant to a Transfer registered -s Number C.R.7315/17 is now the registered proprietor as owner for an esta fee simple of ALL THAT piece of Land situated South of Takaungu in the (ifi District containing by measurement One Seven Three Decimal Seven(173 hectares or thereabouts and being Sub-division Number 291/2 of Mainland No S ction III as delineated on Land Survey Plan Number 229521 annexed to the a ove mentioned transfer.

SUBJECT however to the Act Special Conditions and Encumbrances Specified in t e Memorandum hereunder written.

I WITNESS whereof I have hereunto set my hand and seal this Eighth day of November Two Thousand and One.

.....

REGISTRAR OF TITL

MEMORANDUM

1. The Land Titles Act (Chapter 282) Excepting Part III thereof.

2. Caveat by East African Power and Lighting Company Limited registered as C.R.7315/6A

LAND TITLES REGISTRY—MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. CR 34869/I

62

61

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

PLANT OF ERSTWHILE ESTATE LIMITED (SEE THE COVENANTS)

Presentation No. 018 Date of Registration 5-4-2001 Registrar

G. G. GACHATHI

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

TRANSFER TO MOMBASA CEMENT LIMITED

Presentation No. 61 Date of Registration 9-3-2008 Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

CHARGE TO BNP PARIBAS LUXEMBOURG.

Presentation No. 062 Date of Registration 11-3-2008 Registrar

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

DISCHARGE OF CHARGE OF ENTRY NO 4 ABOVE.

Presentation No. 38 3-5-2013 Registrar

J. C. Lebaso 270

REPUBLIC OF KENYA

DISTRICT OF KILIFI

Locality South of Takaungu

Reference Map South A 37 / Y IV d

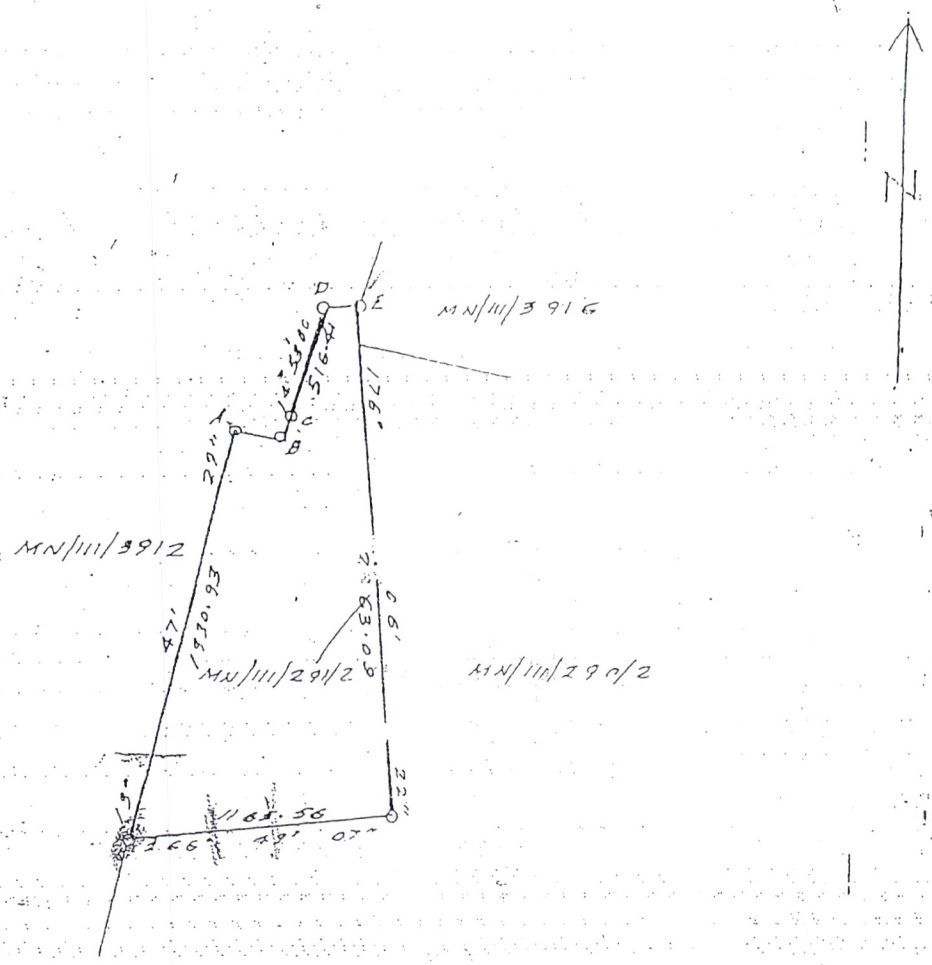
Bearings				Distance Metres
A-B	103	34	13	194.61
B-C	30	12	07	95.83
D-E	86	30	06	171.09

Land Reference No

Sub division No 291/2 (Orig No.

of Section No. 111 Mainland North

Area = 173.7 ha (Approx)



CERTIFIED TRUE COPY OF THE ORIGINAL DOCUMENT

N. H. SHAW
ADVOCATE
P.O. Box 40 LTD
NAIROBI

R.A. Zimmerlin
Licensed Surveyor

for Director of Surveys

Nairobi 28th March 1992

DEED PLAN No. 229521

Traced by

Compared by

Scale 1 in 25000

63

6a

1200 Bros

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(*Chapter* 281)

CERTIFICATE OF TITLE

TITLE NUMBER ~~LR~~ C.R. 38221

TERM: 999 YEARS FROM 1/10/1949

ANNUAL RENT SHILLINGS 493,200/= P.A. (REV)

(*Revisable*)

I HEREBY CERTIFY that VIPINGO ESTATES LIMITED a limited liability company having

its registered office at P.O. Box 1 VIPINGO

of Consolidation & Subdiv. of the premises comprised in Certificate of Titles

In the Republic of Kenya pursuant to a ~~Transfer~~ registered as Number ~~LR~~ 35659/2 & 35658/3 respectively

is/are now registered proprietor(s) as Lessee(s)

from the Government of the Republic of Kenya for term of nine hundred and ninety nine

years for the first day of October ~~Two~~ one thousand nine hundred

and fourty nine of ALL that piece of land situate South of Takaungu

in the Kilifi District containing by measurement four hundred ninety nine decimal

~~hectares/acres (less road reserve of~~ nought (499.0)

hectares/~~acres~~) or thereabouts and being ~~Land Reference~~ Subdivision Number 4391

(Original Number 3545/2/1) Section III Mainland North)

as delineated on Land Survey Plan Number 254238

annexed to ~~the said Transfer~~ hereto

SUBJECT however to the revisable annual rent of Shillings Four Hundred and Ninety Three Thousand Two Hundred

and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this first

day of September Two thousand and four

Registrar of Titles

MEMORANDUM

(1) The Government Lands Act (Chapter 280).
(2) The Special Conditions contained in a Grant registered as Number ~~LR~~ C.R. 30669/1 & 35658/1
3) The Grant of Easement registered as No. C.R. 35658/2

GPK 6613—10m—11/2000

LAND TITLES REGISTRY—MOMBASA, KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 38221/F
Presented 1ST SEPTEMBER 2004
Date 9:30 AM

64

(2)

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

TRANSFER TO MOMBASA CEMENT LIMITED.

Presentation No. 64 Date of registration 9.3.2005 Registrar

65

68

REPUBLIC OF KENYA

DISTRICT OF KILIFI / MOMBASA - S. of Takaungu Town

Municipality Mombasa Municipality

Land Reference No.

(Orig No.

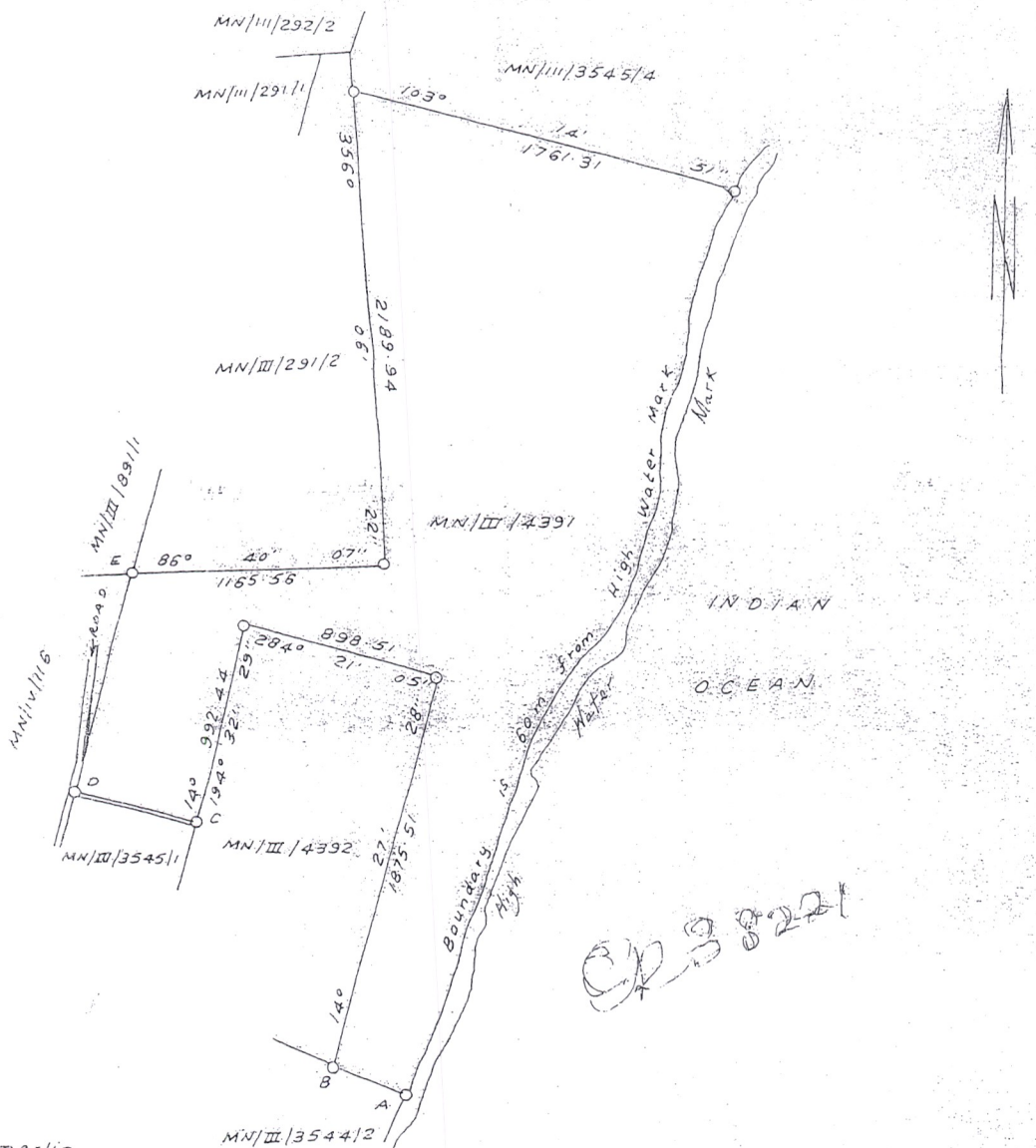
Reference Map South A 37 / V IV d

Sub division No 4391 (Orig No. 3545/2/1)

of Section No. III Mainland North

Area = 499.02 Ha. (Approx.)

Bearings °	'	"	Distance Metres
A - B 290	00	34	351.18
C - D 284	34	57	554.79
D - E 13	47	28	1050.89



A. Zimmerlin
ensed Surveyor

for Director of Surveys

Nairobi 9th July 2004

DEED PLAN No. 254238

Scale 1 in 25,000

l by

red by

66

Form S (1)—Registration of Titles Act (Chapter 281), rule 3
Form H—Government Lands Act (Chapter 280), rule 2
Form F—Land Titles Act (Chapter 282), rule 3

REPUBLIC OF KENYA

APPLICATION FOR POSTAL SEARCH

To: THE REGISTRAR,
LAND REGISTRY, ~~NAIROBI~~/MOMBASA. MOMBASA.

APPLICATION is made for a copy of the last complete page of the abstract register or register of titles relating to Land Reference No. CR 38221/1, Title/Deed File No. ....., and any subsequent entries.

An adhesive revenue stamp to the value of Sh 500/= [illegible]

Date ..... 19.....

Signed [signature]

Name in capitals BASEMARK VALU

Postal address 84317

MOMBASA

(For completion in the Registry)

POSTAL SEARCH CERTIFICATE No. .....

Copy forwarded as requested above.

For Official Use Only

Despatched.

6K

REPUBLIC OF KENYA

THE MATTER OF LAND REGISTRATION ACT NO 3 OF 2012

IN THE MATTER OF LAND ACT NO. 6 OF 2012

THE REGISTRATION OF TITLES ACT

CAP.281 (REPEALED)

CERTIFICATE OF POSTAL SEARCH AS ON 15TH ANUARY 2014

PLOT NUMBER	:	MN/III/4391
TITLE NUMBER	:	C.R. 38221
AREA	:	499.0 HA
TENURE	:	LEASEHOLD TERM: 999 YEARS FROM: 1.10.1949 RENT: KSH. 493,200/= P.A. (REV)
REGISTERED OWNER	:	MOMBASA CEMENT LTD
ENCUMBRANCES	:	NIL

REGISTRAR OF TITLES

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REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(Chapter 281)

CERTIFICATE OF POSTAL SEARCH as on 12/03/2008

SUBDIVISION NUMBER:	Plot No.291/2,Section III, Mainland North
TITLE NUMBER:	CR No. 34869
AREA:	173.7 Hectares
TENURE:	Freehold
REGISTERED OWNER:	MOMBASA CEMENT LIMITED P O Box 90394,Mombasa
ENCUMBRANCES:	CHARGE DATED 26TH FEBRUARY,2008 TO: BNP PARIBAS LUXEMBOURG FOR:US $ 17,000,000.00

REGISTRAR OF TITLES

PHYSICAL PLANNING ACT

No.6 of 1996 S.33 (1)(A)

Form P.P.A.2 Registered Number : KTC/3/2006

NOTIFICATION OF APROVAL/REFUSAL/DEFERMENT OF DEVELOPMENT PERMISSION

To: The Commissioner of Lands
P O Box 30006
NAIROBI

Your application number as above, submitted on 1st February, 2006 for permission to Charge of User from Agricultural to Industry on L.R. Parcel No. Plot MN/III, 4391 & MN 29/2 situate in Kilifi District Road Mombasa – Malindi has been Approved (date) 3rd November, 2006 by the Town Council of Kilifi

For the following reasons/subject to the following conditions;

(a) The Physical Planning Office has no objection

(b) The District Lands Office has no objection

(c) The District Works Office has no objection

(d) The District Surveyor Office has no objection

(e) The Town Council has approved

Date : 3rd November,2006

Signed: .....
TOWN CLERK

CC; The Commissioner of Lands, Nairobi
The Lands Registrar
The Town Council of Kilifi
The Director of Public Works & Housing , Nairobi
The Director of Physical Planning, Nairobi
The Director of Surveys, Nairobi

70

72

MOMBASA CEMENT LIMITED

P.O BOX 83594,
MOMBASA – 80100
Email : nyumba@africaonline.co.ke
csl@nyumba.com
Website : www.steelitems.com

TEL NOS. +254-41-3433726/829, 3434483/4/5
FAX NOS. +254-41-3433590, 3434486

Our Ref No. MCL-02105/HKP-jnk

February 4, 2006

THE DISTRICT AGRICULTURAL OFFICER,
P.O BOX 195
KILIFI.

Dear Sir,

RE : APPLICATION FOR CHANGE OF USER

I hereby apply for the change of user of parcel of land ref no. MN/III/4391 as delineated on the deed plan no. 254238, from agricultural to industrial to facilitate the construction of the proposed cement factory.

Kindly assist;

Thanking you in advance;

Yours faithfully,
MOMBASA CEMENT LTD

DIRECTOR

Appendix 19

REPUBLIC OF KENYA

MINISTRY OF LAND, HOUSING AND URBAN DEVELOPMENT

MEETING WITH DEPARTMENTAL COMMITTEE ON LANDS, 14TH JULY 2015

Question

Q1. Petition by residents of Pongwe area in Lunga Lunga Constituency on imminent eviction from LR.1083 Shimoni Kwale

The Ministry is not aware of a petition by the residents of Pongwe area in Lunga Lunga constituency. The Ministry is also not informed of any imminent eviction of the said residents from LR.1083 Shimoni Kwale.

However, the available documents in the records points to an application to the Land Control Board for consent to sale forwarded to our offices by Ramesh Manek Advocates dated 3rd March 1988 (**Appendix I**)

(a) The acreage and registered owners of LR. No.1083, Shimoni, LungaLunga Constituency in Kwale.

- The acreage of the said land is 320.12 acres.
- The Registered owners as per the above records are Mr. Bhovanbha Hahji Gandhi and Maganlal Chakubhai Pattani.

(b) The history of the land relating to acquisition, sale and transfer

- The Ministry does not have conclusive details of the history, acquisition, sale and transfer in its records. It will take an additional three weeks to investigate the issues around this land.

RECEIVED
14 JUL 2015
CLERK'S OFFICE

(c) Whether the land is held on Leasehold or freehold and evidence of the same.

- The available details and evidence as per the attached documents indicate that the land is freehold.
- Attached is a copy of the application for consent to transfer. (**Appendix II**)

Q2. Petition by residents of Masongaleni Ward Kibwezi East Constituency regarding the dispute over the ownership of Tisya Primary School plot No.280 Makueni/Masongaleni Settlement.

The Ministry is aware of the said Petition by the residents of Masongaleni ward Kibwezi East Constituency. The Ministry is also aware of an active dispute over the ownership of plot No.280 Makueni/ Masongaleni Settlement between two parties, an individual and a primary school. There is also an ongoing case in the Environment and Land Court No. 468 of 2012 involving a Mr. Makau, Tisya Primary School, the Settlement Fund Trustees and the Attorney General.

(a) History of the land in dispute?

Masongaleni Settlement Scheme in Kibwezi Sub-County was established on land purchased by Settlement Fund Trustees from Brooke Bond Kenya in 1985. The scheme occupies an area of 30,751 acres.

(b) The acreage and registered owners of plot 280 Makueni/Masongaleni Settlement Scheme in Kibwezi East Constituency?

Plot No.280 Masongaleni Settlement Scheme is 18.5 Ha.

The registered owner of the said plot is Mr. Philip Mutiso Makau who purchased the said land from Mr. Ainsworth Matheka Kioko, who was allocated the land by the then Provincial Commissioner, Eastern Province.

(c) Information regarding the allocation and/or transfer of the said land.

ALLOCATION

As stated, Ainsworth Matheka Kioko was allocated the land by the then Provincial Commissioner, Eastern Province, through a letter dated 19th November 1990.This was

confirmed by a letter of offer dated 16th October 1992 issued by the Director of Land Adjudication and Settlement in which he was advised to pay for the land and paid the requisite percentage of the settlement fund trustee land charges upon which he was given legal documents on 10th March 1993.

TRANSFER

In May 1998 Mr. Kioko applied to the land board for consent to transfer plot 280 to Philip Mutiso Makau. Consent was given on 18th July, 1998 after which the transfer was effected accordingly.

A new set of legal documents were prepared in favour of Mr. Makau who became the legal owner of plot 280. However, on the ground, parcel no. 280 is claimed by two occupants viz Mr. Kioko and Tisya Primary School who hold separate land occupation documents respectively. Tisya Primary School occupies approximately 5 acres whose acquisition is in doubt. This matter is in court and I would submit that the rule of subjudice applies.

Q.3 Kenya Ports Authority Land Dispute (L.R No.12161) Baharini Kwale

According to our records LR No.12161 is not in Baharini Kwale County as alleged in the question. As a matter of fact, the plot is situated in Rift Valley, Nandi district and not Kwale (attached are documents showing the parcel is located in Nandi district **Appendix III**).

I would suggest that the Hon. Member furnishes us with better particulars than what we currently have.

Q.4 Dispute on LR NO.1705/50 Kilifi Township and 1705/233

a. The Ministry has commissioned investigations which are incomplete at this stage, over the above piece of land. The aim is to come up with the finer details of the acquisition, subdivision, transfer, change of user and any charges on the land.
b. The Acreage of the land is 85.40 Hectares
c. The Ownership of the land from the attached copy of title is Hewitt Stubbs and David Ewart Lennard Slater (**Appendix IV**)
d. We would require more time to give finer details of the subdivision, transfer, and change of user and any charges of the land.
e. The deed File No. of the plot is CR 27007.
f. Only copy of LR No 1705/233 is available. (**Appendix iv**) More time is required to search for LR. No. 1705/50.

g. There is no solid information on the beneficiaries of the land after subdivision.
h. This would require more time to get the full and better details of the said land.

Q.5 Land currently in use by Mombasa Cement Company LR No.3545 MN/111/290, MN/111/289 and MN/111/291.

Background

LR NO. MN/111/291 has a history dating back to the colonial times. The land has had a history of successions as a result of grants until it was sold to the current owners. It was first registered to Nyra Kathleen Home Davis wife of Major Hedley Home Davis on the 24th December 1923.Upon the demise of Kathleen on 18th July 1925, letters of administration were registered against the title in favour of Edward Pryce Delaury as a representative of Nyra Kathleen Home-Davis deceased on 11th December 1927.On the same date, a transfer was registered to Major, Home Dais and Alfred George Stevens as tenants in common in equal shares.

Facts.

a. On the 4th of September 1944, a grant of probate was registered in favour of Yvonne Bagkill Home Davis as executor of the will to Hedley Homes (deceased).

b. On the 4th of November 1944, a transfer was registered to Yvonne Bagkill Ruselll in respect to the undivided share of Hedley Homes Davis deceased. On the 15th of May 1962 Letters of Administration were registered to the Public Trustee of the colony and Protectorate of Keya as representative in respect to the one undivided share of Alfred George Stevens deceased.

c. On the 10th June 1952, a caveat was registered against the title of MN/III/291 by East African Power Lightning Company limited claiming easement over the above plot.

d. On 29th September, 1964 a transfer was registered to Vipingo Estates Limited for a sum of Kshs.98, 900/= subject to the aforementioned caveat.

e. The property was charged to Standard Chartered Bank Kenya Limited for Khs. 9,000,000/= on the 28th May, 1987.

f. On the 21st August 1987 a charge was registered to a foreign Bank known as Deg-Dentsohe Finan 21erungsgeseusenaft fuer/Beteoligongen in intwink Luns/andei embh for US$2,000,000/=.

g. A certificate of change of name was registered on the 24th August 1992 and charged to a bank named above, to Deutsche investitions and Int Wicklungs Gesulsshafu mbh.

h. Further charge was registered on the same day to Standard Chartered Bank Kenya Limited for Kshs.11, 000,000/=.

i. On 12th July 1995, a transfer was registered in favour of REA Vipingo Plantations Limited.

j. On the same date a caveat dated 3rd may, 2015 was placed against the title Vipingo Estate Limited claiming transferee's interest.

k. A partial discharge dated August 1997 was registered to discharge entry no.8 and 11 discharging part of the loan owed to Standard Chartered.

l. On the 4th October, 2001 a notice of withdrawal of caveat was registered to remove the restriction placed by Vipingo Estate Limited.

m. On 4th October 2001 a transfer was registered to Vipingo Estates Limited of LR No. 5025/93/96/98/667 (org) LR 7334/4 and LR 8724/5 and subdivision No.291/2 vide new Certificates of Titles Coastal Registry (CR) 34869.

n. A grant of easement was registered in favour of Vipingo Estate Limited on the 5th April 2004.

Q6. On the petition of Chuka Igamba Ng'ombe Constituency on alleged grabbing of public land belonging to Township Primary School.

Background

Chuka Township Primary school is a public primary school started in 1972 and located within Chuka Igamba Ng'ombe Constituency. On the ground the school covers approximately 4.30 acres as verified by the District Survey Office, Meru South.

However, the head teacher and the local community have been alleging that the school land was initially 6.58acres and therefore part of the land was grabbed by a group called Chuka Family Life Centre and few individuals.

Facts

a. Both the school and the group (Chuka Family Life Centre) occupy part of the freehold land parcel no. Karingani/Ndangani/953 registered under Meru South County Council but reserved for Chuka Township. None has a registered lease.

b. Chuka Family Life Centre has an allotment letter dated 6th December 1995 and a PDP No. TN/350/94 (not Approved) of 1.57hectares. Chuka Township Primary School does not have any documentation.

c. An approved Development Plan for the whole Chuka Town Ref. No. 350/69/1 approved plan No. 1 of 19th January 1970 shows that Chuka Township Primary School was allocated approximately 1.3hactares (3.21acres).

d. A Revised Development Plan for the town approved on 20th May, 1988 ref. No.M350/85/3 approved DP No.13 revised the area of Chuka Township Primary to 2.01ha (4.966acres) but subject to ground survey.

e. Chuka Family Life Centre and Chuka Township Primary School have had several court cases the latest being civil appeal no. 96 of 2002 at the High Court of Kenya, Meru where the primary school was ordered not to interfere with the four (4 acres) belonging to the Chuka Family Life Centre and which is a subject of the dispute to date.

f. Copy of Approved Development Plan No. 13 of 20th May, 1988 showing site for Chuka Township Primary school is enclosed for your reference.

g. There is no evidence of any subsequent subdivisions, sale and or transfer of the land from records held in this Ministry.

I have instructed the Director of Surveys and the Ag. Land Secretary to have the school land surveyed as per the approved Development Plan to secure the land and issue title deed in the name of Chuka Township Primary School in the next four weeks.

Q.7 Petition by the Residents of Kajiado West Constituency, Kajiado County on the inquiry into the Compulsory Acquisition of the land, Reference No. Ngong/Ngong/1959

Background

According to available records, Ngong/Ngong/1959 with a total acreage of 1400 acres, was vested to Olkejuado County Council on 10.05.1974 during the adjudication and demarcation of Ngong registration section. The same land had been set aside for the Veterinary farm and training centre by an application lodged and gazetted as Gazette Notice No.890 of 5th March 1957 by K.M.Cowley, the then Provincial Commissioner, Southern Province, during the adjudication and demarcation process of 1970s.

Facts

a. Records indicate that Ngong/Ngong/1959 was transferred to the Government of Kenya by the Commissioner of Lands letter ref no,91889/11 of 12/3/1975 on 14th March 1975.The same was closed on subdivision on 14th March 1975 to Ngong/Ngong/2627,2628 and 2629

b. Ngong/Ngong/2628 with an approximate Area of 0.5946 Ha was allocated to Halal Meat Products Limited by The Government of Kenya on 99 year leasehold with effect from 1.1.1975 and Certificate of Lease registered and issued on 18th April 1975. Records available indicate that a charge was registered against the title to secure a loan of Kshs 65,000,000.00 from Barclays Bank Limited on 3rd December 2001.

c. Ngong/Ngong/2629 with an approximate Area of 3.990 Ha was allocated to Halal Meat Products Limited by The Government of Kenya on a leasehold of 99 years with effect From 1.1.1975 and Certificate of Lease registered and issued on 18th April 1975.Records indicate that a charge was registered against the title to secure a loan of Kshs.65, 000,000.00 from Barclays Bank Limited on 3rd December 2001.

d. Further records indicate that Ngong/Ngong/2627 with an Approximate Area of 589.71 Ha was closed on subdivision on 7.12.1998 to Ngong/Ngong/21399 and 21400.

e. Records indicate that Ngong/Ngong/21399 with an Approximate Area of 48.70 Ha was allocated to the Department of Police and certificate of Lease of 99 years with effect from 1.02.1997 issued.

f. The remaining portion Ngong/Ngong/21400 with an Approximate Area of 541.01 Ha was left to Veterinary Farm.

g. While the records available at Ngong Lands Kajiado North District Land Registry show that only three portions of Ngong/Ngong/1959 i.e. Ngong /Ngong/2628, 2629 and 21399 were excised and allocated to various entities under Registered Land Act [CAP 300], records availed to this office from the office of Deputy County Commissioner Kajiado North District indicate that other allocation under Registration of Titles Act [CAP 281] were done on the same parcel of Land.

h. Here below is a summary of the various allocation excised from the original Ngong/Ngong/1959.

S/No	Institution	Acreage (Acres)	Remarks
1	Ministry of Roads	75	Kenya Institute of Highways and Building is situated herein.
2	Halal Meat Factory	12	Certificate of Lease issued as Ngong Ngong/2628 and 2829 on 18 April 1975.
3	Army Gravelling Unit and Training	10	
4	Meteorological Department Centre	100	Certificate of Title issued as grant No IRN 5643 on 13 Jan 1999 under RTA Cap 281.
5	Ngong Dumpsite	20	Letter of Allotment issued to County Government Kajiado.
6	East Africa Motor Sports Club	100	Title deed issued under RTA Cap 281.
7	Kenya Police	142	Title deed issued on 07 Dec 1998 as Ngong/ Ngong 21399.
	Total Acreage	459	

Conclusion

From the foregoing it is clear that although the parcel of Ngong/Ngong/1959 with an Approximate Area of 1400 Acres had been set aside for Veterinary Farm and Training Centre, excision has been carried out by the Government of Kenya. Portions of land allocated to various entities both Government Entities such as Meteorological Department, Kenya Police Department, Kenya Defence Forces, and the County Government of Olkejuado and Private Entities such as Halal Meat Products and East Africa Motor Sports Club. From the records available a total of 459 Acres had been committed and 941 Acres remain uncommitted.

Q.8 Petition by the residents of Mavoko Constituency regarding alleged Compulsory acquisition of land in Mavoko Constituency LR no. 10029/2.

Background

On 23rd February 1987 a letter of allotment was issued to Nkapaapa Ole Nenkikua on a freehold basis. The total acreage was 73 Hectares. The total fees called for was Ksh 420. Which he paid on 25th August 1987.

On 6th April 1987 an acceptance letter written to the Director of surveys by the Commissioner of lands. In the meantime, supported by an affidavit, on 28th October 1987, the allottee swore that he is also known as Noah Ole Lemei Ololmelua that he was the same person as Nkapaapa Ole Nenkikua.

There appears to have been confusion between LR 14752 and LR 10029. According to the SPRO (Plan Record Office) in a memo dated 14th June 1994, LR 10029/2 which was the subject of allotment of 1997 has no relationship with LR 14752 with which the title deed no IR 69288 was issued.

The letter of allotment should have been in respect on an unsurveyed, plot, which upon survey became 14752. According our records plot no 10029/2 belongs to the Ministry of livestock development.

Facts

a. On 17th April 1990 the Assistant Chief for Kitengela sub-location wrote a letter intimating that the allottee was deceased and recommended that the department issues title in the name of two persons who were the deceased's widows: 1) Tito Noah Nkapaapa ID No. 0792506/63 and 2) Phylis Noah Nkapaapa ID No. 0792451/63.

b. On 25 February 1992, the High Court issued letters of administration confirming the two names as the administrators of the estate.

c. A title IR 69288 was prepared and signed on 10th April 1996 in the names of Tito Ene Noah Nkapaapa and Phylis Noah Nkapaapa with acreage of 62.48 Hectares adopting LR No 14752.

d. An application to subdivide the land was made on 23rd June 1993. Mavoko County Council through their letter Ref 15/Volxiii/61 recommended subdivision of the LR No 14752 into three portions measuring 20.24 Ha, 21.46 Ha and 21.46.

e. Upon receipt of favourable comments from various authorities, final approval of the subdivision was granted on 22nd January 1997.

f. The resultant sub plots are LR 14752/1, 14752/2 and 14752/3.

Conclusion

The records indicate some confusion over the numbering of the two plots 10029/2 and 14752. However, the current position is that the LR no. 14752 is still in private hands but the 10029/2 is public land.

Q.9 Naivasha Lake corridors are said to have been closed by private developers thereby denying fishermen and the general public access to the Lake.

The Ministry has not had sufficient time to investigate this matter given the short notice. However, the Ministry also believes that this is a matter that needs a multi agency approach to adequately address the issue at hand, to consult with the National Land Commission, the ministries responsible for fisheries and water resources, to get to the root of this matter and respond as appropriate.

Fred Matiang'i, PhD
Cabinet Secretary

14th July 2015

MINISTRY OF LAND, HOUSING & URBAN DEVELOPMENT

MEETING WITH DEPARTMENTAL COMMITTEE ON LANDS

Questions

1. **Illegal occupation by squatters of land LR 209/19633 whose legal owners are M/S Jandu Investments Company Limited**

a. History of the said plot;
b. The current owner/s of the alternative property.
c. The procedure used to allocate the property
d. The title deed and transfer documents for the said land
e. Any other information relating to the matter.

I wish to respond as follows:

Jandu Investments Company Limited owns **LR 209/9633** and not LR 209/19633. The plot measures **1.370 ha**.

a. History of 209/9633 – Owned by Jandu Investments

The plot was allocated to Jandu Investments Company Ltd on 1st Nov 1979.

An application for allocation was made to the commissioner of lands by Mrs. B Wambui Muturi on 30th October 1979 for 5 plots as follows;

i. Sub plot A -Allied Properties ltd
ii. Sub plot B - Jandu Investments LTD
iii. Sub plot C - Ligna Limited

Sub Plot D - Aquin Limited

iv. Sub Plot E - Vimag Limited

(Appendix II – Application for allocation)

The plots had been planned vide pdp no 42.17.78.5 of 2nd Oct 1978. **(See appendix III)**

The application was approved by the Commissioner of lands through a letter of allotment for plot B issued to Jandu investments ltd on 1st November 1979.

The other plots were also allocated as per the application. The offer was accepted and title issued on 19th November 1986.

b. The current owners/s of the alternative property.

The Ministry is not aware of an alternative property.

c. The procedure used to allocate the property

The procedure used to allocate the property is as explained in (a) above.

d. The title deed and transfer documents for the said land.

A title deed for LR No. 209 /9633 was issued to Jandu Investments Company Limited 19th November 1986. The property has not been transferred.

f. Any other information relating to the matter.

The Ministry is aware that part of the plot is occupied by squatters. The NLC and the Deputy County Commissioner, Embakasi have been coordinating meetings between the owners of the land and the squatters with the aim of coming up with a solution for the squatters.

review of all grants or dispositions of public lands to establish their propriety or legality as per Article 68 of the Constitution.

I wish to answer as follows:

The Ministry has prepared a Bill on prescribing the Minimum and Maximum Land Holding Acreages in respect to private land. The Bill has been submitted to the National Assembly and Committee for the Implementation of the Constitution (CIC) for adoption and enactment.

The Ministry is awaiting the enactment of the Land Amendment Bill to facilitate Gazettment of Regulations to implement the new land legislation.

i. Question No.088/2015 by the Member for Sigor Constituency (Hon. Philip L. R. Rotino, MP):

Could the Cabinet apprise the Committee on the disputes resolution mechanism for disputed parcels of lands particularly those among neighbouring communities; the current ownership status of the 1,500-acre land in Sigor Constituency that is being claimed by residents of the neighbouring Marakwet East Constituency; reasons behind the protracted disputes; and the available avenues for resolving this stalemate.

The disputes resolution mechanism for the disputed parcels of land particularly those among neighboring communities depend on the nature of the dispute and the status of the disputed parcels of land.

I wish to answer as follows:

Nature of dispute

There is need to identify the nature of the dispute and the disputing parties in order to apply an appropriate dispute resolution mechanism. If the dispute is over land that is not adjudicated or under adjudication process, the resolution of the dispute should involve the County government

(trustees of the community land), National land commission and the Ministry of **Interior and Co-ordination of National Government.**

Status of land

There is also need to establish the status of land before appropriate dispute resolution mechanism is applied. If the land is under the land adjudication process, then the land adjudication tribunals will handle the disputes as spelt out in the Land adjudication Act, Cap 284, Laws of Kenya.

Current status of the 1, 5000 acre land in Sigor constituency

The land in question is located at the boundary of West Pokot and Elgeyo/Marakwet Counties (around Chesegon area).The exact acreage is not known because it has not been adjudicated/nor surveyed.

Reasons behind the dispute

It is reported that the residents of the area received information that there is a proposal to build a mango processing plant in the area. We are yet to establish the source of this information but there are claims by the residents of Sigor constituency that the residents of Marakwet- East have encroached onto their land. There is pressure from the residents of the area to have it adjudicated.

Available Avenue to resolve the dispute

The land in question is trust land/community land. The available avenue to resolve the dispute is to immediately commence land adjudication work in the disputed area. The Ministry intends to sensitize the residents on the land adjudication process and declare the area an adjudication section in the 2015/2016 Financial Year.

5. a) To explain the procedure used to subdivide MN/III/289 so as to create MN/III/ 289/1 and MN /III/289/R, kindly provide necessary approvals for the same.

Answer:

Answer:

Brief history of MN/III/289.

LR.No. MN/III/289 is located in Takaungu area of Kilifi County and fronts the Indian ocean to the East .It was initially Government land which was in 1920 subdivided into two portions namely LR NO MN/III/289/1 measuring 422 acres and LR NO MN/III/289 (R).

LR NO. MN/III/289/1 was allocated by the colonial Government to Khamis Bin Rashid Bin Sood who later sold it to Claud Pier Robertson-Dunn and Yusufali Gulamhusein Datoo. The land later reverted to the Government in 1971. (Copy of endorsed title attached).

The remainder of MN/III/289 (R) together with LR No. MN/III/290 was allocated to Vipingo Estate Limited in 1951. (Copy of letter of allotment attached).

The procedure used to subdivide MN/III/289.

Subdivision of MN/III/289 to create MN/289/1 and 289/R was undertaken in 1920's as depicted on copy of Deed Plan No.22035 of 26/5/1924 .The procedure used then in subdivision of land by the Government cannot be established because there is no information on record. (Copy of Deed –Plan attached).

a) ***To explain the procedure used to amalgamate MN/III/289 and MN/III/290 to create MN/III/3545, kindly provide the necessary approvals for the same.***

The Amalgamation of MN/III/289 and MN/III/290 to create MN/III/3545 was done in August, 1951 as per the Survey plan No. F/R 328/100 which quotes approval letter No. 36735/176 from the Commissioner of Land as authority for amalgamation. The genesis of this authority was a letter of allotment for agricultural land in favour of Vipingo Estate Ltd. The Director of Survey re-surveyed the amalgamated land on 26th August 1997 during the normal re-survey exercise. (Copy of letter of allotment ref.36735/176 of 28/9/1951 and survey plan FR NO.328/100 attached.).

b) ***To explain the procedure used to consolidate MN/III/290 with MN/111/289/1 to create MN/III/3545, kindly provide necessary approval for the same.***

According to our records, MN/III/3545 was the new survey number allocated for MN/III/290 after the re-survey. Survey plan F/R Number 289/39 of 1stOctober, 1999 depicts that MN/III/289/1 falls on land outside MN/III/3545. Therefore, there is no formal amalgamation of MN/III/290 and MN/III/289/1 according to our records.

d) ***To provide CR No. and the Grant No. for MN/III/3545.***

LR NO.MN/III/3545 has no CR. or Grant Number since the same was subdivided before registration.

History of subdivision and Amalgamation of LR No. MN/III/3545

MN/III/3545 is reflected on Survey plan No. F/R 328/ 100 and Deed Plan Number 214687 issued on 9th September 1979. The land depicted on the deed plan was subdivided without being registered in the Land Registry MN/III/3545.

LR NO. MN/III/3545 was initially subdivided vide survey plan F/R NO 289/39 of 1/10/1999 into four portions namely MN/III/3545/1-4. One

portion MN/III/3545/2 Mombasa was further subdivided into two portions, MN/III/4391 and MN/III/4392 as depicted on the Deed Plan No. 254238 of 9th July,2004(Copy attached).MN/III/3544 (same as MN/III/289) was subdivided into two portions MN 3544/1&2 vide survey plan F/R 289/39. MN/III/3544/2 was consolidated with MN/III/4392 and issued with number MN/III/4393 vide survey plan number F/R 434/109 of 6thJanuary 2004.

CR & Grant Numbers

In conclusion LR MN/III/3545 was not registered and no title was issued. Therefore, there are no CR or Grant Number. Instead, the same was subdivided into LR NO. MN/III/4391 and part of MN/III/4393.The CR and Grant Numbers are as provided hereunder.

MN/III/4391- Coast Registry Number.(CR) is 38221 registered at Mombasa Registry on 1st September, 2004 under the name of Vipingo Estate Ltd and later transferred to Mombasa Cement Ltd on 9th March 2005. **MN/III/4393**-Coast Registry (CR NO 382223 registered at Mombasa Registry on 1st September, 2004 to Vipingo Estates Ltd.

e) Provide the sketch map and the deed plan for MN/III/3545.
Copy of survey plan FR NO.328/100 is hereby attached as requested.
Deed plan No 214687 for LR MN/III/3545 was issued on 9/9/1997.

f) ***Any other information as it relates to the ownership of the parcels and as may be relevant to the committee.***
No other information

6. Petition by the Residents of Kajiado West Constituency, Kajiado County on the Inquiry into the Compulsory Acquisition of Land, Reference No. Ngong/Ngong/1959

Provide available documentation to prove how the land changed hands from the Ol Kejuado County Council to the government.

Background

Ngong/Ngong/1959 with a total acreage of 1400 acres, was vested to Olkejuado County Council on 10.05.1974 during the adjudication and demarcation of Ngong registration section. The land had been set aside for the Veterinary farm and training centre vide Gazette Notice No.890 of 5th March 1957 by K.M.Cowley, the then Provincial Commissioner, Southern Province, during the adjudication and demarcation process of 1970s.

a. Records indicate that parcel No. Ngong/Ngong/1959 was transferred to the Government of Kenya by the Commissioner of Lands letter ref no. 91889/11 of 12/3/1975 on 14th March 1975. The parcel was subdivided on 4th March 1975 to create parcel Nos. Ngong/Ngong/2627,2628 and 2629

b. Parcel No. Ngong/Ngong/2628 with an approximate Area of 0.5946 Ha was allocated to Halal Meat Products Limited by the Government of Kenya on 99 years lease with effect from 1.1.1975 and Certificate of Lease registered and issued on 18th April 1975. Records available indicate that a charge was registered against the title to secure a loan of Kshs65,000,000.00 from Barclays Bank Limited on 3rd December 2001.

c. Parcel No. Ngong/Ngong/2629 with an approximate Area of 3.990 Ha was allocated to Halal Meat Products Limited by the Government of Kenya on a leasehold term of 99 years with effect from 1.1.1975 and Certificate of Lease registered and issued on 18th April 1975.Records indicate that a charge was registered against the title to secure a loan of Kshs.65, 000,000.00 from Barclays Bank Limited on 3rd December 2001.

Appendix 20

To: Chairman, National Land Commission 09/4/15 Thro' Forwarded Effe. 10/4/15 Director Land Adm.	**From:** Mburugu (PLAO)
REF. No. 36735/11/75	**Date:** 9th April, 2015

RE: MEETING WITH THE DEPARTMENTAL COMMITTEE OF LANDS: ON THURSDAY 9TH APRIL, 2015

Meeting with the above committees is to address the following:-

(i) Detailed information regarding the investigations carried out by The National Land Commission on the said land.

Answer

The said investigation report is attached herewith as item No.1 (i) in the list of documents.

(ii) A detailed status report of the properties mentioned above.

- LR NO.MN/III/289, before allocation to Vipingo Estate in 1949 was a huge junk of land, which was subdivided into 2 portions and a portion of 422 acres, new No.307 (289/1) was allocated by the crown Government to Khamis Bin Rashid bin Sood who later sold the same to Claud pier Robertson- Dunn and yusufali Gulamhusein Datoo. They later surrendered the said land to Government on 22nd September, 1971. (See item 2 & 3 of the list of document).

- *LR NO. MN/III/289R remained as unalienated Government land until 1949 when it was allocated to* Vipingo Estate Ltd with other lands. (Item 4 of the list of documents).

- LR.NO. MN/III/290, prior to allocation to Vipingo Estate Ltd in 1949, it was unalienated Government.

- When an amalgamation was done of MN/III/289R & 290, a new number was given as MN/III/3545. (Item 5 on list of documents).

- Later MN/III/3545 was subdivided to give rise to LR.NO. MN/III/3545/2/b and 3545/2/A (respectively with new survey number as:- LR.NO. MN/III/4392 & 4391) (Item 6 on the list of documents)

- We have no records for parcel No. MN/III/292/2 but from the Topocadstral Maps the land has never been part of Vipingo Estate Ltd. It is depicted as Government land.

(iii) Any other information that may be relevant to the matter.

Answer

- Vide Gazette Notice No.89 of 3rd March, 1985 copy attached and marked item 11. All parcels of land in Vipingo area owned by Vipingo Estate Ltd, were exempted from the provisional of Cap.302, hence at the time of transfer of this land, Land Control Board consent was not necessary.

S.K. Mburugu
PLAO

LIST OF DOCUMENTS

1. i) Copy of investigation report by National Land Commission touching on L.R. No. MN/III/4391

   ii) Plan showing position of L.R. No. MN/III/4391 in relation to Plot No. 289R and 290.

2. Plan showing subdivision of original Plot No. 289

3. Copy of title for Plot No. 307 (Original 289R) with entry no. 8, surrender to Government

4. i) Copy of letter of allotment dated 28th August 1951 to Vipingo Estate Ltd.

   ii) Copy of letter authorizing allottees to enter the land upon compliance.

5. Plan showing amalgamation of 289R and 290 to give rise to Plot No. 3545

6. Plan showing Plot No. 4391, 4392 and 3545/1

7. Transfer of lease document from Vipingo Estate Ltd to Mombasa Cement Ltd

8. Consent to transfer Plot No. 4391 by Commissioner of Lands

9. Copy of land rent clearance certificate

10. Valuation requisition form for stamp duty during the time of transfer

11. Kenya Gazette Notice No. 89 of 1995 exempting the land from provisions of Cap 302.

12. Copy of the title for Plot No. 4391 which was transferred to Mombasa Cement on 9th March 2005

(1,i)

NATIONAL LAND COMMISSION

Our Land, Our Wealth, Our Heritage

THE NATIONAL LAND COMMISSION

To: The Chairman, National Land Commission

From: Mr. Mburugu

Ref: 36735/Vol. II/72

Date: 17th September 2014

RE: LAND REFERENCE NO. MN/III/4391 – MOMBASA CEMENT LTD KILIFI

The history of land parcel MN/III/4319 is long and complex as it resulted from several sub-divisions and consolidation of various parcels of land. From the records, the very original plot numbers of this parcel among others was L.R. NO. MN/III/289 and 290 (see attached plan).

The original parcel No. MN/III/289 was sub-divided into two (2) portion in 1920's and a portion of 422 acres was allocated by the crown Government to Khamis Bin Rashid Bin Sood who later sold the same to Claud Pierp Robertson - Dunn and Yusufali Gulamhusein Datoo and the land was later surrendered to Government on 22nd September 1971 (copy of title endorsed with surrender attached)

The reminder of MN/III/289 which had remained as Government land, together with L.R. No. MN/III/290 in 1949, it was allocated to Vipingo Estate Limited, subject to certain conditions and in 1951 upon complying with the allocations conditions, they were issued with letter of allotment (copy attached).

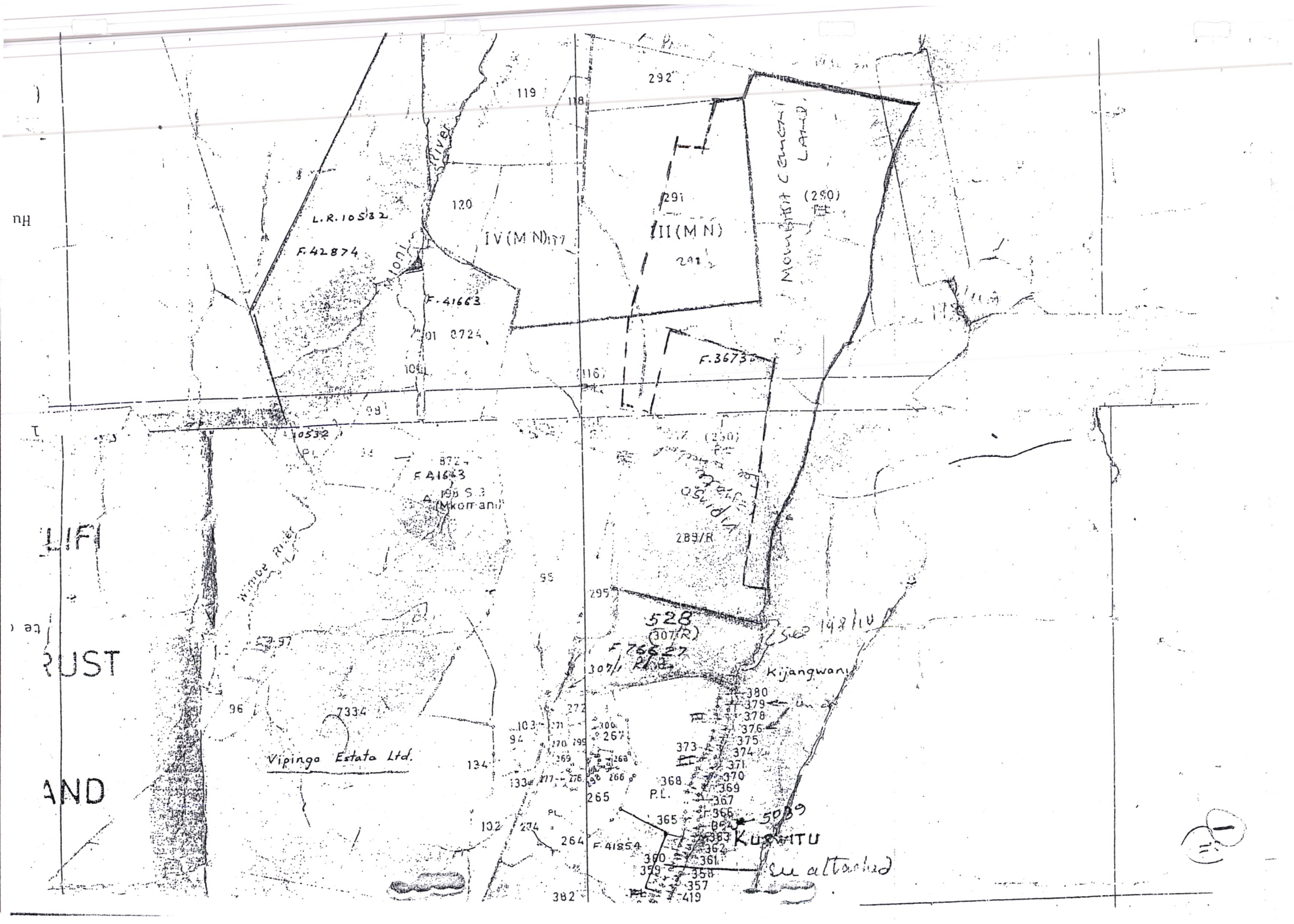
Records
P/A but in safe.
9/3/15.

When an amalgamation was done for MN/III/290 and the remainder of 289R, the Parcel Number changed to MN/III/3545 (see the attached plan), later it was sub-divided into three (3) portions to become MN/III/4391, 4392 and 4393. Parcel Number MN/III/4391 on 9th March 2005, it was transferred by Vipingo estate Limited to Mombasa Cement Limited (Copy of transfer documents attached).

The transfer to Mombasa Cement Limited had met all the requirements i.e. Commissioner of Land consent, land rent clearance certificate up to year 2005, valuation for stamp which was paid to KRA on 1st March 2005 and document booked for registration under day book number 64 of 9th March 2005 (all the above documents are attached herein).

Under section 24 of the Land Control Act vide Kenya Gazette Supplement Number 5 of 3rd March 1995, copy attached, the President of the Republic of Kenya by then exempted Vipingo Estate Limited land from the provision of Land Control Board Act and I am of the view that if there was a transfer/sub-division by Vipingo Estate without consent of Land Control Board it was appropriate as long as all the legal fees to the Government were paid.

S.K. Mburugu
LEGAL OFFICER



L.R. 10532
F. 42874
F. 41663
IV (MN)
III (MN)
Mombasa Cement Land
(290)
F. 3673
(116)
10532
F. 41663
198 S.3
(Mkomani)
Vipingo Estate
289/R
528
(307/R)
F. 76627
307/1 R.
See 198/10
Kijangwani
Vipingo Estate Ltd.
P.L.
F. 41854
5039
KUSWITU
See attached
LIFI
RUST
AND

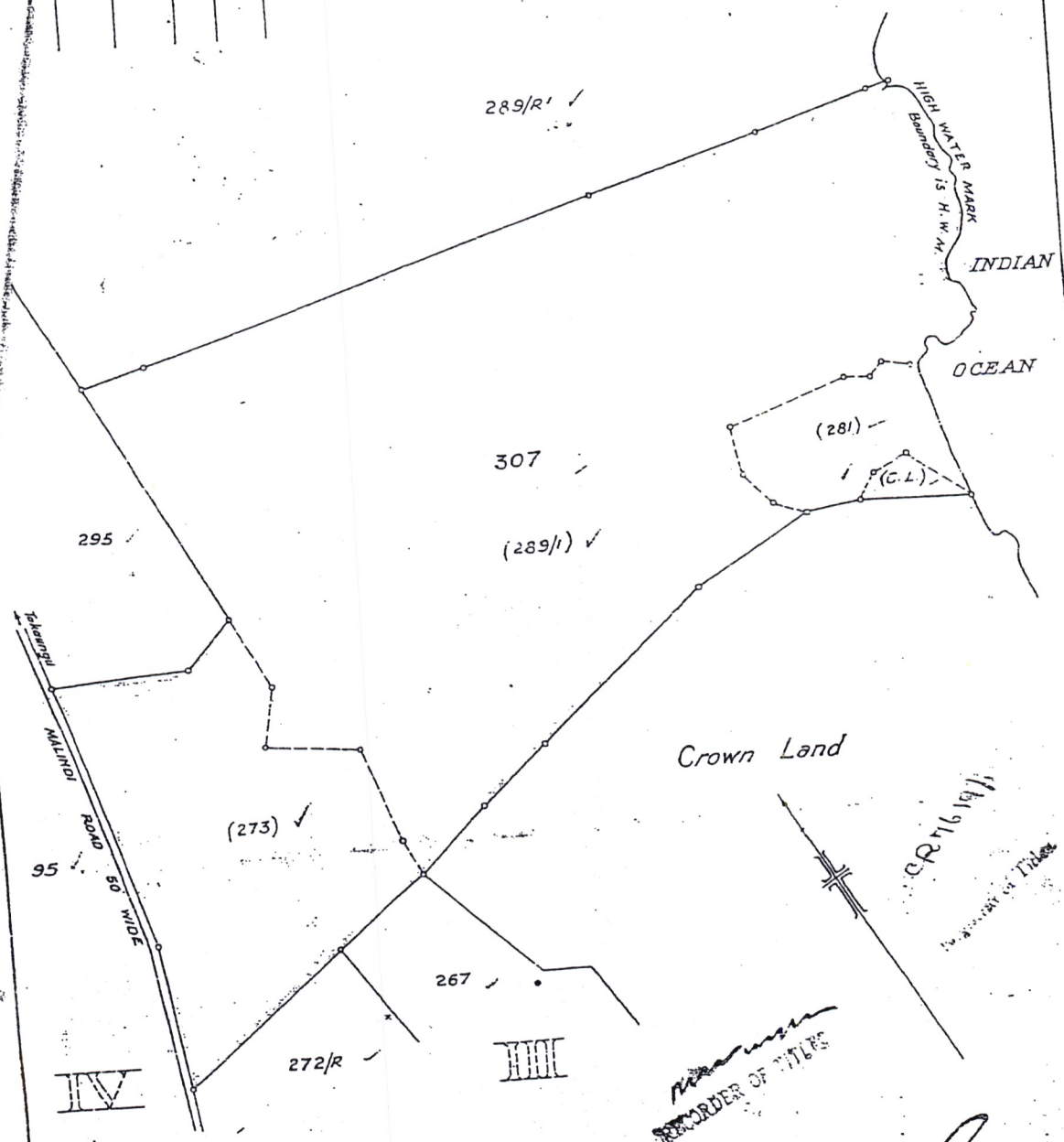
(2)

COLONY & PROTECTORATE OF KENYA

PROVINCE OF COAST ✓
DISTRICT OF MALINDI ✓
Locality: Kirwitu. (South of Takaungu) ✓
Scale: 1 in. 10,000 or 833·33 Feet to 1 Inch

Land Office Reference No.
Re-Subdivision No.
of Subdivision No. 307 (Orig. Nos 273, 281, 289/1 & C.L.) ✓
of Section No. III Mainland North ✓
of Portion No. –
of Meridional District South.A.37 / V.IV.d 1 ✓
Area = 442·0 Acres (Approx) ✓

Bearings °	'	"	Distances Feet



RECORDER OF TITLES

J. J. Gordon
for Director of Land Surveys
Nairobi May 26th 1924

Please quote this PLAN No. 22035

Traced by
Compared by

3

B 45-0-0
19/11

104

12 NOV 1966 A.M.
LAND TITLES REGISTRY

KENYA

REGISTRY OF TITLES

(COAST DISTRICT)

TITLE NUMBER C. R. 7619

I, KHAMIS BIN RASHID BIN SOOD, of Post Office Box Number 254, Mombasa Coast Province, Kenya being registered as proprietor (subject however to such charges leases and encumbrances as are notified by the Memorandum endorsed hereon) of ALL THAT piece or parcel of land containing four hundred forty two (442.0) acres or thereabouts known as subdivision no.307 of Sec. III Mainland North of Meridional District South A 37 (V IV d) situate in the District of Malindi at Kirwitu (south of Takaungu) more particularly -- delineated and described on Deed Plan No. 22039 attached to the Certificate of Ownership no.8794 dated the 9th June 1924 registered at the Coast Registry Mombasa as no.7619 IN CONSIDERATION of the sum of shillings forty five thousand (Shs.45,000/=) only paid to me by (1) Claude Piere Robertson-Dunn and (2) Yusufali Gulamhusein Datoo, both of Post Office Box Number 9873, Mombasa aforesaid (the receipt of which sum I hereby acknowledge) DO HEREBY - TRANSFER to the said (1) CLAUDE PIERE ROBERTSON-DUNN and (2) -- YUSUFALI GULAMHUSEIN DATOO as tenants in common in equal shares all my right title and interest in the pieces of land above --- described together with all the improvements thereon.

IN WITNESS WHEREOF I have hereunto set my hand this 16th day of November One thousand nine hundred and sixty six.

SIGNED by the said KHAMIS BIN RASHID BIN SOOD in the presence of:-
L. J. Maughman
Advocate
Mombasa

R
i
m

M. Khamis Bin Rashid Bin Sood

MEMORANDUM OF CHARGES LEASES & ENCUMBRANCES --
NIL

DRAWN BY:
SACHDEVA & CO,
ADVOCATES, MOMBASA

LAND TITLES REGISTRY - MOMBASA - KENYA
REGISTRATION OF TITLES ACT
REGISTERED AS No. C.R. 7619/4
Presented 22-11-1966
Time 11.40 a.m.
Registrar of Titles

6. THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Caveat dated 27th January 1971
By Baron George De Souza claiming
purchaser's interest

Presentation No. 69 Date of Registration 22/3/71 REGISTRAR OF TITLES

7. THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Withdrawal of Caveat dated 19th August
1971 of No. 6 above

Presentation No. 208 Date of Registration 22-9-71 REGISTRAR OF TITLES

8. THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THIS TITLE
Surrender to the Government of the Republic
of Kenya.

Presentation No. 206 Date of Registration 22-9-71 REGISTRAR OF TITLES

4(i)

P.O. Box 89,
Telephone No.3921
Telegrams "LANDS"

In reply please quote No. 36735/176. and date

Stamp of the Royal Arms.

DEPARTMENT OF LANDS, NAIROBI.

28th August, 1951.

REGISTERED

The Manager,
Vipingo Estate Ltd.,
P.O. Box 572,
MOMBASA.

Sir,

LETTER OF ALLOTMENT OF AGRICULTURAL LAND

Crown Land - Kilifi District

Further to my letter Ref.No.36735/166 dated 26th September, 1950, I have the honour to confirm that a portion of the above area has been allocated to you for the term subject to the payments and upon the conditions as set out hereunder:-

AREA: 2,690 acres approximately as illustrated on the attached plan and thereon edged red. A reservation of 200 ft. inland from high-water mark or cliff edge shall be made when survey is effected and excluded from the Grant. Government can accept no liability from any variation in acreage which may well be found upon final survey other than the necessary adjustment of annual rent.

2690 · 0.20 = shs 539/-

RENT: Twenty cents per acre per annum until 31st December, 1960, then revisable in accordance with the Crown Lands Ordinance (Cap.155).

TENURE: Leasehold under the ordinary agricultrual conditions of the Crown Lands Ordinance (Cap.155).

TERM: 999 years from 1st October, 1949.

DEVELOPMENT ETC: Ordinary conditions applicable to grants of this nature save as may hereinafter be specified.

SPECIAL: (a) No transfer within five years from the commencement of the term.

(b) Personal occupation for three years out of the first five years of the Grant by a responsible representative of your Company.

(c) Within a period of two years from the commencement of the term of the Grant at least one-twelfth of the area must be put under cultivation and so maintained.

(d) Within a further period of two years an additional one-twelfth part of the area must be put under cultivation and so maintained.

/Within

Within a further period of five years an additional one-sixth part of the area must be put under cultivation and so maintained.

(f) For ten years after the commencement of the term of the Grant the Grantee shall in the month of January each year forward to the Commissioner of Lands a Progress Report accompanied by a plan both of which shall be dated and signed. In the Report the Grantee shall certify the area under cultivation and on the plan shall indicate the position of cultivation and all other improvements temporary or permanent. The statement and plan should be certified by Affidavit.

(g) Without prejudice to the ordinary agricultural conditions of the Crown Lands Ordinance (Cap.155) the Grantee shall manage the whole area in a good and husbandlike manner and maintain the same in a good state of fertility and in good condition and so leave it on the expiration of the term hereby granted.

COSTS: Title, survey and other incidental costs to be borne by you.

2. The sum of Shgs.1,211/60 in respect of the approximate annual rent from the 1st October, 1949, to the 31st December, 1951, together with your formal acceptance of the offer contained herein should be forwarded to this office.

3. If acceptance and payment respectively is not made within one month from the date hereof the offer herein contained will be considered to have lapsed.

4. Survey and issue of the Crown Grant will be undertaken as soon as circumstances will permit.

I have the honour to be,
Sir,
Your obedient servant,

(Signed) J.K. Hill.

for SPECIAL COMMISSIONER AND
AG. COMMISSIONER OF LANDS

JKH/IK.
Enc:

Copy to: The Director of Surveys, Nairobi.
The Commissioner of Inland Revenue, Nairobi.
The Provincial Commissioner, Coast Province, Mombasa.
The Registrar of Titles, Mombasa.
O.C. Records.
Records Draughtsman.

Certified to be a true copy of the original

Richard H. Crawley
Advocate Mombasa

4(ii)

Government
SEAL

P.O. Box 89,
Telephone No. 3921
Telegrams: "LANDS"

DEPARTMENT OF LANDS,
NAIROBI

In reply please quote No.
36735/179
and date

13th September, 1951.

The Manager,
Vipingo Estate Limited,
P.O. Box 572,
MOMBASA.

Sir,

LETTER OF ALLOTMENT OF AGRICULTURAL LAND

Crown Land - Kilifi District.

I have the honour to acknowledge receipt of your letter dated 5th September, 1951, enclosing cheque value Shgs.1211.60 in respect of annual rent on this area from 1st October, 1949 to 31st December, 1951, together with a Progress Report and plan of this area certified by Affidavit. I hereby authorise your formal entry into possession of the land with effect from the 1st October, 1949.

I have the honour to be,
Sir,
Your obedient servant,

(Signed) J.K. Hill.

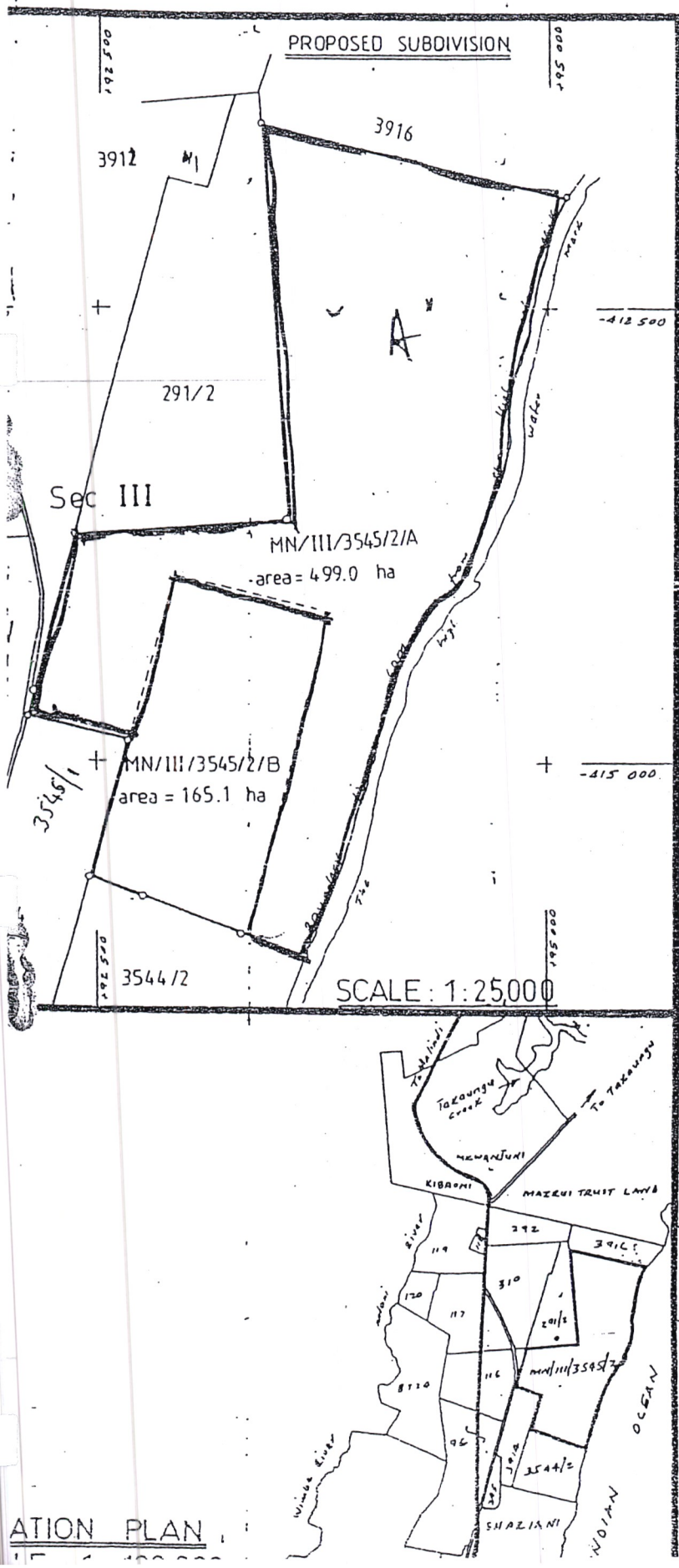
for SPECIAL COMMISSIONER AND
AG. COMMISSIONER OF LANDS

JKH/IK.

I hereby certify that this is a true and correct copy of the original document Dated at Mombasa this 5th October 1951.

Richard P. Crossley
Advocate Mombasa

(5)



ATION PLAN

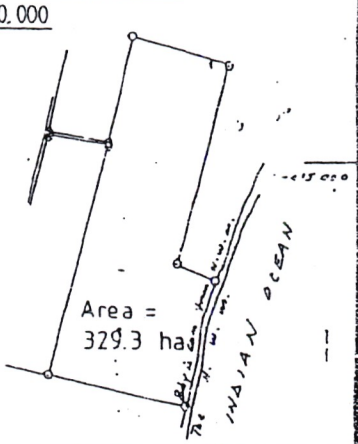
PROPOSED SUBDIVISION SCHEME FOR MN/III/3545/2 & CONSOLIDATION WITH MN/III/3544/2 VIPINGO KILIFI DISTRICT

NOTE

1. Areas and dimensions subject to the final survey

PROPOSED CONSOLIDATION

SCALE : 1:50.000



N

DRAWING No KL 0007-2003-08-28

PLANNING ASSISTANT

Name G. Nderitu

Sign _____ Date 25-08-03

OWNER / CLIENT

Name Vipingo Estates Ltd.

Sign _____ Date 25-8-03

PREPARED BY S.O. KIAYE
PLANNING CONSULTANT

CHECKED BY _____ D.P.P.

APPROVED BY _____
LOCAL AUTHORITY

I certify that this plan has been prepared in accordance with the Physical Planning Act No 6 of 1996 and the Physical Planning Registration Act No 3 of the 1996 Regurations

Reg. Physical Planner _____

(6)

CR 27/48/43

REPUBLIC OF KENYA

ISTRICT OF ~~MOMBASA~~ KILIFI

ocality ~~Mombasa Municipality~~ S. of Takaungu Town

eference Map South. A. 37 / V. IV. d

Bearings	°	'	"	Distance Metres
A-B	290	00	34	351.18
C-D	284	34	57	554.79
D-E	13	47	28	1050.89

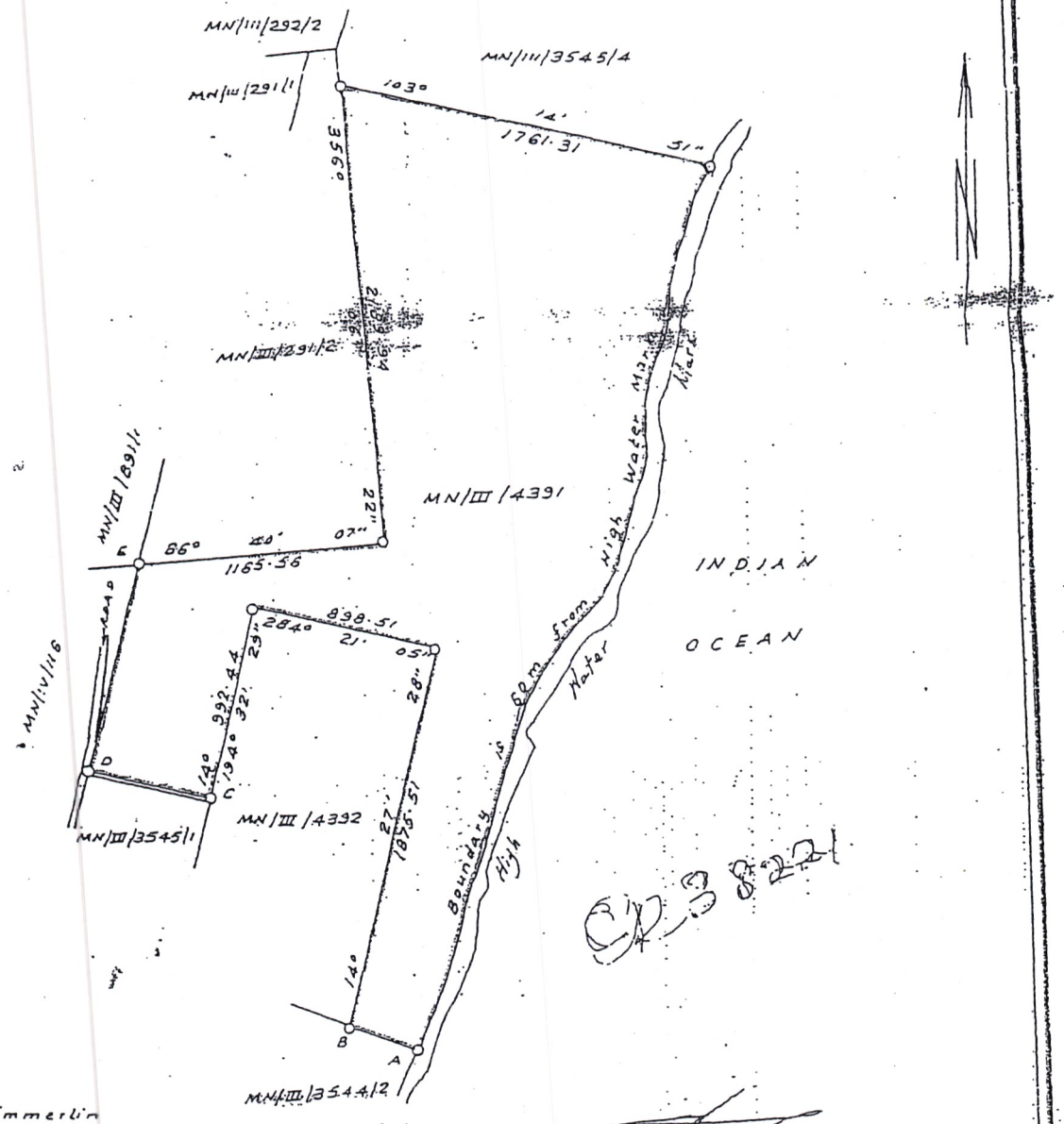
Land Reference No

(Orig No.

Sub division No 4391 (Orig No. 3545/2/1)

of Section No. III Mainland North

Area = 499.02 Ha. (approx.)



CR 38221

A. Zimmerlin
icensed Surveyor.

for Director of Surveys

(7)

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED

TO

MOMBASA CEMENT LIMITED

In respect of the land and buildings comprised in
Subdivision No.4391 (Original No. 3545/2/1)
of Section III MN

A. B. PATEL & PATEL
ADVOCATES & NOTARIES
P.O. BOX 80274
ORIENTAL BUILDING
NKRUMAH ROAD
MOMBASA

TEL: 226518/9/225992
FAX: 228864
E-MAIL: law@abpp-kenya.com

C: RTA – TRANSFER – LEASE

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT

(CHAPTER 281)

CERTIFICATE OF TITLE NUMBER C.R. 38221

ANNUAL RENT: SHILLINGS 493,200.00 (REVISABLE)

TERM: 999 YEARS FROM 1.10.1949

I certify that the stamps on this document were embossed on 27-03-20..... 20.....

COLLECTOR OF STAMP DUTY

TRANSFER OF LEASE

VIPINGO ESTATE LIMITED a limited liability Company incorporated in Kenya and its postal address being Post Office Box Number 1, Vipingo in the Republic of Kenya (hereinafter called "the Transferor" which expression where the context so admits shall include its successors and assigns) is registered as proprietor as Lessee from the Government of Kenya for a term of nine hundred and ninety nine (999) years from the first day of October One Thousand Nine Hundred and Forty Nine of ALL THAT piece of land situate South of Takaungu in the Kilifi District of the said Republic containing by measurement Four Nine Nine decimal nought (499.0) hectares or thereabouts and being Subdivision Number 4391 (Original Number 3545/2/1) of Section III Mainland North which said piece or parcel of land is more particularly delineated on Land Survey Plan No.254238 annexed to the Certificate of Title registered in the Land Titles Registry at Mombasa as Number C.R.38221/1 subject however to the such charges leases encumbrances and other matters specified in the Memorandum hereunder written together with the buildings and improvements erected and being thereon (the said land together with the building and improvements thereon is hereinafter called "the Property") IN CONSIDERATION of the sum of **US$.505,563.00 (United States Dollars Five Hundred and Five Thousand Five Hundred and Sixty Three)** paid to the Transferor by **MOMBASA CEMENT LIMITED** a limited liability company incorporated in the Republic of Kenya having its registered office at Mombasa in the Republic of Kenya and whose postal address is Post Office Box Number 90394 Mombasa aforesaid (hereinafter called "the Transferee" which expression where the context so admits shall include its successors and assigns) on or before the execution of these presents (the receipt of which sum the Transferor hereby acknowledges) DOTH HEREBY TRANSFER all its right title and interest in and to the Property to the Transferee.

IN WITNESS WHEREOF the Transferor and the Transferee hereto have hereunto caused their respective common seals to be affixed hereto this 1ST day of MARCH Two Thousand and FIVE

THE COMMON SEAL of the said
VIPINGO ESTATE LIMITED
the **TRANSFEROR** was hereunto
affixed in the presence of:-

V. Allen

DIRECTOR

T. [illegible]

DIRECTOR/~~SECRETARY~~

THE COMMON SEAL of the said
MOMBASA CEMENT LIMITED
the **TRANSFEREE** was hereunto
affixed in the presence of:-

[illegible]

DIRECTOR

DIRECTOR/SECRETARY

MEMORANDUM OF CHARGES LEASES AND ENCUMBRANCES

1) The Government Land Act (Chapter 280).
2) The Registration of Titles Act (Chapter 281).
3) The Special Conditions contained in a Grant registered as Numbers C.R. 30669/1 and 35568/2.
4) The Grant of Easement registered as Number C.R. 35658/2.

DRAWN BY:-
A B PATEL & PATEL
ADVOCATES & NOTARIES
P O BOX 80274
MOMBASA
C:RTA TRANSFER OF LEASE

REGISTERED AS No. C.R. 38221/2
9TH MARCH 2005
TIME 10.30 A.M.

(8)

REPUBLIC OF KENYA

ORIGINAL

Nº 097372

I No. LO/18378/50

No. 4391

Vipingo Estates Ltd

DEPARTMENT OF LANDS,
P.O. Box 30089,
NAIROBI.

23/12/04

Madam,

Letter of Consent

Nature of Transaction Transfer

Plot No. 4391/III/M.N.

With reference to your letter dated 22/12/04

ereby give consent in respect of the above-mentioned transactions.

Yours faithfully,

for Commissioner of Lands

DISTRICT LAND OFFICER
KILIFI

This letter is issued without erasure or alteration.

6540—500 Bks.—9/94

(9)

ORIGINAL

REPUBLIC OF KENYA

Serial No. 943

GOVERNMENT LANDS ACT

No 088659

RENT CLEARANCE CERTIFICATE

This is to certify that the Land Rent in respect of Plot No. Mn/III/4391

registered in the name of V I P Lingo Estates Ltd

has been paid up to and including 31st December, 20 05

17/2/2006

for Commissioner of Lands

This certificate is issued without erasure or alteration.

GPK 6170—200—11/2003

(10)

MINISTRY OF LANDS AND SETTLEMENT

MOMBASA LANDS REGISTRY
P. O. Box 80053
MOMBASA

Date 22/12/..... 2004....

VALUATION OFFICER
KILIFI

VALUATION REQUISITION FOR STAMP DUTY

Please arrange to undertake valuation for stamp duty for the property below.

1. Location (State Town and Estate (E.g. Malindi – Casuarina, Mtwapa-Opp. Post office, e.t.c).....South Of Takaungu Kilifi District
2. Land (i) L.R. Number. (ii) Area (Ha)..4391 (Orig No III M.N. Area 499.0 Hect
3. Buildings (i) Number ..—.... (ii) Plinth area (Sq. Ft) ..—.....
4. If Lease of Building, state type, plinth area and number of bedrooms
   i) Type (e.g. Apartment).....—..... Plinth Area(s) .....—.....
   ii) iii) No. of Bedrooms.....
5. Names of Plot Owner and Purchaser..Vipingo Estate Limited to Mombasa Cement Limited
6. Advocates address (Incl. Tel. number)..Ghalia & Ghalia, Advocs., Mombs.
7. Value of Property i) Land..US$50,563..ii) Buildings ..—.....
8. Date of Transfer (W. e. f) .....December 2004.....

REGISTRAR OF TITLES

COMMENTS OF THE VALUER

Raise to KShs. 50,000,000/= Duly.

SIGNED.....[signature]..... Date:.....22/12/04.....

EDWIN O. ODUOR MISK
DISTRICT LANDS OFFICER/VALUER
KILIFI/MALINDI/LAMU/TANA RIVER DISTRICT

VIPINGO ESTATE
15 MAR 1995
RECEIVED

LEGAL NOTICE No. 89

THE LAND CONTROL ACT

(*Cap.* 302)

EXEMPTION

IN EXERCISE of the powers conferred by section 24 of the Land Control Act, I, Daniel Toroitich arap Moi, President and Commander-in-Chief of the Armed Forces of the Republic of Kenya, exempt the controlled transactions, details of which are set out in the Schedule, from all the provisions of the Act.

SCHEDULE

Transactions	*Description of Land*
1. Proposed sale and transfer from Vipingo Estate Limited to Mkonge Estates Limited.	Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292 and 295 of Section III Mainland North and Subdivisions 95, 116, 117, 119, 120, 132, 137 and 159 of Section IV Mainland North, all situated in the Kilifi District.
2. Proposed division of land as shown on the plan prepared by Hime & Zimmerlin, chartered and licensed land surveyors, registered in the Registry of Documents at Mombasa on 30th January, 1995, in Volume B13 II Folio 589/852 (File 1637) (the "subdivision plan").	Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292 and 295 of Section III Mainland North and Subdivisions 95, 117, 119, 120 and 137 of Section IV Mainland North, all situated in the Kilifi District.
3. Proposed declaration of trust and transfers by Mkonge Estates Limited to Vipingo Estate Limited.	All those portions of Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292, and 295 of Section III Mainland North and Subdivisions 95, 117, 119, 120 and 137 of Section IV Mainland North, all situated in the Kilifi District and delineated in red on the subdivision plan.

SCHEDULE—(*Contd.*)

Transactions	*Description of Land*
4. Grants of all easements, wayleaves, rights of access and ancillary rights as may be considered necessary or desirable for the purposes of the proposed division or for the benefit of adjoining land owners.	Land Reference Numbers 5025, 7334 and 8724, Subdivisions 289/R, 290, 291, 292 and 295 of Section III Mainland North and Subdivisions 95, 117, 119, 120 and 137 of Section IV Mainland North, all situated in the Kilifi District.
5. Proposed leases of 4 houses until 30th September, 2010 by Vipingo Estate Limited to Mkonge Estates Limited.	Land Reference Number 5025.
6. Proposed issue of shares in Mkonge Estates Limited to Vipingo Estate Limited.	

Dated the 21st February, 1995.

D. T. ARAP MOI,
President.

LEGAL NOTICE No. 90

THE STANDARDS ACT

(*Cap.* 496)

IN EXERCISE of the powers conferred by section 20 of the Standards Act, the Minister for Commerce and Industry makes the following Regulations:—

THE STANDARDS (NATIONAL SCHEME FOR THE REGISTRATION OF ASSESSORS) REGULATIONS, 1995

Citation.

1. These Regulations may be cited as the Standards (National Scheme for the Registration of Assessors) Regulations, 1995.

Interpretation.

2. In these Regulations unless the context otherwise requires—

"assessors" means any person qualified and authorized by the Committee to perform all or any part of the quality assessment;

12

1200 [illegible]

REPUBLIC OF KENYA

THE REGISTRATION OF TITLES ACT
(*Chapter* 281)

CERTIFICATE OF TITLE

TITLE NUMBER I.R. C.R. 38221

TERM: 999 YEARS FROM 1/10/1949

ANNUAL RENT SHILLINGS 493,200/- P.A. (REV) (*Revisable*)

I HEREBY CERTIFY that VIPINGO ESTATES LIMITED a limited liability company having its registered office at P.O. Box 1 VIPINGO

of Consolidation & Subdiv. of the premises comprised in Certificate of Titles in the Republic of Kenya pursuant to a ~~Transfer~~ registered as Number I.R. 35659/2 & 35658/3 respectively is/are now registered proprietor(s) as Lessee(s)

from the Government of the Republic of Kenya for term of nine hundred and ninety nine years for the first day of October ~~Two~~ one thousand nine hundred and fourty nine of ALL that piece of land situate South of Takaungu in the Kilifi District containing by measurement four hundred ninety nine decimal ~~hectares/acres (less road reserve of~~ nought (499.0) hectares/~~acres~~) or thereabouts and being ~~Land Reference~~ Subdivision Number 4391 (Original Number 3545/2/1) Section III Mainland North as delineated on Land Survey Plan Number 254238 annexed ~~to the said Transfer~~ hereto

SUBJECT however to the revisable annual rent of Shillings Four Hundred and Ninety Three Thousand Two Hundred and to the Act Special Conditions Encumbrances and other matters specified in the Memorandum hereunder written.

IN WITNESS whereof I have hereunto set my hand and seal this first day of September Two thousand and four

[signature]
Registrar of Titles

MEMORANDUM

(1) The Government Lands Act (Chapter 280).
(2) The Special Conditions contained in a Grant registered as Number I.R. C.R. 30669/1 & 35658/1
3) The Grant of Easement registered as No. C.R. 35658/2

GPK [illegible]

AND TITLES REGISTRY — MOMBASA, CAPE
REGISTRATION OF TITLES ACT
REGISTERED AS No. CR 38221/F
1ST SEPTEMBER 2004
9:30 AM [signature]

64

2

THE FOLLOWING INSTRUMENT HAS BEEN REGISTERED AGAINST THE TITLE

TRANSFER TO MOMBASA CEMENT LIMITED.

Presentation No. 64 Date of Registration 9.3.2005 Registrar

REPUBLIC OF KENYA

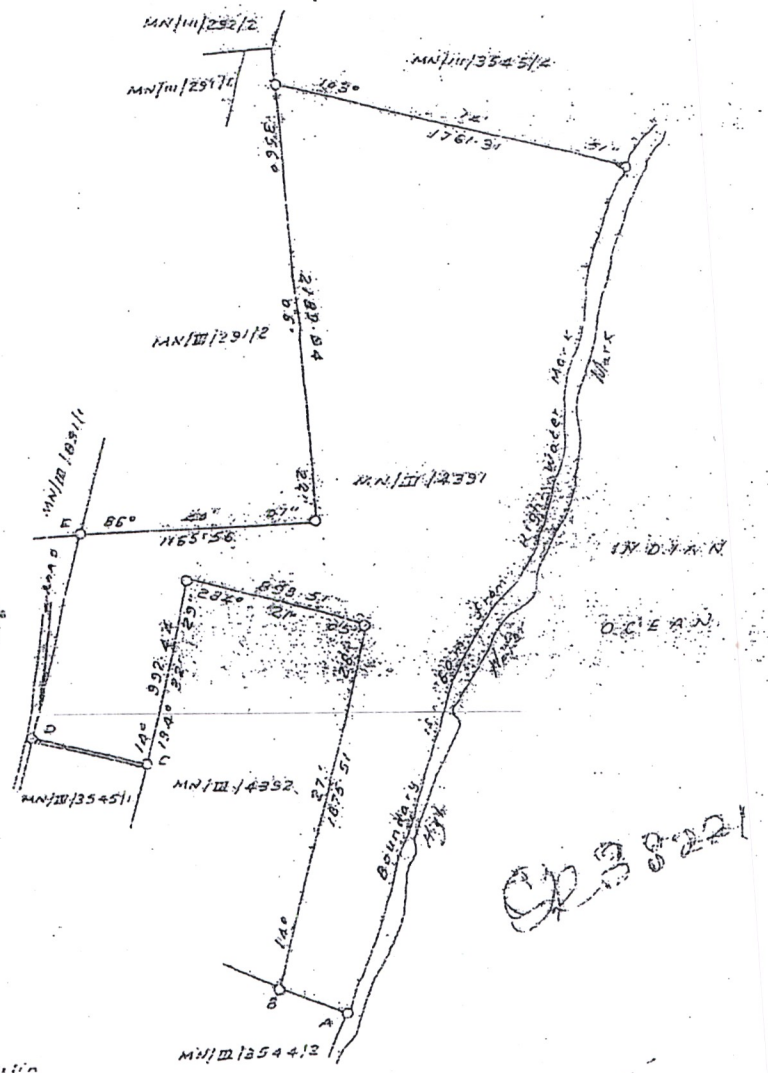
KILIFI
~~MOMBASA~~
of Takaungu Town
~~Mombasa Municipality~~

Land Reference No
(Orig No.

Map South A 37
V IV. II

Sub division No 4331 (Orig No. 3545/2/1)
of Section No. III Mainland North
Area = 499.02 Ha. (approx.)

			Distance Metres
	00	34	351.18
	34	57	554.79
	47	28	1050.89



CP 38221

for Director of Surveys
Nairobi 9th July 2004
DEED PLAN No 254238

Scale 1 in 25,000

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