



The Ministry of Labour and
Social Protection

CHILD WELFARE SOCIETY OF KENYA

Child Welfare Building, Langata Road,
P. O. Box 43982 – 00100 Nairobi
Tel: 6003301 / 6006391 Fax: 6005854
Mobile: 0726 298 921
E-mail: cwsktoto@childwelfaremail.co.ke
childwelfareofsocietyofkenya@gmail.com
info@cwsk.go.ke



Our Ref:.....CWSK/ADMIN/2021/299

Date:8th December, 2021

Your Ref:.....

The Senate

Clerk's Chambers
Parliament Buildings
P.O. Box 41842-00100
Nairobi, Kenya

Dear Sir,

PETITION REGARDING THE ALLEGED ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY CHILD WELFARE SOCIETY OF KENYA

The Child Welfare Society of Kenya (CWSK) is a Trust, which is a body corporate. It is mandated for the care, protection, welfare and control of children. It is the National Welfare Society for Kenya, the National Emergency Response and Rescue Organization for children and the National Adoption Society. The agency was established and gazetted in 1955 as an approved society under gazette notice 1768 of 27/12/1955, an exempt society under gazette 1536 of 04/11/1955, the Certificate of Exemption no 455 and the Adoption Society of Kenya, gazette notice 1356 of 28/04/1969. It is an exempt society with permanent trustees of public nature. CWSK is governed by an irrevocable Trust Deed of 1955 with membership across the country.

The land was given to CWSK in 1959, to help alleviate child protection challenges which were affecting Embu provincial hospitals then. Soon after, CWSK started building baby centers and staff houses. By then, CWSK was the only agency working on the care, control and welfare of children. In 1964, CWSK had a Harambee and invited the Prime minister, who sent 200 pounds for this support. (Please see the attached letter). In 1966, CWSK was allocated the land as per attached document-a lease of 33 years). Later, the lease was extended from 33 years to 99 years. CWSK paid all the necessary payments to the land commissioner between 1989 to 2000 and a lease was issued.

The dispute between Child Welfare Society of Kenya and the Diocese of Embu has been adjudicated upon and determined by the National Land Commission and the High Court of Kenya. The said determination and judgment are attached herewith. This includes various other administrative processes which all have concluded that the land belongs to CWSK and the latter were engaged in serious fraud.

We hereby attach the respondents list of documents.

1. A copy of the letter of allotment of land to Child Welfare Society of Kenya, dated 16th June 1966.
2. CWSK lease of the year 2000.
3. Notice of Appeal by the Petitioner dated 10th December 2019.
4. High Court Judgement in Embu Environmental and land Court Petition No 1 of 2018 (Diocese of Embu Registered Trustees Vs the National Land Commission.
5. Court of Appeal Nyeri Civil Application No.15 of 2020 (Child Welfare Society of Kenya Registered Trustees Vs Diocese of Embu Registered Trustees & Others).
6. Replying Affidavit by Irene Mureithi C E O (Child Welfare Society of Kenya filed on 29th October 2018 in Environment and Land Court Petition no. 1 of 2018.
7. National Land Commission determination over LR NO Embu/Municipality/375 dated 5th October 2015, a letter dated 14th May 2013.
8. A letter by National Land Commission on erroneous issuance of title dated, 14th May 2013.
9. Gazette Notice dated 22nd January 2016 and 17th July 2017.
10. Determination by DPP dated 21st August 2014.
11. CWSK board Chairman letter dated 17th October 2012.
12. Determination of Director of Criminal Investigation (Letter dated 17th October 2012, 23rd October 2012, 27th August 2014.
13. A letter from the Principal Secretary of the State Department for Social Protection on securing of land belonging to Child Welfare Society of Kenya dated 14th December 2017.
14. Two bundles of relevant documents.

Dated at Nairobi the day of December, 2021.



Irene Mureithi
CEO/MANAGING TRUSTEE

REFERENCE NO. 373/372/6.....

Date: 20th June.....1966

To: Mrs. UELLO WILFAS 'MUGIAT' ... MUYA - EMBU BRANCH,
P.O. BOX 33,
EMBU

Sir(s)/Madam,

LETTER OF ALLOTMENT

Plot No. 375..... SectionTownship/Trading Centre.

I hereby offer you a Lease of the above mentioned plot on the following terms and conditions, viz:-

- Term 33 Years.....
- Stand Premium: Shs. .. 541.....
- Annual Rent: Shs. .. 72.00.....

General: This Letter of Allotment is subject to, and the Lease will be made under the Provisions of the Registered Land Act 1963.

Special Conditions: See attached

If you accept this offer please let me have your acceptance in writing together with remittance for the following sums, viz:-

| | | |
|---|-------------------|--------------------|
| Stand Premium | Shs. ... | <u>541</u> |
| Rent: from <u>1-7-1966</u> to <u>31-12-1966</u> | " | <u>36.00</u> |
| Conveyancing fees: | " | <u>25.00</u> |
| Registration fees: | " | <u>10.00</u> |
| Stamp Duty: | " | <u>13.00</u> |
| Survey fees: | " | <u>7.00</u> |
| Total: | Shs. <u>84.00</u> | |

If payment of the aforesaid fees is not made within fourteen days from the date hereof the offer herein contained will be considered to have lapsed.

Your full name(s) in BLOCK LETTERS should be supplied for the purpose of preparing the lease.

I am, Sir(s)/Madam,
Your obedient servant,

JAMES P. NYAGAH
CLERK,
EMBU COUNTY COUNCIL.

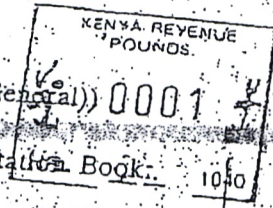
Copy to:- The Commissioner of Lands, P.O. Box 30089, NAIROBI. c.c. The Director of Survey, P.O. Box 30046, NAIROBI.

The Health Inspector,
P.O. Box 33,
EMBU.

I certify that this is the original.
Jay

32
4

FORM 12 (RLA - County Council (General))



Date Received for registration: 20/7/66
Presentation Book: 10/10
Registration Fees: Sh. _____
paid. Receipt No. _____

REPUBLIC OF KENYA
THE REGISTERED LAND ACT

(Cap. 300) In the exhibit marked CWSK 14 J8
in the annexed affidavit declaration
of RENE MURITHI
dated 29/7/66 at Nairobi

LEASE

REGISTRATION DISTRICT: EMBU
THE COUNTY COUNCIL OF EMBU

TITLE No. EMBU MUNICIPALITY/
PARCEL NO. 375

IN CONSIDERATION OF THE SUM OF SHILLINGS _____
HEREBY LEASES to CHILD WELFARE SOCIETY OF KENYA REGISTERED TRUSTEES,
a body corporate duly established under the Trustees (Perpetual
Succession) Act (Chapter 286) of the Laws of Kenya of EMBU (Post Office
Box Number 221)

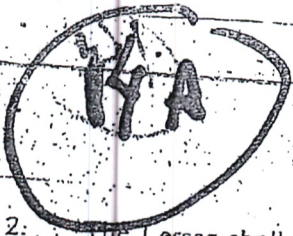
ALL THAT piece of land comprised in the above-mentioned title containing by measurement
one decimal four seven one (1.471) or
more or less hectares or thereabouts for the term of ninety nine (.99) years

from: First day of July 1966 at the annual
rent of shillings seventy two (Kshs. 72/-) (Revisable) w.c.f. 1.7.1966

payable in advance on the first day of January in each year and the following conditions:

SPECIAL CONDITIONS

No buildings shall be erected on the land nor shall additions or external alterations be made to
buildings otherwise than in conformity with plans and specifications previously approved in
writing by the Local Authority. The Local Authority shall not give approval unless satisfied that the
proposals are such as to develop the land adequately and satisfactorily.



2. The Lessee shall within 6 calendar months of the actual registration of the lease submit in triplicate to the Local Authority plans (including block plans showing the positions of the buildings and system of drainage for the disposal of sewage, surface and sullage water) drawings, elevations and specifications of the buildings the Lessee proposes to erect on the land and shall within 24 months of the actual registration of the lease complete the erection of such buildings and the construction of the drainage in conformity with such plans, drawings, elevations and specifications as amended (if such be the case) by the Local Authority: PROVIDED that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the County Council or any person authorized by the County Council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the County Council in respect of any antecedent breach of any condition herein contained.

The Lessee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.

Should the Lessee give notice in writing to the County Council that it is unable to complete the buildings within the period aforesaid the County Council shall (at the Lessee's expense) accept a surrender of the land comprised herein: PROVIDED FURTHER that if such notice as aforesaid shall be given within twelve months of the registration of the lease the County Council shall refund to the Lessee fifty per centum of the stand premium paid in respect of the land (2) at any subsequent time prior to the expiration of the said building period the County Council shall refund to the Lessee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.

The land and the buildings shall only be used for children Hostels, Educational and a residence for caretaker.

The building shall not cover more a greater area of the land than that prescribed by the Local Authority in its by-laws.

The land shall not be used for the purpose of any trade or business which the Local Authority considers to be dangerous or offensive.

The Lessee shall not subdivide the land without prior consent in writing of the County Council or the Commissioner of Lands.

The Lessee shall not sell, transfer, sublet, charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the County Council. Application for such consent (except in respect of a loan required for building purposes) will be deferred until Special Condition No. 2 has been performed.

The Lessee shall pay to the Local Authority on demand such sums as the Local Authority estimate to be the proportionate cost of constructing all roads and drains and sewers serving or crossing the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within seven days of demand) or be refunded the amount by which the proportionate cost exceeds or falls short of the amount paid as aforesaid. If the land or any part thereof should cease to be used for

A21 (16) 340

reverted to the County Council without the necessity of any formal surrender thereof, and the term hereby created shall ipso facto determine in respect of the land or part as the case may be.

12. The Lessee shall from time to time pay to the Local Authority on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Local Authority may assess.

13. Should the Local Authority at any time require the said roads to be constructed to a higher standard the Lessee shall pay to the Local Authority on demand such proportion of the cost of such construction as the Local Authority may assess.

14. The Lessee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever description as may be imposed, charged or assessed by any Government or Local Authority upon the land or the buildings erected thereon including any contribution or other sum paid by the Local Authority or the County Council in lieu thereof.

15. The County Council or such person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and have access to water mains, service pipes and drains, telephone or telegraph wires and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any building in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.

16. The County Council reserves the right to revise the annual ground rental payable hereunder after the expiration of the thirty-third and sixty-sixth year of the term hereby granted. Such rental will be at rate of 4 per centum of the unimproved freehold value of the land as assessed by the County Council.

Notwithstanding anything to the contrary contained herein or implied by said Trust Lands Act (Chapter 288) the Lessee shall in receipt of six months notice in writing in that behalf surrender all or any part of the land used for public purposes without any payment or any compensation save in respect of such approved buildings as may have to be evacuated or demolished. Compensation shall be payable in respect of severance of the land by reason of such surrender.

SIGNED BY SAMMY SILAS KOMEN MWAITA the Commissioner of Lands thereto lawfully authorized half of EMBU COUNTY

On this 11th day of Dec. 1966 in the presence of I.K. WANJAU (one) LAND REGISTRAR

[Handwritten signature]

COMMON SEAL of the Lessee was affixed hereto in the presence of:

Trustee
Trustee
Trustee

CHILD WELFARE SOCIETY OF KENYA (HQ) P. O. Box 43982-00100 NAIROBI

ISA

7

35

I CERTIFY that the above named

appeared before me on the _____ day of _____ 20

and being known to me/being identified by*

acknowledged the above signatures or marks to be his (theirs) and that he (they) had freely and voluntarily executed this instrument and understood its contents.

Signature and Designation of person certifying

I REGISTERED this _____ day of _____ 2000

LAND REGISTRAR DISTRICT

Drawn By: Jackson K. Wanjau Senior Land Registrar P.O. Box 30089 NAIROBI

delete whichever is not applicable.

*K (L)



8

OFFICE OF THE CHAIRMAN

Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

ARDHI HOUSE
NGONG ROAD
P.O. Box 44417
NAIROBI

Ref: **NLC/GEN. ADM. /VOL. I**

Date: 21st October, 2015

The Chief Land Registrar
Ministry of Land, Housing & Urban Development
Ardhi House
NAIROBI

The Governor
EMBU COUNTY

Catholic Diocese of Embu
EMBU

Children Welfare Society
EMBU

Dear Sirs

**RE: DETERMINATION FOR REVIEW OF GRANTS AND DISPOSITION ON
L.R. NO. EMBU/MUNICIPALITY/375**

I refer to the above subject matter.

The Commission received a complaint in respect of the above stated property. The Commission exercised its mandate under Section 14 of the National Land Commission Act.

The Commission has concluded the process. Kindly find enclosed the determination of the Commission for your further action.

Yours faithfully

for 
**DR. MUHAMMAD A. SWAZURI
CHAIRMAN
NATIONAL LAND COMMISSION**

c. c. The Secretary CLMB, EMBU

9

REPUBLIC OF KENYA



THE NATIONAL LAND COMMISSION

**REPORT ON THE REVIEW OF GRANTS AND DISPOSITIONS OF
PUBLIC LAND EMBU/MUNICIPALITY PARCEL/375**

(10)

**A. REVIEW AND DETERMINATIONS BY THE COMMISSION ON
PROPRIETY OR LEGALITY OF THE GRANTS AND DISPOSITIONS**

1. EMBU/MUNICIPALITY PARCEL/375

The complainant in this matter is the Child Welfare Society of Kenya. The complainant alleges that it was allocated the property vide a letter of allotment dated 28th June 1966. Following the allocation, the complainant made the requisite payments demanded of in the allotment and complied with the conditions therein. That on or about 14th January 2010, the Catholic Diocese of Embu misrepresented itself to the Commissioner of lands and had title in favour of the parcel registered in its name on 12th July 2012.

In light of the allegations, the Commission was requested to carry out review of the legality of the above grant on grounds that it was acquired in an unlawful manner.

Upon receipt of the complaint, the Commission conducted its own preliminary investigations to ascertain the veracity of the claims, before it could invoke its inherent jurisdiction under section 14 of the National Land Commission Act. Section 14(1) of the Act mandates the Commission to review all grants and dispositions of public land either on its own motion or upon a complaint in order to establish its propriety or legality. The Commission has in the past interpreted grants or dispositions of public land under this section as to include any conveyance, agreement for sale, lease or license, made by and on behalf of the Government, and includes a certificate of title issued by the Land Registration Court, and a certificate of lease or title issued pursuant to the provisions of any Act of Parliament

Documents held in the commission's records indicate that the parcels are as a result of alienation and allocation of government land by the Commissioner of Lands. The parcels are therefore grants of public land, which fall under the description of "grant" as indicated above. Satisfied that

(11)

the suit properties are grants, the Commission invoked its jurisdiction under the said section 14(1).

1.1. DESCRIPTION OF PROPERTY UNDER REVIEW

| | |
|-------------------------------|--|
| PARCEL REFERENCE | EMBU/MUNICIPALITY/375 |
| Ownership: | County Government of Embu (successor in title to Embu County Council) Catholic Diocese of Embu- Lessee |
| Date of incorporation: | Not Available |
| Term of Grant: | Lease 99 years from 1st July 1966 |
| Area allocated: | 1.471ha |
| RIM No.: | Block 3 |
| Locality: | Embu Town |
| Annual Rent: | Kshs. 72/- |
| Stand Premium: | |
| Category: | Former trust land |

1.2. REVIEW PROCESS

Notice of publication

In line with the provisions of section 14(3) of the Act, the Commission gave notice of its intention to review the above grant through a public notice published in the various dailies appearing on 13th August 2014. The notices requested all persons having interests in the said parcels to appear before the Commission on 5th August 2014 at the Kenyatta International Conference Centre, Tsavo Hall, from 10.00am and make their presentations. All interested persons were also requested to present their written submissions to the Commission.

The complainant was represented by Learned Counsel Mr. Anthony Otiende assisted by Lawrence Mbabu, while the Diocese of Embu was represented by Learned Counsel Ms. Fatuma Wanjiku.

There have been two hearings in respect of this matter one held on 29th August 2014 and the other on 28th November 2014 at the ACK Garden House Annex.

Documents adduced

Of relevance, the complainant presented the following documents in support of the review application.

1. Copy of a letter dated 3rd May 1966 written by the District Commissioner Embu to the Embu Town Planning Adviser requesting reservation of plot 375 for purpose a children welfare home.
2. Copy of a letter dated 25th May 1966 from the Commissioner of Lands to the District Commissioner Embu regarding Plot no. 375.
3. Copy of a letter dated 9th June 1966 from the District Commissioner Embu to the Commissioner of Lands giving details of plot no. 375 Embu.
4. Copy of a letter dated 22nd June 1966 from the Commissioner of Lands to the DC Embu regarding allocation of plot no. 375 to Trustees of the Child Welfare Society of Kenya.
5. Copy of letter of allotment dated 28th June 1966 reference no. E/T.375/6 issued to the Child Welfare Society of Kenya- Embu Branch.
6. Copy of a letter dated 1st February 1980 by the Embu Town Clerk to the Commissioner of Lands requesting the position of Plot 1112/375.
7. Copy of a letter dated 7th March 1980 from the Commissioner of Lands to the Embu Town clerk confirming Embu/Municipality/375 being in the name of the Child Welfare Society of Kenya- Embu Branch.
8. Copy of a letter dated 17th January 1989 by the Child Welfare Society of Kenya- Embu Branch requesting extension of lease of Plot no. E/T.375 to a term of 99 years.
9. Copy of a letter dated 5th February 1988 written by the Commissioner of Lands to the Child Welfare Society of Kenya requesting payment of the allocation fees and names of the registered trustees of Child Welfare Society of Kenya.
10. Copy of a letter dated 29th August 1988 written by the Child Welfare Society of Kenya- Embu Branch to the Commissioner of Lands forwarding a list of its registered trustees and a money order of Kshs. 385 for payments of allocation.
11. A copy of a letter dated 14th January 2010 written by the Diocese of Embu to the Commissioner of Lands requesting him to amend the name for lease of Land Parcel 112/375 from Child Welfare Society of Kenya- Embu Branch to Diocese of Embu Trustees Registered.
12. Certified copy of the green card for Embu/Township/375 in the name of Embu County Council.
13. Copy of Official Search dated 29th March 2011 showing Embu/township/375 is registered under Embu County Council in absolute.
14. Copy of lease for Embu/Municipality/Parcel/375 in the name of Diocese of Embu Trustees registered.
15. Certificate of Lease for Embu/Municipality/375 issued on 12th July 2012 in the name of Diocese of Embu Trustees registered.

The Complainants' case

The complainant in this matter is the Child Welfare Society of Kenya, a state agency conferred with the statutory responsibility to provide care, protection, welfare and adoption of children and all young persons across all sectors especially the marginalised and vulnerable children including orphans, young women and separated minors vide Legal Notice No. 58 of 23/05/2014.

It is the National Adoption Society for Kenya and the National Emergency Response, Welfare and Rescue Organization for children. Prior to the complainant becoming a government agency, it had initially been established and gazetted in 1955 as an approved society vide gazette notice 1768 of 27/12/1955. That in order to execute its mandate, it holds properties in various parts of the Country some of which it acquired while it still operated as an approved society.

The Complainant contends that it was allocated the suit parcel vide a letter of allotment dated 28th June 1966 to hold for a term of 33 years. The letter of allotment was issued in the name of the "Child Welfare Society of Kenya-Embu Branch" following various consultations involving the Embu District Commissioner, Town Clerk as well as the Commissioner of Lands. The term of the lease was however extended to a period of 99 years.

It was submitted, that prior to the issuance of the letter of allotment, that it had been in actual occupation of the parcel and had even erected three permanent buildings thereon in 1963. This assertion was evidenced by the letter of the Embu District Commissioner dated 9th June 1966. The complainant further tendered a copy of a letter dated 4th December 1964 written by the then Prime Minister sending his contribution towards setting up of the home.

That upon payment of all requisite fees and compliance with the terms of the allotment, the title to the suit property was issued in the name of the Catholic Diocese of Embu Trustees Registered on 12th July 2012.

The complainant submitted copies of letters written by Diocese of Embu to the Commissioner of Lands requesting him to amend the name on the lease from the name of the complainant to the name of the Diocese.

The complainant submitted that after the Diocese was issued with the title to the suit parcel, it proceeded to evict the complainants and its officials from the premises and has since then proceeded to run the home.

14

the Catholic Diocese, District Commissioner and the Child Welfare Society agreed to have the property registered in the name of the Catholic Diocese of Embu. Any resultant title issued is therefore null and void *ab initio* as the Commissioner of Lands had no legal authority to execute a lease that involved a stranger to the contract.

Our decision is supported by the decision of the court in the case of Philma Farm Produce and Supplies ~V~ A.G, where the learned Justice David Majanja, when confronted with almost similar facts, had this to say;

...I hold that the offer, as contained in the allocation letters, could not be revived ten years later by making the payment. Furthermore, the petitioner could not substitute the offeree in the allocation letter with a limited liability company, *Philma Farm Produce Suppliers Limited*, incorporated after the allocation letter had lapsed. There were no allocation letters issued to the company and therefore any payment by the company was purely gratuitous. It could not create a legal obligation on the part of the Commissioner of Lands to process titles in the petitioners' favour in accordance with the offer nor confer a proprietary interest in the suit properties...(emphasis ours)

DETERMINATION:

1. That the lease in favour of the Catholic Diocese of Embu Trustees Registered was acquired in an unlawful manner.

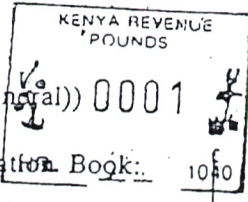
ORDERS OF THE COMMISSION

1. Titles in favour Catholic Diocese of Embu Trustees Registered be and hereby revoked for being unlawful.
2. A certificate of lease/title as the case maybe be issued to Child Weldare Society, the complainant herein.
3. The Registrar of Titles be served with the orders of the Commission for execution.

Dated at Nairobi this... 8thday of *October*2015

for *Alibagaya*
MUHAMMAD A. SWAZURI, PHD, OGW
CHAIRMAN, NATIONAL LAND COMMISSION

15



FORM 12 (RLA—COUNTY COUNCIL (General))

Date Received for registration Presentation Book: 1080

20

No.

20

Registration Fees: Sh.

paid. Receipt No.

REPUBLIC OF KENYA

THE REGISTERED LAND ACT

(Cap 300)

Handwritten notes: S/S.I., D.S.F., J.E.O., 29/12/2005

LEASE

REGISTRATION DISTRICT: EMBU

TITLE No. EMBU MUNICIPALITY/
PARCEL NO. 375

THE COUNTY COUNCIL OF EMBU

~~IN CONSIDERATION OF THE SUM OF SHILLINGS~~

HEREBY LEASES to CHILD WELFARE SOCIETY OF KENYA REGISTERED TRUSTEES,
a body corporate duly established under the Trustees (Perpetual
Succession) Act (Chapter 286) of the Laws of Kenya of EMBU (Post Office
Box Number 221)

ALL THAT piece of land comprised in the above-mentioned title containing by measurement
one decimal four seven one (1.471) or
measurement hectares or thereabouts for the term of ninety nine (99) years

from First day of July 20 1966 at the annual
rent of shillings seventy two (Kshs.72/-) (Revisable) w.e.f. 1.7.1966

payable in advance on the first day of January in each year and the following conditions:

SPECIAL CONDITIONS

1. No buildings shall be erected on the land nor shall additions or external alterations be made to any buildings otherwise than in conformity with plans and specifications previously approved in writing by the Local Authority. The Local Authority shall not give approval unless satisfied that the proposals are such as to develop the land adequately and satisfactorily.

2. The Lessee shall within 6 calendar months of the actual registration of the lease submit in triplicate to the Local Authority plans (including block plans showing the positions of the buildings and system of drainage for the disposal of sewage, surface and sullage water) drawings, elevations and specifications of the buildings the Lessee proposes to erect on the land and shall within 24 months of the actual registration of the lease complete the erection of such buildings and the construction of the drainage in conformity with such plans, drawings, elevations and specifications as amended (if such be the case) by the Local Authority: PROVIDED that notwithstanding anything to the contrary contained or implied by the Trust Land Act if default shall be made in the performance or observance of any of the requirements of this condition it shall be lawful for the County Council or any person authorized by the County Council to re-enter into and upon the land or any part thereof in the name of the whole and thereupon the term hereby created shall cease but without prejudice to any right of action or remedy of the County Council in respect of any antecedent breach of any condition herein contained.
3. The Lessee shall maintain in good and substantial repair and condition all buildings at any time erected on the land.
4. Should the Lessee give notice in writing to the County Council that it is unable to complete the buildings within the period aforesaid the County Council shall (at the Lessee's expense) accept a surrender of the land comprised herein: PROVIDED FURTHER that if such notice as aforesaid shall be given within twelve months of the registration of the lease the County Council shall refund to the Lessee fifty per centum of the stand premium paid in respect of the land or (2) at any subsequent time prior to the expiration of the said building period the County Council shall refund to the Lessee twenty-five per centum of the said stand premium. In the event of notice being given after the expiration of the said building period no refund shall be made.
5. The land and the buildings shall only be used for children Hostels, Educational and a residence for caretaker
6. The building shall not cover ~~more~~ a greater area of the land than that prescribed by the Local Authority in its by-laws.
7. The land shall not be used for the purpose of any trade or business which the Local Authority considers to be dangerous or offensive
8. The Lessee shall not subdivide the land without prior consent in writing of the County Council and the Commissioner of Lands.
9. The Lessee shall not sell, transfer, sublet, charge or part with the possession of the land or any part thereof or any buildings thereon except with the prior consent in writing of the County Council. No application for such consent (except in respect of a loan required for building purposes) will be considered until Special Condition No. 2 has been performed.
10. The Lessee shall pay to the Local Authority on demand such sums as the Local Authority may estimate to be the proportionate cost of constructing all roads and drains and sewers serving or adjoining the land and shall on completion of such construction and the ascertainment of the actual proportionate cost either pay (within seven days of demand) or be refunded the amount by which the actual proportionate cost exceeds or falls short of the amount paid as aforesaid.
11. If the land or any part thereof should cease to be used for children hostel, Educational and a residence for caretaker purposes any part thereof shall be deemed to have automatically

reverted to the County Council without the necessity of any formal surrender thereof and the term hereby created shall ipso facto determine in respect of the land or part as the case may be.

- 12 ~~xx~~ The Lessee shall from time to time pay to the Local Authority on demand such proportion of the cost of maintaining all roads and drains serving or adjoining the land as the Local Authority may assess.
- 13 ~~bx~~ Should the Local Authority at any time require the said roads to be constructed to a higher standard the Lessee shall pay to the Local Authority on demand such proportion of the cost of such construction as the Local Authority may assess.
- 14 ~~bx~~ The Lessee shall pay such rates, taxes, charges, duties, assessments or outgoings of whatever description as may be imposed, charged or assessed by any Government or Local Authority upon the land or the buildings erected thereon including any contribution or other sum paid by the Local Authority or the County Council in lieu thereof.
- 15 ~~xx~~ The County Council or such person or authority as may be appointed for the purpose shall have the right to enter upon the land and lay and have access to water mains, service pipes and drains, telephone or telegraph wires and electric mains of all descriptions whether overhead or underground and the Lessee shall not erect any building in such a way as to cover or interfere with any existing alignments of main or service pipes or telephone or telegraph wires and electric mains.
- 16 ~~xx~~ The County Council reserves the right to revise the annual ground rental payable hereunder after the expiration of the thirty-third and sixty-sixth year of the term hereby granted. Such rental will be at rate of 4 per centum of the unimproved freehold value of the land as assessed by the County Council.

17. Notwithstanding anything to the contrary contained herein or implied by the said Trust Lands Act (Chapter 288) the Lessee shall on receipt of six months' notice in writing in that behalf surrender all or any part of the land required for public purposes without any payment or any compensation save in respect of such approved buildings as may have to be evacuated or demolished. No compensation shall be payable in respect of severance of the land by reason of such surrender.

SIGNED BY SAMMY SILAS KOMEN MWAITA the
 Commissioner of lands thereto lawfully authorized
 on behalf of EMBU ~~EMB~~ COUNTY
 COUNCIL this 11th day of Dec.
~~two~~ Two thousand in the presence of:
 J. K. WANJAU (006)
 LAND REGISTRAR

SK Jomul.

COMMON SEAL of the Lessee was affixed hereto in the presence of:

~~SIGNED BY THE LESSEE IN THE PRESENCE OF~~
Trustee
Trustee
Trustee

18

I CERTIFY that the above named

appeared before me on the _____ day of _____
and being known to me/being identified by*

acknowledged the above signature or marks to be his (theirs) and that he (they) had freely and voluntarily executed this instrument and understood its contents.

Signature and Designation of person certifying

REGISTERED this _____ day of _____ 2000

LAND REGISTRAR
DISTRICT

Drawn By:
Jackson K. Wanjau
Senior Land Registrar
P.O. Box 30089
NAIROBI

*Delete whichever is not applicable.

(19)



THE NATIONAL LAND COMMISSION

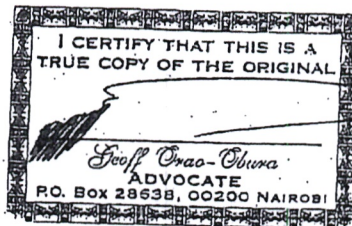
Telegrams: "MINILANDS", Nairobi

Telephone: Nairobi 2718050

Ardhi house
Ngong road
P.O. Box 41777
NAIROBI

Ref : 75947

Paul Kariuki Njiru
The Bishop
Diocese of Embu
P. O. Box 1499-60100
EMBU



Date : 14TH May, 2013


RE : ERRONEOUS ISSUANCE OF TITLE FOR PARCEL 375, (L. R. NO. 1112/375 - EMBU)

The above matter refers.


As you may be aware, a title for the above plot under the name Diocese of **Embu Trustees Registered**, was issued to you in July, 2012. The title was issued to you under the assumption that the original allottees, the Registered Trustees of **Child Welfare Society of Kenya**, had consented to the change of ownership and management of this property. Various Minutes from the District Commissioner's office were also forwarded to this office in support of the change of ownership, implying the Trustees of Child Welfare Society of Kenya consented.

We have however, been notified by the Trustees of **Child Welfare Society** (A Government Institution under the office of the President) that they were not involved in the transfer of their property and as such the change of ownership that took place was erroneous and illegal. The plot had been allocated to them vide allotment letter **Ref. E/T/375/6 of 26th June, 1966** and a lease/Title was in the process of being Registered while the latter title was issued to you.

The purpose of this letter therefore, is to request that you surrender the title issued to you for this plot as the **Child Welfare Society**, have denied knowledge of the transfer. Please surrender the Title to this office within 14 days from the date of this letter to facilitate reissuance of the same to the **Child Welfare Society of Kenya** in order to rectify this anomaly.


KARIUKI J. K.
FOR: CHAIRMAN, NATIONAL LAND COMMISSION

c.c. - Child Welfare Society of Kenya
P O Box 43982-00100
NAIROBI


Town Clerk
Embu Municipal Council
P O Box 36
EMBU

District Land Registrar
EMBU

District Land Officer
EMBU

| S.No. | Property Description | Location | Interested Parties | Determination and Vesting | Vesting Order |
|-------------|------------------------|----------------------|---|---------------------------|--|
| 4. | Block 5/565 | Kisumu Municipality | Kisumu County Government MOLHUD David Ogoti Ongaora | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 5. | Block 5/566 | Kisumu Municipality | Kisumu County Government MOLHUD David Ogoti Ongaora | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 6. | Block 5/546 | Kisumu Municipality | Kisumu County Government MOLHUD David Ogoti Ongaora | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 7. | Block 5/547 | Kisumu Municipality | Kisumu County Government MOLHUD Mary Florence Maleche | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 8. | Block 5/548 | Kisumu Municipality | Kisumu County Government MOLHUD Nancy Wawira Gathenge | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 9. | Block 5/549 | Kisumu Municipality | Kisumu County Government MOLHUD Patrick Opiyo Adero | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 10. | Block 5/577 | Kisumu Municipality | Kisumu County Government MOLHUD Arthur O. Owino/ Joyce A. Yimbo | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 11. | Block 5/588 | Kisumu Municipality | Kisumu County Government MOLHUD Damaris Aieno Ochieng | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 12. | Block 5/555 | Kisumu Municipality | Kisumu County Government MOLHUD Evangelist Christ Church | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 13. | Block 5/492 | Kisumu Municipality | Kisumu County Government MOLHUD Lukas A.O. Nyandoro Ochieng | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 14. | Block 5/558 | Kisumu Municipality | Kisumu County Government MOLHUD Christopher Masai Machio | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 15. | Block 5/489 | Kisumu Municipality | Kisumu County Government MOLHUD Lukas A.O. Nyandoro Ochieng | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| 16. | Block 5/567 | Kisumu Municipality | Kisumu County Government MOLHUD | Title revoked | Title vested in the PS Treasury for Housing Directorate |
| EMBU | | | | | |
| 17. | Embu Municipality /375 | Embu Municipality | County Government of Embu (successor in title to Embu County Council) Catholic Diocese of Embu- Lessee Child Welfare Society | Title revoked | |
| UASIN GISHU | | | | | |
| 18. | Block 10/8 | Eldoret Municipality | PCEA John Keen Kiplagat Songok David Serem | Title revoked | Title vested in County Government of Uasin Gishu for public utility. |
| 19. | Block 10/901 | Eldoret Municipality | County Government of Uasin Gishu Name of Owner (missing) | Title revoked. | Title vested in County Government of Uasin Gishu for public utility |
| 20. | Block 10/1253 | Eldoret Municipality | County Government of Uasin Gishu Dobson Onwong'a | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 21. | Block 10/1256 | Eldoret Municipality | County Government of Uasin Gishu | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 22. | Block 10/1257 | Eldoret Municipality | County Government of Uasin Gishu | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 23. | Block 10/1259 | Eldoret Municipality | County Government of Uasin Gishu William Kigen | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 24. | Block 10/1263 | Eldoret Municipality | County Government of Uasin Gishu | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 25. | Block 10/1265 | Eldoret Municipality | County Government of Uasin Gishu | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 26. | Block 10/1266 | Eldoret Municipality | County Government of Uasin Gishu Abraham Kipkemei | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 27. | Block 10/1267 | Eldoret Municipality | County Government of Uasin Gishu | Title revoked | Title vested in County Government of Uasin Gishu for public utility |
| 28. | Block 10/1269 | Eldoret Municipality | County Government of Uasin Gishu Bartono Bartocho | Title revoked | Title vested in County Government of Uasin Gishu for public utility |

CHILD WELFARE SOCIETY OF KENYA
REGISTERED ADOPTION SOCIETY

Headquarters
Child Welfare Building
Harambee Road
P.O. Box 41982, 00100
Nairobi
Tel: 6003301 6006391
Office Cell: 0726 298921
Fax: 6005854
E-mail: cwskinfo@childwelfaremail.co.k

CWSK/ADM/2012/486

Our Ref:.....

Your Ref:.....

The Director
Criminal Investigation Department
P O Box 30036
NAIROBI



Date: 17/10/2012

Dear Sir,

RE: FRAUD OF CHILD WELFARE SOCIETY OF KENYA PLOT NO. 375 - EMBU MUNICIPALITY

We, the Trustees of Child Welfare Society of Kenya would like to report a fraud of our plot - Parcel No. 375 - Embu Municipality as mandated by the CWSK Trustee Deed.

Child Welfare society of Kenya is a registered society by government since 1955 to provide services for destitute and orphaned children. It is funded by government for its major functions which includes running temporary institutional care for destitute and orphaned children in Kenya. So far, the society has nine children homes ie Mama Ngina in Nairobi, Mji wa Salama in Mombasa, Arap Moi Children's home in Nakuru, Kisii Children's home, Kanduyi Children's home in Bungoma, Isiolo Children's home, Nanyuki Children's home, Murang'a Rescue Centre, Karen Foster Care, Meru Rescue Centre and Embu Children's home. In addition Child Welfare Society of Kenya is working in all counties in the Republic where officers of the society provide field services for children who are destitute, orphaned or abandoned.

Child Welfare Society of Kenya was allocated a plot parcel No. 375 within Embu Municipality in 1966 for purposes of helping destitute and orphaned children. The Lease was issued with the Title No. 375 measuring 1.471 hectares for the terms of 99 years from 1st July, 1966. Child Welfare Society of Kenya paid for land registration fee together with all the necessary fees vide copy of Department of land receipt No. E. 350529 (enclosed).

A search at the District Land Registrar in Embu Municipality on 26th September, 2012 revealed that the parcel No. 375 measuring 1.471 hectares with a lease of 99 years from 1st July, 1966 is now claimed to be owned by

The Key Objective of Child Welfare Society of Kenya is to seek and protect children in difficult circumstances, to solicit the support of donors and sponsors and to manage the resources in the promotion of the right and dignity of the child:

HELP A NEEDY CHILD

Diocese of Embu Trustees. This is a FRAUD. Our investigations have revealed that the fraudsters who form the managing committees of the said Diocese of Embu Trustees are as follows:

- Mr. Njoka - Businessman
- Mr. Patrick Mutua - Retired Teacher
- Mr. Githinji - Secondary School Teacher
- Mr. Njeru - Teacher
- Mrs. Kiiru - Teacher/Business lady
- Sr. Mary Kinyua - Religious Administrator
- Sr. Magdalene Njoka - Religious Assistant Administrator

We are very saddened by this fraud as it is obvious that they have forged our Lease and substituted it with their names from Child Welfare Society of Kenya to Diocese of Embu Trustees. We now kindly request your office to take up a swift necessary action for us to reclaim our land.

We enclose herewith copies of the necessary documents for your perusal.

We thank you in advance and hope you will assist the Society accordingly.

Yours faithfully,
Child Welfare Society of Kenya


 Joseph K. Gitau
 CHAIRMAN - BOARD OF TRUSTEES

Tel: 0722 - 758772

1397 (25)

OFFICE OF THE PRESIDENT

Telegrams: "CRIMINAL". Nairobi
Telephone: Nairobi



LAND FRAUD INVESTIGATION UNIT,
P.O. Box 30036
NAIROBI

CID/IB/LFIU/SEC/4/4/1/VOL.VII/43

23TH October., 2012

DIRECTORATE OF CRIMINAL INVESTIGATION

The Provincial CID Officer
Eastern Province
P.O.Box
EMBU

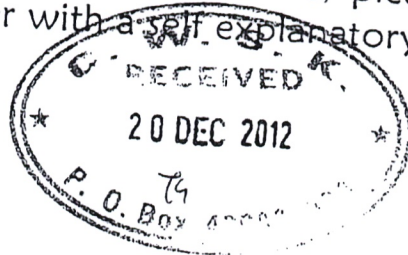
RE: PLOT No. 375 EMBU MUNICIPALITY
COMPLAINANT: CHILD WELFARE SOCIETY OF KENYA

The above matter refers for which the Chairman, Board of Trustees has written a letter to the Director of Criminal Investigations that, a parcel of land referred to as plot parcel No. 375 measuring 1.471 hectares within Embu Municipality was allocated to the organization for the purposes of helping destitute and orphaned children. Child Welfare Society were granted a term of 99 years with effect from 1st July but the same has been fraudulently transferred to the Diocese of Embu Trustees in unclear circumstances thus warranting an inquiry.

The D.C.I has directed that you cause investigations into this matter to its logical conclusion.

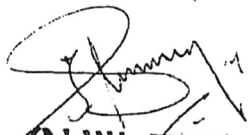
You will apprise the D.C.I on the progress and outcome of your investigations.

Attached for your ease of reference, please find copies of the documents, together with a self explanatory letter of complaint.



CRIMINAL INVESTIGATION
DEPARTMENT
DATE 27/8/2014
EMBU

26



(N.W. ETTYANG)

FOR: DIRECTOR OF CRIMINAL INVESTIGATION

C.C.

The Child Welfare Society of Kenya- Please report to the P.C.I.O Eastern at your earliest convenient time during working hours for his necessary action.
Child Welfare Building
Langata Road
P.O.Box43982-00100
NAIROBI

29
15



**MINISTRY OF EAST AFRICAN COMMUNITY, LABOUR & SOCIAL PROTECTION
STATE DEPARTMENT FOR SOCIAL PROTECTION
OFFICE OF THE PRINCIPAL SECRETARY**

Tel: +254 (0) 2729800 / 2727980-4
Fax: +254 (0) 2726222 / 2734417
Email: pssocialsecurity@labour.go.ke
When replying, please quote

Social Security House, Bishops Road
P.O. Box 40326/16936 - 00100
Nairobi KENYA

Ref. No: MEACL&SP/9/29 VOL.1/(15)

Date: 14th December, 2017

Dr. Eng. Karanja Kibicho, CBS
Principal Secretary
State Department for Interior
Ministry of Interior and Coordination of National Government
NAIROBI

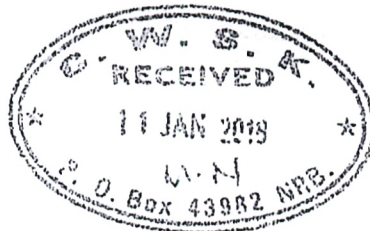
Dear

**RE: SECURING OF LAND BELONGING TO CHILD WELFARE
SOCIETY OF KENYA CHILDREN'S HOMES AND SCHOOLS**

Reference is made to letter No. CWSK/PS/MEACLSP/2017/19 of 13th December, 2017 addressed to me by the Chief Executive Officer, Child Welfare Society of Kenya (CWSK) on the above subject.

Considering the narrative and enclosed documents in respect of the concerned parcels, it is clear that the Society is the legal owner.

In light of this as well as the Presidential Directive to Public Institutions to secure the Registration of their parcels of land, I hereby request you to assist the Society through the respective County Commissioners in order to have those who have encroached vacate the parcels.



By copy of this letter, the Chief Executive Officer, Child Welfare Society of Kenya is asked to follow up the matter.

Yours

Susan Mochache, CBS
PRINCIPAL SECRETARY

Encls:

Copy to: Chief Executive Officer
Child Welfare Society of Kenya
NAIROBI



The County Commissioner
Nairobi County
NAIROBI

The County Commissioner
Kisii County
KISII

The County Commissioner
Embu County
EMBU

The County Commisssoner
Laikipia County
NYAHURURU

SPECIAL ISSUE



THE KENYA GAZETTE

Published by Authority of the Republic of Kenya

(Registered as a Newspaper at the G.P.O.)

Vol. CXIX—No. 97

NAIROBI, 17th July, 2017

Price Sh. 60

GAZETTE NOTICE No. 6862

THE CONSTITUTION OF KENYA

NATIONAL LAND COMMISSION

DETERMINATION OF REVIEW OF GRANTS AND DISPOSITIONS OF PUBLIC LAND IN RESPECT OF THE FOLLOWING GRANTS AND ORDERS

IN EXERCISE of the powers conferred by Article 68 (c) (v) of the Constitution of Kenya and section 14 of the National Land Commission Act, 2012, the Chairman of the National Land Commission informs the general public that the National Land Commission upon receipt of complaints from the National Government, County Governments and members of the public, undertook review of grants and dispositions (titles) of public land to establish their legality or otherwise. The Commission via public notices in the national dailies invited all interested parties to appear before it to inspect documents and make written and oral representations and submissions. Consequently, the Commission has made determinations in respect of the following grants/Titles and orders for revocation, regularization, upholding of the titles where applicable as indicated or give further orders. Where the order calls for revocation, the Chief Land Registrar is thereby directed to revoke as per Section 14(5) of the National Land Commission Act and attendant laws.

TABLE 1—KILIFI COUNTY, MOMBASA AND KWALE COUNTIES

| S/No. | Property Description | Location | Interested Parties | Determination/Chief Land Registrar Directed to: |
|-------|---|---------------|---|--|
| | LR. NO. MN/111/5333 also known as C.R 14272 | Kilifi County | Joseph Malindi Lenguris Monika Herta Elfriede Behran Caroline Mwelu Mwandiku | Chief Land Registrar directed to revoke Title for Caroline Mwelu Mwandiku The title to vest in Monika Herta Elfriede Behran. |
| 1. | L.R 4752/2 – or MURUMA FARM MN/111/5333 or C.R 14272 | Kilifi County | County Government of Kwale Maruma Farm (Mbela Farm) | Chief Land Registrar directed to uphold Title for Maruma Firm Upheld |
| 2. | L.R MN/1/6552 | Kilifi County | Edwin Ndanyi Francis Mugo Njeru Peter Masha Kalama | Chief Land Registrar directed to revoke Title to Francis. Title to Hezron Ndanyi Lidede upheld |
| 3. | L.R MN/III/3081 L.R MN/III/1923 L.R MN/III/3076 L.R MN/III/3080 L.R MN/III/1922 | Kilifi County | Sahajanad Special Primary School Sahajanad Secondary School Sharif Mudar Hussein Twahir Zacharia Abdulsattar Haji | Chief Land Registrar directed to revoke Titles to the aforesaid properties. Title to vest in the PS Treasury to hold in trust for Sahajanad School |
| 4. | M.N/111/432 - 435 | Kilifi County | -Hon Justice Charles P. Chemutut -Albert Tsuma Tonya -Mbaru Lewa Mbaru -Matubatu Investment Limited -Jacquiline Josephine Wanjiru | -Chief Land Registrar directed to revoke Grant Numbers; CR. 55799, CR. 55798, CR. 55781, CR. 55782. -A certificate of lease to be issued to Hon. Justice Charles P. Chemutut. |
| 5. | -KAWALA 'A' KADZONDZO/399 -KAWALA 'A' KADZONDZO/405 | Kilifi County | -Mr. Karsan Ramji & Sons -Mrs. Sarah Joseph Thoya -Mrs. Victoria Mishsi Maraga | Karsan Ramji & Sons Limited as absolute proprietor |
| 6. | L.R 1705/233 AND 1705/50 | Kilifi County | -Nayeni Mibuyuni Squatters Group -The Stubbs & Slater Family | Title/Grant in favour of The Stubbs & Slater Family Estate Upheld. |
| 7. | L.R 11492/466, L.R. 27249, L.R 16142. | Kilifi County | -Eng. Jonathan Mwango -Humphrey Kombe & Family -Timothy Kilonzo | Title/Grant in favour of the following upheld; 1126 - Jonathan Mwango 1125 - Jonathan Mwango |

| S/No | Property Description | Reserved User | Parties Involved | Decision of the Commission | Reasons |
|------|--|--|---|--|---|
| | | | Megaways Ltd. | | |
| 20. | Nyeri Municipality Block 1/915 & Block 1/916 Block 1/917 Block 1/918 | Public hospital and other public users | Robert Wambugu Hellen K Kariuki Peter Kihara Mathanjuki Hellen W Ngeru & others | Revoke title and allocate land to Sikh Temple, Nyeri | Land was reserved and planned for Sikh Temple, Nyeri for public hospital and other public users |
| 21. | Thika Municipality Block 8/184 | Residential/ Commercial | Chania Travellers Ltd., Peter Mwangi Gacheru | Revoke title held by Chania Travellers Ltd. uphold and give allottee to Peter Mwangi Gacheru | Title was acquired through fraud and Peter Mwangi Gacheru was the legal allottee |
| 22. | LR 209 /14844 | Public Servants Housing scheme | Ministry of Transport, Infrastructure and Housing & M. M. Shambi | Revoke title held by M. M. Shambi for LR 209 /14844 and land allocated to Cabinet Secretary – Treasury for civil Servants Housing scheme | Land was reserved for Public Servants Housing and was vested in Directorate of Housing. It was not available for allocation to third parties |
| 23. | LR No. 13608 | Residential | Ministry of Interior and Coordination of National Government and Boniface Orangi Gisebe | Re-survey and to reduce from 0.2747 ha to 0.20 ha to accord to the letter of Allocation of 13/9/85 and remove public Facilities. Title to be amended to reflect correct size | Land was wrongly surveyed to include public facilities and access of the public offices in Kasarani Sub-County |
| 24. | LR Nos. 209/13245 and 209/13246 City Park | Public Park and Recreational area | Nairobi County Government Jamnadas Kalidas Gohil Trust and Friends of City Park | Revoke title for LR No. 209/13245 and revert land to Nairobi County Government, County Government to regularize sublease for LR 209/13246 for a public crematorium for persons of all faiths | Public Crematorium is public user. Jamnadas Kalidas Gohil Trust to have members from the County Government of Nairobi and other stakeholders as trustees. |
| 25. | LR 1870/1X/54 or 209/12132 Westlands | Open space | Satya investments Ltd Estate of J. K. Mbugua Nairobi County Government, Westlands Self Help Group | Revoke title and allocate land to Nairobi County Government for an open space and public toilet to hold in trust for Westlands Residents | Land reserved and planned for an open space |
| 26. | Nairobi/Block/97/1736 | Open space/Recreation area | Fedha Estate Residents Association and Tassia Coffee Estate Ltd. | Revoke title and allocate land to Nairobi County Government for an open space and recreation area | Land was reserved and planned as an open space and recreation area |
| 27. | LR No. 36/VII/436 | Residential/ Commercial | Peter Chania Magere (administrator of Estate of Mwathi Kitheka) Mohammed Kasim Muhammad & Duran Hussein Madobe | Revoke title to Mohammed Kasim Muhammad & Duran Hussein Madobe and revert to the estate of Mwathi Kitheka to be held by the administrator, Peter Chania Magere | Land was illegally acquired by Mohammed Kasim Mohamed & Duran Hussein Madobe |
| 28. | LR Nos. 11969/ 211 11969/ 213, 11969 /214 and 11969 /215 | Christian cemetery | Marsabit Pastors Fellowship Cillabaji, Hussein Tari, Adan Jillo Huq, Peter Lettero and Dadach-oba Tullus | Revoke titles to LR Nos. 11969 /211 11969/ 213, 11969/ 214 and 11969/ 215 Allocate the land to Marsabit County Government for a Christian cemetery | Land was reserved and planned for a Christian cemetery and was not available for allocation to private developers. |
| 29. | KARATINA/BLOCK 1/639 | Nyeri County | - Wilson Ngatia Karungaru (The personal administrator of the estate of Geoffrey Karungaru Kabua), - Geoffrey Karungaru Kabua | - Title/Grants held by Geoffrey Karungaru Kabua Upheld. | |
| 30. | EMBU/MUNICIPALITY PARCEL/375 | Embu | - Child Welfare Society of Kenya - Catholic Diocese of Embu - County Government of Embu (successor in title to Embu County Council) | -Chief Land Registrar directed to revoke Title/Grant held by Catholic Diocese of Embu -The property is vested in the Child Welfare Society of Kenya. | Land Was initially allocated to Child Welfare Society of Kenya and therefore not available for allocation to another individual. |
| 31. | THIKA MUNICIPALITY BLOCK 9/302 | Kiambu | - Teleposta Pension Scheme Trustees -Vicky Kidaka Liyai | -The Chief Land Registrar directed to Revoke the Title/Grant held by Vicky K. Liyai. -Reinstate the property to Teleposta Staff Pension Scheme. | Land was initially allocated to Teleposta Staff Pension Scheme and therefore could not be available for allocation to another individual. |
| 32. | Ruiru Kiu Block 2/4889,4890,4891,4892 | Kiambu | Kiambu County Government and all the | Chief land Registrar directed to revoke all titles and revert the | Land was reserved for Educational use. |

Telegrams "POLICE".....
Telephone..... When
replying please quote
Ref.No..... and date

OFFICE OF THE PRESIDENT

31

DIVISIONAL C.I.D. HEADQUARTERS
P. O. BOX 28
EMBU



27th August, 2014

DIRECTORATE OF CRIMINAL INVESTIGATIONS

CID/COM/1/6/A/VOL. III/ (177)

The Chairman,
Board of Trustees,
Child Welfare Society of Kenya,
P O Box 108,
EMBU

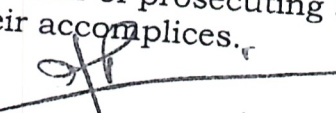
RE: CID EMBU INQUIRY NO. 2/2013
ALLEGED FRAUD ON PROPERTY L.R. EMBU MUNICIPALITY/1112/375

Your letter CWSK/CONF/LAND/2014/327 of 26th August, 2014 on the above quoted matter refers.

The relevant officials who handled the matter for Catholic Diocese of Embu failed/declined to appear in our office to give their side of the story.

We then decided to forward the inquiry file to the Director of Public Prosecutions Embu for perusal and directions. The Director of Public Prosecutions upon perusing the file concurred that there is sufficient evidence to convict the Very Rev. Fr. Patrick Kariuki, Bishop Paul Kariuki, Sister Mary and Very Rev. Fr. Patrick Njiru for the requisite offences of fraud.

The D.P.P., further directed a thorough investigations be carried out with the aim of prosecuting and convicting the four mentioned suspects and their accomplices.


(DANIEL KIROREI)
FOR: DIVISIONAL CRIMINAL INVESTIGATION OFFICER
EMBU

For c .

OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS

Telephone: 31227 Embu
When replying please quote

Ref. EBU/ADV/71(72)



FAITH HOUSE 2nd FLOOR
P.O. BOX 2855
EMBU

DATE: 21st August 2014

**THE DIVISIONAL CRIMINAL INVESTIGATING OFFICER
EMBU DIVISIONAL HEADQUARTERS
P. O. BOX 28-60100
EMBU**

**RE: CID EMBU INQUIRY NO. 2/2013
OBTAINING REGISTRATION BY FALSE PRETENCE**

The above refers.

We acknowledge receipt of yours Ref. No. CID/COM/1/6/A/VOL.III/(176) dated 8th August 2014 and wish to reply as hereunder.

There is sufficient evidence to sustain a conviction against the Very Rev. Fr. Patrick Kariuki, Bishop Paul Kariuki, Sister Mary and the Very Rev. Fr. Patrick Njiru.

In addition, I advise that further and thorough investigations be carried out with the aim of prosecuting and convicting the four above mentioned suspects and their accomplices.

Find enclosed your Polic File for your further action.

**TIMOTHY KIBUIKA MIIRI
PROSECUTION COUNSEL
FOR DIRECTOR OF PUBLIC PROSECUTIONS
EMBU**



NATIONAL LAND COMMISSION

**RESPONSE TO PETITIONS AND STATEMENTS REFERRED TO THE SENATE
STANDING COMMITTEE ON LAND, ENVIRONMENT AND NATURAL
RESOURCES**

**REPORT
BY:**

GERSHOM OTACHI BW'OMANWA

CHAIRMAN

12th May, 2022

**RESPONSES TO THE SENATE STANDING COMMITTEE ON LAND, ENVIRONMENT
AND NATURAL RESOURCES ON A PETITION ON ALLEGED ILLEGAL
ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY
CHILD WELFARE SOCIETY OF KENYA**

Hon Chair, the Commission noted the following from the petition;

- i. That in the Gazette of 22nd January 2016, item number 17, the title EMBU/MUNICIPALITY/375 belonging to the Catholic Diocese of Embu was revoked, apparently by the NLC at the instance of the Child Welfare Society of Kenya.
- ii. That in the Gazette of 17th July 2017, item No 30 title EMBU/MUNICIPALITY/375 ‘the Chief Land Registrar was directed to revoke title held by Catholic Diocese of Embu’. The property is vested in the ‘Child Welfare Society of Kenya’. The notice was given by the NLC.
- iii. The Diocese is concerned that their lease to EMBU/MUNICIPALITY/375 was declared cancelled by the NLC at the instance of the Child Welfare Society of Kenya, the hopeful beneficiaries of the alienation.

RESPONSE

The National Land Commission responds as follows for the subject land EMBU/MUNICIPALITY/375 ;

From the records in possession of the Commission, the following is a summary of the facts:

1. A Certificate of Lease issued to Child Welfare Society of Kenya in 1/7/1966 for 99 years measuring 1.471HA.
2. Official search carried out on 4th January 2022 shows that the parcel is allocated to Child Welfare Society of Kenya for a period of 99 years from 1966.
3. Embu Diocese and CWSK through a mutual consent were running the institution from 1984 to 2009. In 2009 the Diocese requested to run and manage the institution on their own. This led to the diocese applying for an amendment of the lease from CWSK to Embu Diocese.
4. A Certificate of Lease was issued to Diocese of Embu Trustees on 12/7/2012.
5. The process of amending the lease was opened to fraud investigation and it was deemed to have been fraudulently amended since the signatories to the consent for change were not authorized by CWSK.
6. Through the NLC Review of Grants and Depositions the Lease to Diocese of Embu was revoked and cancelled as per Gazette Notices **Vol. CXVIII—No. 6 of 22nd January, 2016** and **Vol. CXIX—No. 97 of 17th July, 2017**.
7. NLC was exercising its mandate under S. 14 of the National land Commission Act.
8. The certificate of lease issued to Diocese of Embu Trustees on 12/7/2012 is cancelled as per the Gazette Notices.

9. The Embu Diocese went to court to challenge the decision of NLC.
10. The court upheld the decision of the Commission to cancel the lease title issued to Embu Diocese Trustees.
11. The Commission is not aware of any subsequent Court orders on Appeal or other court Process.

Honourable Chair, I submit;



**GERSHOM OTACHI BW'OMANWA
CHAIRMAN**

Dated 12th May, 2022

ANNEX III: SUBMISSIONS BY THE PETITIONER

(Attached separately)

PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF KENYA

8. That in the Gazette of 22nd January 2016, item number 17, the title EMBU/MUNICIPALITY/375 belonging to the Catholic Diocese of Embu was revoked, apparently by the National Land Commission of Kenya at the instance of the Child Welfare Society of Kenya.
9. That in the Gazette of 17th July 2017, item No. 30, title Embu/Municipality/375 "the Chief Land Registrar was directed to revoke title held by Catholic Diocese of Embu". The property is vested in the "Child Welfare Society of Kenya". Again, the notice is given by the National Land Commission of Kenya.
10. That the Child Welfare Society of Kenya, buoyed by the two publications again attempted to force their way into the home, but again this was repulsed by the Diocese.
11. That the current position is that the Diocese, is the legitimate and the legal owner of plot No. EMBU/MUNICIPALITY/375. They are in possession of the home; they run the home; and have the unexpired lease.
12. The Diocese is concerned that their lease to EMBU/MUNICIPALITY/375 was declared cancelled by the Land Commission of Kenya at the instance of the Child Welfare Society of Kenya, the hopeful beneficiaries of the alienation.
13. That the act of the alienation continues to threaten the Petitioners since the Land Commission has already reassured the Child Welfare Society that it has already revoked the title; and recommended a new lease be issued to them.
14. That the matter has been in court severally but never finally resolved. It is the Child Welfare Society of Kenya that triggers these court interventions by surprise forced attempts at occupation, alienation and eviction.
15. That we have made efforts to have this matter addressed by the relevant bodies, all of which have not been fruitful.
16. That currently there is no dispute pending in court of law, constitutional or any other legal body.

WHEREFORE your humble Petitioners pray that the SENATE do investigate this matter and: -

1. Initiate a process to ascertain if the true owners of the parcel of land EMBU/MUNICIPALITY/375 are Diocese of Embu Trustees Registered.
2. recommend for the cancellation or otherwise set aside the contents of the two Gazette notices, specifically Gazette notice No. 6 of 22nd January 2016; and Gazette notice No. 97 of 17 July 2017.

PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF KENYA

To:

The Clerk of the Senate
Parliament Building
P.O Box 41842 – 00100
NAIROBI

RE: **PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF KENYA**

We the undersigned citizens of Kenya AND IN PARTICULAR representatives of the Diocese of Embu, Trustees of the Catholic church and the Community Managers of the St. Angela Embu Children's home and residents of the Embu County, DRAW THE ATTENTION of the SENATE to the following: -

1. THAT the Diocese of Embu Trustees Registered, is currently the owner of the piece of land EMBU/MUNICIPALITY/375.
They hold a lease dated the 13th day of July 2012, as evidence of ownership.
The lease is for 99 years from 13.7.2012.
2. THAT the diocese of Embu Trustees Registered, has been running a Children's home on the said plot under the name, St. Angela Embu Children's home, from the year 1960 to date.
3. The Children's home has a long history from 1960 to date. But it has always been under the custody, occupation and management of the Diocese of Embu, from the pre-independence days, at independence, and post-independence.
4. When the Diocese applied for a lease of the land where the home now stands, the lease was gladly given by the Government on the 13.7.2012 for 99 years.
5. That however and to the wonder and dismay of the diocese, individuals calling themselves the Child Welfare Society of Kenya laid claim to the home by force but this was resisted and repelled. There was court intervention and the invaders were pushed out and law and order restored.
6. The Child Welfare Society of Kenya has never run the home even for one day, since its inception to date.
7. That again to the wonder and dismay of the Diocese, its attention was drawn to two items appearing in the Kenya Gazette. One dated the 22nd January 2016 and the other dated the 17th July 2017.

REPUBLIC OF KENYA

PETITION TO THE SENATE CONCERNING ILLEGAL ALIENATION OF PARCEL OF LAND EMBU/MUNICIPALITY/375 (LEASEHOLD) BY THE CHILD WELFARE SOCIETY OF KENYA

PETITIONER'S WRITTEN RESPONSES

INTRODUCTION

A) By their Petition dated the 29th October 2021, the Petitioners prayed to Senate for 5 prayers,

To: -

- i) Initiate a process to ascertain if the true owners of the parcel of land EMBU/MUNICIPALITY/375 are Diocese of Embu Trustees Registered.
- ii) Order the cancellation or otherwise set aside the contents of the two Kenya Gazette Notices, specifically Gazette Notice No. 6 of 22nd January 2016 and Gazette Notice No. 97 of 17.7.2017
- iii) Prohibit the Child Welfare Society of Kenya from further making claims, interfering with or harassing or otherwise making attempts at entry into the Petitioner's home.
- iv) The Senate Committee makes a visit to the St. Angela's Embu Children's home and see for itself how the home runs and the developments made over the years by the Petitioners.
- v) There are very many homeless children in the county of Embu, in view of this, the Senate do recommend that a plot be allocated to the Child Welfare Society of Kenya for the purpose of building their own home, away from that of the Petitioner.

B) **THE CONTENTS OF THE PETITION**

The Petition contains documents bound in 3 bundles as follows: -

a) Bundle dated he 29.11.2021 is in two parts; is numbered and paginated.

PART 1. Runs from page 1 – 2 and contains documents 1 – 30. All 14 documents are photographs depicting the contents, structures and life at the Petitioner's Children's home.

This is the Petitioner's photographic evidence. The petitioner invited the Committee to visit the home and this the Senate Committee obliged on 28.2.2022.

The Committee visited on the 28th February 2022 and must have verified for itself the perimeter walled St. Angela's home. The school, the classrooms, the dormitories, the playgrounds, toilets, washrooms, bathrooms, dining rooms, water storage tank, multi-purpose halls, pre primary class rooms, PP 1 and PP 2, Technical school for older children – addressing dress making, knotting, computer and saloon, social study hall, garage and firewood store.

There was also an administrative block, car park area and a wide all steel gate.

The pictures also represent the housing of the catholic nuns who run the home.

The committee was also shown a pharmacy facility, the home nurse and the well-manicured and cemented pathways to the various locations within the home.

PART 2. of the bundle dated the 29.11.2021 contains the documentary evidence. There are 27 documents numbered 1 – 12 from page 31 to page 84.

The analysis is as follows: -

- i) Page 31 – 33 Contains the actual Petition.
- ii) Pages 34 – 36. Contains a copy of the certificate of Incorporation of the Diocese of Embu Trustees Registered, the proprietor and owner of the St. Angela's Children's home on their property EMBU/MUNICIPALITY/375.
- iii) Page 37 – 38 A copy of the certificate of lease dated the 13th July 2012 for EMBU/MUNICIPALITY/375 for 99 years to Diocese of Embu, Trustees Registered of P.O Box 1499 Embu.
- iv) Page 39 – 41 A copy of the lease itself dated the 27th June 2012 by the County Council of Embu in respect of property EMBU/MUNICIPALITY/375 to The Diocese of Embu Trustees Registered for 99 years which was certified by the Land Registrar Embu a true copy of the Original on 31.1.2018.
- v) Page 42 A copy of the green card opened on 13.7.2012 for EMBU/MUNICIPALITY/375. It verifies all the particulars contained in (iii) and (iv) above.

vi) Page 43 – 44 Is a copy of the Kenya Gazette dated 22.1.2016; supplement No. 97 dated 17.7.2017. *EMBU/MUNICIPALITY/375. County Government of Embu (Successor in title to Embu County Council) Catholic Diocese of Embu lessee; Child Welfare Society; Title revoked.*

Unlike the other properties on this page, no vesting order was made on the index, the changes or interjections were made by the National Land Commission.

vii) Page 45 The Kenya Gazette Special issue No. 7 of 17.07.2017 National Land Commission (*Determination of Review of grants and dispositions of Public land in respect of the following grants and orders:*

At page 46 No. 30 is property EMBU/MUNICIPALITY/375 at Embu reserved user not stated; parties involved are stated as: -

- *Child Welfare Society of Kenya*
- *Catholic Diocese of Embu*
- *County Government of Embu (successor in title to Embu County Council)*

Decision of the Commission Chief land Registrar directed to revoke title/grant held by Catholic Diocese of Embu. The property is vested in the Child Welfare Society of Kenya.

Reasons Given

“Land was initially allocated to Child Welfare Society of Kenya and therefore not available for allocation to another individual.”

From page 47 to page 79, there is filed an affidavit by the Rt. Rev. Fr. Eliud Thuku Wanyoike, the vicar General in response to some issues raised in erstwhile litigation between the parties.

Fr. Wanyoike has gone through the history of intolerance when some forces were bent on divesting the Diocese of Embu Trustees Registered of its rightful property EMBU/MUNICIPALITY/375.

The issue was resolved by the Provincial Administration and the Embu County Council and a lease issued to the Diocese of Embu Trustees Registered.

See pages 56, 57, 58, 59 60,61, 62,63, 64, 65, 66, 67, 68, 69, 70, 71 and 72. A lease was issued as evidence as at page 73 – 76 which was dated 27.6.2012 and signed by the Commissioner of Lands and registered by the land Registrar on 12.7.2012.

Before issuance of the lease to the Diocese of Embu Trustees Registered, two precautions which are worth of note were taken.

- a) A certificate of search was made on 29th March 2011. A copy of that certificate is filed at page 64. It showed at the time that as at 29.3.2011, parcel of land EMBU/MUNICIPALITY/375 was registered under the name of EMBU COUNTY COUNCIL. Implication being that it was public land and was available for allotment as at that date.
- b) After allotment and registration of Diocese of Embu Registered Trustees, a copy of the register was opened. A copy of the register is filed at page 42 of the bundle. It shows very significantly that the register for parcel of land EMBU/MUNICIPALITY/375 was opened on 12.7.2012 as a first registration with the 1st entry on 12.7.2012. The Diocese of Embu Trustees Registered being the first registered owner as lessee for 99 years. There is no other registered owner.

At the first hearing of this Petition, on 9th day of December 2021, two issues were raised by the respondent The Child Welfare Society of Kenya: -

- i) Whether the Petition is sub-judice.
- ii) Whether the respondent won the case in Embu ELC Pet. No. 1 of 2018.

The Hon. Senate Committee asked the Petitioners to respond. The response was the filing a further list of documents and a further trial bundle dated the 18.01.2022. The petitioners have addressed the issues as follows: -

- i) Whether the Petition is sub-judice

This was raised by the Child Welfare Society by a verbal allegation that there was a pending Civil Appeal No. 154 of 2020, Diocese of Embu Trustees Registered versus the National Land Commission and others. The appeal was withdrawn under Rule 68 (8) of the Court of Appeal Rules. A copy of the Notice of withdrawal is filed as document No. 4 in the Petitioner's further list of documents dated 18.1.2022. It is at page 13. It was filed on 17.11.2021. There is no appeal pending. Matter is not sub-judice.

- ii) On whether the Child Welfare won the Embu ELC Pet No. 1 of 2018

This is a blatant lie.

The truth is stated in the decree of the Embu ELC Court in that Petition, document No. 3 on the bundle at page 20 – 23. It was ordered as follows: -

- a) That the Petition dated 16th March 2018 is hereby dismissed.
- b) The Cross-Petition dated 20.5.2019 is hereby dismissed.
- c) Each party to bear its own costs.

The matter is therefore properly and regularly before this Honourable Committee of the Senate.

ISSUES FOR DETERMINATION

The Petitioners propose the following issues for determination by this Honourable Committee.

1. Who is the legal registered owner of parcel of land EMBU/MUNICIPALITY/375.
2. Who is in possession of the property EMBU/MUNICIPALITY/375.
3. Did the National Land Commission as such have jurisdiction to: -
 - a) Recall the certificate of lease issued to the petitioners.
 - b) Cancel or revoke the registration of the Petitioners as the registered owners of parcel of land EMBU/MUNICIPALITY/375.
 - c) Redistribute, re-allocate or order the transfer of parcel of land EMBU/MUNICIPALITY/375 from the Petitioners to the respondent.
4. Is the Land Registrar allowed to register and maintain two parallel certificates of lease in respect of one property namely EMBU/MUNICIPALITY/375.
5. Whether it is not better, more equitable and for every one's good to prevail upon the County Government of Embu to consider allocating an appropriate parcel of land to the respondent for the purposes of running a Children's home.

ON ISSUE 1.

- i) The evidence adduced by the petitioners overwhelmingly prove that they are the registered proprietors as lessees for a period of 99 years of all that parcel EMBU/MUNICIPALITY/375.
- ii) The lease was given by way of allotment on 27/6/2012. The lease certificate was signed by the land Registrar on 13/7/2012.
- iii) Before the allotment, the property was public land and was registered in the name of the Embu County Council.
- iv) The Embu County Council was the manager of the public land and the legitimate authority to make the allotment.
- v) Subsequently the petitioners became the first registered proprietors of the property EMBU/MUNICIPALITY/375.
- vi) Registration cannot be cancelled or revoked or rectified except as provided for under Section 79 and 80 of the Land Registration Act No. 3 of 2012. Section 79 provides for rectification by the Land Registrar, and Section 80 rectification by order of court, which in this case means: -

“The Environment and Land Court established under the Environment and Land court Act. No. 19 of 2011”

- vii) In the instant Petition, the registration of the respondents as proprietors of the property EMBU/MUNICIPALITY/375 was not done under either section 79 or 80 of the Land Registration Act.
- viii) The Petitioners are and remain the legitimate registered owners of parcel EMBU/MUNICIPALITY/375.

ON ISSUE 2.

- i) Again, the evidence adduced by the Petitioners as to possession of the property overwhelmingly establishes that they are exclusively in possession. We rely on the uncontested photographic evidence produced in the petitioner’s trial bundle dated the 29th November 2021.
- ii) On the 28th February 2022 the Senate Committee visited the Children’s Home at the invitation of the petitioners. The respondents were also represented at the cite visiting. The petitioners represented by the Rt. Rev. Bishop Paul Kariuki; and the Rev. Sister Alice Wambui took the Committee to and around all the structures and the features of the home. The schools were in session and the Committee saw for itself the life at the Children’s home.
- iii) The best way to prove possession is by physical citing. Dealing with this issue, the court of appeal Held

“Adverse possession is a fact to be observed upon the land, it is not to be seen in the title even under Cap 300. A man who buys land without knowing who is in occupation of it risks his title just as he does if he fails to inspect his land after he had acquired it.

See Mweu versus Kiu Ranching & Farming Co-operative Society Limited. [1985] KLR 430.

ON ISSUE 3.

Whether the National Land Commission had jurisdiction of its own motion to recall the certificate of lease already in possession of the Petitioners in respect of EMBU/MUNICIPALITY/375, purport to cancel or revoke the certificate and re allocate the same to the Child Welfare Society of Kenya.

- i) The National Land Commission is a creature of Article 67 of the Constitution and the National Land Commission Act. No. 5 of 2012. As such its jurisdiction is severely limited.
- ii) The powers of the National Land Commission are generally donated by Section 6 of the National Land Commission Act. We submit that those general powers do not allow the National Land Commission of its own volition to transgress on the powers and privileges of a registered proprietor donated by sections 24, 25, 26 and the protection provided to a proprietor under sections 79 and 80 of the Land Registration Act. No. 3 of 2012.

- iii) The National Land Commission therefore exceeded its powers when it issued the Kenya Gazette No. 6 of 22nd January 2016 and the Kenya Gazette Supplement No. 97 of 17th July 2017.
In as far as the two notices were meant to revoke title/grant held by Catholic Diocese of Embu and vest it on "Child Welfare Society of Kenya" they are null and void as *ultra vires*.
- iv) Above all the two gazette supplements did not specifically address the proprietor of the lease, in this case "DIOCESE OF EMBU TRUSTEES REGISTERED.
- v) We pray the Committee to order the lease and certificate of lease issued to the DIOCESE OF EMBU, TRUSTEES REGISTERED to remain undisturbed.

ON ISSUE 4.

Whether the Land Registrar Embu is in order to register another lease and issue a certificate of EMBU/MUNICIPALITY/375 while there is in place another registered lease and another issued certificate of lease.

- 1) In their bundle A the Child Welfare Society of Kenya has filed document ix, and x. These are 2 green cards.
The green card x has the following entries: -
 - a) The register was opened on 12.7.2012.
 - b) It is for EMBU/MUNICIPALITY/375 measuring 1.471 Ha.
 - c) Entry 1 on the proprietorship section shows on 12.7.2012 Diocese of Embu, Registered trustees became the proprietor.
 - d) Entry 2 shows a certificate of lease was issued on 13.7.2012.
 - e) The green card is crossed with an endorsement
"Certificate of lease cancelled as per Gazette notice AD 01 OX IX – 00097 6862 dated 7th July 2017.
- 2. Another green card was opened for the same parcel of land on 7.2.2019 with an entry 1 showing that the Child Welfare Society of Kenya Registered Trustees as proprietors.
 - a) A certificate of lease issued on the same day.
 - b) There are several anomalies.
- 3. i) The first anomaly is that the so-called letter of allotment cited by the respondents as document No. XII has no legible addressee. It appears to have a date of 28th June 1966.
- iii) The document has many conditions
 - The letter is subject to a lease to be made under the provisions of the Registered Land Act. 1963.
 - The rent of Kshs. 84. 00 had to be made within 14 days from the date of the letter otherwise the offer would lapse.

- The full name in "BLOCK LETTERS" should be supplied for the purposes of preparing the lease.

SUBMISSIONS

- i) The letter document XII was not issued to the Child Welfare Society of Kenya.
- ii) The respondents have not shown whether the conditions of that letter which is now 56 years old were complied with.
- iii) More importantly no evidence is laid before this Honourable Committee of any issuance of a lease document between the County Council of Embu and the Addressee of the letter document XII
- iv) The certificate of lease document (ii) is a forgery. It tells a lie about itself. The document violates the provisions of sections 30 and 31 of the Land Registration Act No. 1 of 2012. The violations are as follows: -
 - a) A certificate of lease must contain all the information contained in the lease document.
 - b) There was a lease already registered and a certificate of lease on 12.7.2012 when the Land Registrar registered another one on 7.2.2019; 7 years later.
 - c) In issuing the certificate of lease dated the 7.2.2019, the Land Registrar violated Section 31(2). He should have demanded the petitioner's lease and certificate of lease for cancellation before another could be issued.
 - d) The Land Registrar's powers to rectify the register, can only be exercised by him in strict compliance with section 79 of the Land Registration Act. He is not subordinate to the National Land Commission, but can follow guidelines provided by it. He is not directed on what to do with the advice when he gets it.
 - e) It has been submitted elsewhere that the notice by the National Land Commission on which the Registrar claims to have acted does not affect the registration of the Petitioners. It has also been demonstrated that it is ultra vires the powers of the National Land Commission.
 - f) Consequently, we now have a situation where one parcel of land EMBU/MUNICIPALITY/375 has two certificates of lease issued by the same office. We submit the situation is contrary to public policy and should be rectified. The only genuine lease certificate is the one issued to the Petitioners because it is backed by the issuance of a lease agreement.
 - g) The certificate of lease held by the respondents is not backed by a lease agreement. It is a fake. It should be cancelled.

ON ISSUE 5.

We submit in all the circumstances of this Petition that it is more equitable and for every one's good, for this Honourable Committee to prevail upon all the parties concerned to consider allocating an appropriate parcel of land to the Child Welfare Society of Kenya in any corner of the Embu County for the purpose of running their own Children's home.

IT is so submitted.

DATED at Embu this

11^K

day of

May

2022

Morris Njage & Company
Advocates for the Petitioners

Drawn by: -

M/S Morris Njage & Co.,
Advocate

Wairini Plaza
1st Floor, Room No.2
Kubu Kubu Road
P.O. Box 94-60100

EMBU.

Tel. 0722301862

Email: mgnjage@hotmail.com

To be served upon: -

Magee Wa Magee & Co.,
Advocates

P.O Box 1213
KERUGOYA