

KENYA / JUDGMENT

In re Estate of Eroni (Deceased) [2026] KEMC 266 (KLR)

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COURT

Magistrate's Court

BEFORE

AZ Ogange

CASE / FILE NUMBER

Succession Cause E004 of 2025

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In re Estate of Eroni (Deceased) (Succession Cause E004 of 2025) [2026] KEMC 266 (KLR) (8 July 2026) (Ruling) Neutral citation:

[2026] KEMC 266 (KLR) Republic of Kenya In the Malaba Law Courts Succession Cause E004 of 2025 AZ Ogange, RM July 8, 2026 IN THE MATTER OF THE ESTATE OF OKISAI ERONI (DECEASED) Between Emmanuel Baraza Papai (Son and Legal Representative of the Later Purchase Patrick Papai) 1st Applicant Chris Sakaya Otwani 2nd Applicant Michael Oliwa 3rd Applicant Martin Emuruon 4th Applicant and Fred Olele Alusio Oloo Petitioner

Ruling

(Application seeking revocation of grant of letter of administration intestate issued and confirmed on 12th November 2025 and declaration that the applicants are bonafide purchasers for value of ½ share of the suit property) 1.What is before me for determination is an application dated 18th December 2025 seeking the following orders: -a.Revocation/annulment of the grant of letter of administration intestate issued and confirmed on 12th November 2025 in Malaba SPM Succession Cause No. E004 of 2025, to the extent that it purports to include the whole of land parcel L.R No. South Teso/Apokor/613, whereas the deceased Okisai Eroni only owned ½ a share thereof.b.Rectification of the Certificate of grant to reflect that only ½ share of the said parcel of land belonged to the deceased Okisai Eroni, the other ½ share belonging to the late Festo Odepio.c.Declaration that the Applicants are bonafide purchasers for value of Festo Odepio's ½ share in the said parcel, entitled to protection under Section 93 of the Law of Succession Act.d.Spente.Costs of the Application 2.The application is supported by the affidavit of Emmanuel Baraza sworn on the 18th December 2025 wherein it is deponed that he is the son of the late Patrick Papai who had purchased a portion of land in L.R No. South Teso Apokor /613 from Festo Odepio which parcel was registered in the names of Okisai Eroni and Festo Odepio each holding ½ a share. That the applicant purchased portions of Festo Odepio's ½ share and have been in occupation thereof. That a Certificate of grant was issued by this court which grant was issued

material facts having been concealed and that unless the grant is revoked it will unjustly extinguish the applicants' proprietary rights as bona fide purchasers for value. That it is in the interest of justice that the application be allowed. 3.The application is opposed vide the Replying Affidavit of Fred Alele Oloo sworn on 24th March 2026 wherein it is deponed that he is the son to Okisai Eroni (deceased) and whose name is still registered as proprietor of ½ share of parcel number South Teso/Apokor/613. That sometime in the year 1970s, his father gifted him and his brother equal shares of land as he was still a minor. That at the time of demise of his father his brother Festo Odepio continued holding the land in trust as he was still a minor. That the said Festo Odepio and his son Boniface Okisai continued to dispose of their shares. That the parcel of land which the Applicants allege to have purchased does not form part of the estate of the deceased as he conducted succession only on ½ share of the parcel registered to Okisai Eroni. That the Applicant should approach the beneficiaries of the estate of Festo Odepio to claim their alleged rightful share as he did not participate in disposing the parcels. 4.This matter came up for directions on 25th March 2026 when parties agreed to canvass the application by way of written submissions. The matter was mentioned to confirm filing of submissions on 13th May 2026 and the matter was reserved for ruling. Both counsel have filed submissions which I have read and considered. 5.The Applicants seek revocation and rectification of the grant on the basis that they are bona fide purchasers for value of the late Festo Odepio's alleged half share in land parcel South Teso/Apokor/613 and invoke Section 93 of the Law of Succession Act. 6.I have carefully considered the application, the affidavits on record and the rival submissions. The Applicant's claim is predicated on an alleged purchase of an interest in the suit property. That alleged interest is however disputed by the Administrator who contends that the Applicants have no beneficial interest in the land subject of this succession cause and interest if any should be pursued from the beneficiaries of the estate of the late Festo Odepio who had disposed his share of land prior to his demise. 7.It is my considered view that the question as to whether the applicants lawfully purchased and acquired a proprietary interest in land parcel South Teso/Apokor/613 is a question of title and ownership. By virtue of Article 162(2)(b) of the Constitution and Section 13 of the Environment and Land Court Act disputes relating to title ownership and interest in land fall within the jurisdiction of the Environment and Land Court. A succession court is concerned with identifying the estate of the deceased, ascertaining the beneficiaries and distributing the estate, and is not the proper forum for determining contested questions of ownership or purchaser's interest in land. 8.Further Section 93 of the Law of Succession Act protects transfers made by a personal representative to a purchaser notwithstanding a subsequent revocation or variation of the grant. It does not confer jurisdiction upon the succession court to determine the disputed claims of ownership or validate alleged purchases where the very existence of the vendor's interest is contested. The applicants' reliance on that provision is therefore misplaced. 9.I am persuaded by the Respondent's submissions and until a determination on the alleged proprietary interest is established before a court clothed with the requisite jurisdiction, there exists no legal basis upon which this court can revoke or rectify the grant on account of alleged purchaser's interest. 10.Accordingly, it is the finding of the court that the application is devoid of merit and is dismissed with costs. RULING DATED, SIGNED AND DELIVERED IN OPEN COURT AT MALABA SENIOR PRINCIPAL MAGISTRATE'S COURT THIS 8TH

DAY OF JULY, 2026.A. Z. OGANGERESIDENT MAGISTRATE08.07.2026In the Presence ofMr.
Aburili for the Applicants andMs. Waswanni for the RespondentCourt Assistant: Paul Otieno

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Prepared on 24 October 2026 · Esheria