Defence Alleging a Parcel Numbering Error Unsuccessful Source Position

Educational sample 452 | Karatina

Educational reconstruction from a reported Kenyan decision. Newly drafted wording, not an original court filing or a matter handled by our team. Specimen identities are bracketed. Adapt to genuine facts, current law, jurisdiction and court directions before signing, swearing or filing.

Reconstructed formal document

REPUBLIC OF KENYA

IN THE MAGISTRATES COURT AT KARATINA

LAND CASE NO [reference]

[CLAIMANT] v [RESPONDENT]

STATEMENT OF DEFENCE

1. The Defendant admits construction of [structures] and that the dispute concerns adjoining parcels A and B, but denies knowingly entering land belonging to the Plaintiff. Each numbered allegation of the actual plaint is answered in [completed response schedule].

2. The Defendant position is that the original sale and occupation related to the roadside portion notwithstanding the number appearing on [document]. The alleged numbering error is [precise discrepancy], said to arise in [identified transaction]. The author and authentic records must be called or properly admitted.

3. The Defendant admits that the certified mutation and registry map relied on by the Plaintiff identify the roadside parcel as A. The Defendant must identify admissible evidence capable of contradicting those records; unsupported belief or a similar parcel area is insufficient.

4. The Defendant does not ask for ownership to be transferred by a defence alone. Any rectification, declaration or other affirmative order requires an appropriately pleaded counterclaim, proper parties, jurisdiction, fees and service. No counterclaim is supplied by this specimen.

5. The Defendant disputes the claimed damages to the extent [actual grounds], while disclosing [occupation period and demands]. Expenditure on construction does not by itself establish title or consent to occupy another registered plot.

6. The Defendant seeks dismissal only on grounds established by admissible evidence and the pleadings, with costs as the Court considers appropriate. If trespass is proved, the Defendant requests lawful and practicable compliance directions rather than an unpleaded award of the Plaintiff land.

DATED at [place] on [date]. Signed [party or advocate]. DRAWN AND FILED BY [name and address for service]. TO BE SERVED UPON [each affected person and address].

Use and evidence notes

Answer the actual numbered plaint with precise admissions, denials and material grounds. Check summons, appearance, the applicable response period, court directions and the required witness/document pack. A counterclaim or new affirmative relief requires its own proper pleading, fee and service. Do not treat a disputed factual allegation as a pure preliminary objection. The source appellate court rejected the numbering-error position and the unpleaded ownership result. This is a losing argument, not a recommended workaround.

Supporting material: [date]; [author or custodian]; [description]; [bundle page]; [authenticating witness]; [admission or permission]. Attach genuine records only. This public specimen contains no exhibits, signatures, personal identifiers or sworn declaration.

Source and procedural limits

A registered purchaser claimed the builder had occupied the wrong one of two adjoining subdivisions. Both measured about 0.10 hectares. Mutation and registry-map evidence placed the claimant plot beside the road. The Karatina land trial dismissed the claim and gave the builder ownership without a counterclaim. The Nyeri ELC heard the first appeal; virtual delivery from Mombasa did not change the court station.

The appeal succeeded. The Court allowed the trespass claim, awarded KES 300,000 general damages and trial and appeal costs, and rejected the unsupported exchange of parcel identities. The relief arose from this pleaded and proved dispute, not a universal award for encroachment.

Distinguish title number, physical plot and survey evidence. An unpleaded ownership claim cannot become a decree through submissions. The report has inconsistent dates for an earlier construction order; verify the certified file before building a chronology or enforcing relief.

[2025] KEELC 3810 (KLR) - 15 May 2025. Source decision: https://new.kenyalaw.org/akn/ke/judgment/keelc/2025/3810/eng@2025-05-15

Reproduced primary text checked: https://sheriahub.com/cases/ke/caselaw/maina-v-musyoki-2025-keelc-3810-klr

The original decision may identify participants. The specimen brackets identifying details. A source judgment does not prove this reconstruction was filed, an allegation succeeded, a later order remains unchanged or the same result will follow in another case.