Appeal Submissions on Wrong Plot Construction and Relief Within Pleadings

Educational sample 455 | Nyeri

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 ENVIRONMENT AND LAND COURT AT NYERI

ENVIRONMENT AND LAND APPEAL NO [reference]

[APPELLANT] v [RESPONDENT]

WRITTEN SUBMISSIONS

1. The issue is whether the trial decree can stand where it displaced the registered identity of the roadside plot and awarded unpleaded ownership to the builder. The certified plaint, defence and decree are at [record pages].

2. The conveyance, mutation and registry-map evidence must be read together. The Appellant relies on [admitted pages and testimony] identifying parcel A beside the road. Equal areas do not show that the parcel numbers were exchanged.

3. The Respondent numbering-error allegation required admissible proof of the actual mistake and proper rectification relief. Counsel assertion could not substitute for the missing transactional or survey foundation.

4. A defence seeking dismissal did not empower the trial court to grant ownership without a counterclaim. The Appellant was entitled to know and answer the affirmative case before losing registered land.

5. The pleaded trespass remedies must each be supported by the trial evidence. General damages are discretionary and assessed for the particular interference; the source award is illustrative and is not an automatic tariff.

6. The Appellant requests reversal of the impugned decree and the appropriate pleaded injunction, removal, possession and assessed damages, with costs. Any implementation must follow the certified decree and current court directions, not unilateral demolition.

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

Identify pleaded issues, admitted evidence and genuine record pages. Follow directions on length, authorities, filing and service. Submissions do not introduce exhibits or cure missing substantive prayers. Distinguish what a party sought from what the Court ordered, and an unsuccessful historical position from the actual holding.

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.