

Overview of Archer & Another v Archer & 2 Others ([2023] KECA 298)

- * **Court:** Court of Appeal of Kenya at Mombasa (Justices S.G. Kairu, P. Nyamweya, and J.W. Lessit, JJA)
- * **Appellants:** James Archer and Joanna Trent
- * **Respondents:** Inger Christine Archer, Annalise Archer Clark, and Hellen Kay Hartley
- * **Original Suit:** Environment and Land Court (ELC) Suit No. 345 of 2017 at Mombasa (Yano, J.)
- * **Outcome:** The appeal was allowed, the trial court's judgment was set aside, and beneficial interests were declared based on a constructive trust.

Core Legal Issues & Factual Background

- 1. The Family Agreement:** The dispute centered around a family arrangement dating back to 1967 regarding family-held properties in Kwale and Diani Beach (specifically Blocks 806–808, later subdivided into Blocks 1745–1752).
- 2. Constructive Trust:** The Appellants argued that they held equitable and beneficial interests in the suit properties, arising from a constructive trust and family agreements, rather than just strict legal documentation.
- 3. Trial Court Decision:** In November 2019, the ELC (Yano, J.) dismissed the Plaintiffs' suit with costs, holding that a constructive trust had not been proven on a balance of probabilities, and concluding that funds used to purchase properties were personal loans rather than shared family trust contributions.

Appellate Court Findings and Holdings

- * **Reversal of Trial Decision:** The Court of Appeal overturned Justice Yano's ruling, determining that the trial court erred in failing to recognize the constructive trust obligations existing among the family members.

*** Allocation of Beneficial Interests:** The Court of Appeal declared the beneficial interest shares as follows:

- Respondents (joint share): 25%
- 1st Appellant (James Archer): 25%
- 2nd Appellant (Joanna Trent): 25%
- Robert D. Archer: 25%

*** Orders & Remittal:**

- The matter was remitted back to the Environment and Land Court (ELC) specifically to conduct an accounting of property sales and determine the exact quantum/values.
- Costs of the appeal were awarded to the Appellants.