

Annie Mazinga vs John Mazinga and others

Summary

Court:	High Court of Malawi
Registry:	Civil Division
Bench:	Honourable Justice Allan Hans Muhome
Cause Number:	Land Cause Number 93 of 2023
Date of Judgment:	April 03, 2025
Bar:	Mr Asma Kapoto and Mr Abdullrahman Bengo, Counsel for the Claimant Mr Prisca Masumba, Counsel for the Defendant

The Claimant sought a declaration in the High Court, Principal Registry, that she was the rightful owner of a piece of land in Samuti Village, Traditional Authority Boid, Thyolo District, and that the Defendants were not entitled to inherit it. The Defendants denied the claim and counterclaimed for ownership of the same land.

The background of the dispute originates around 1964, when the disputed land was gifted by the first President of Malawi, Dr Kamuzu Banda, to the Claimant's parents. The Claimant's father later remarried and moved away from the land, leaving the Claimant to use it continuously. Upon his retirement, the father

returned and was permitted to stay on the land with his children from the second marriage, who are the Defendants in this action. After the father's death intestate—an alleged will presented by the Defendants having been found invalid for lack of proper witnessing—a dispute over ownership arose between the Claimant and the Defendants. The matter had previously been determined in the Claimant's favour by both the Traditional Authority and the District Commissioner. The principal legal question before the Court was to determine the rightful ownership of the land based on its acquisition and the applicable customary law.

The Court found that the Claimant had proved her case on the balance of probabilities. It was established that the land was gifted to her parents and, under the prevailing matrilineal customary law of the area, the property belonged to the Claimant's mother. The Court reasoned that the Claimant, as the daughter, duly inherited the land from her mother. The Defendants, being children of the second wife, could not lay a valid claim to the land. The Court therefore granted the declaration that the Claimant was the rightful owner of the land. The claim for damages was dismissed as not having been sufficiently proven, and the Court ordered that each party bear its own costs.