



Njuguna (Sued as the administrator of the Estate of Francis Njuguna) & another v Moly Credit Limited & another (Environment and Land Appeal E119 of 2022) [2023] KEELC 17962 (KLR) (12 April 2023) (Ruling)

Neutral citation: [2023] KEELC 17962 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT THIKA
ENVIRONMENT AND LAND APPEAL E119 OF 2022**

**BM EBOSO, J
APRIL 12, 2023**

BETWEEN

CHARLES NJUGUNA (SUED AS THE ADMINISTRATOR OF THE ESTATE OF FRANCIS NJUGUNA) 1ST APPELLANT

ANTONY ANDREW NJUGUNA (SUED AS THE ADMINISTRATOR OF THE ESTATE OF FRANCIS NJUGUNA) 2ND APPELLANT

AND

MOLYN CREDIT LIMITED 1ST RESPONDENT

JAMES NJOROGE KAMAU (SUING THROUGH HIS DONEE LOUIZA EUNICE NJOKI) 2ND RESPONDENT

RULING

RULING [EX-TEMPORE]

1. Under Order 42 rule 1 of the [Civil Procedure Rules](#) an appeal to this court is lodged in the form of a memorandum of appeal signed in the same manner as a pleading. Under section 79G of the [Civil Procedure Act](#), A party seeking to appeal to this court is required to lodge the appeal within 30 days from the date of the impugned decision. The [Environment and Land Court Act](#) provides for a similar limitation period of 30 days.
2. It is clear from the memorandum of appeal dated 20/12/2022 that the impugned ruling was rendered on 8/6/2022. The memorandum of appeal was presented to this court on 20/12/2022 and an official receipt was issued to the appellant on 21/12/2022. Lodging of the Appeal was done more than six months after the impugned ruling had been rendered.



3. It is therefore clear from the record and from the submissions by counsel for the appellants that there is no competent appeal before this court. Put differently, this appeal is fatally incompetent. The result is that the appeal stands to be struck out on the ground that it was filed outside the limitation period of 30 days. Counsel has orally urge the court to exercise discretion and enlarge time. An application of that nature ought to be formal so that it is served on the respondents and the respondents are afforded the opportunity to respond to the application.
3. In the end, without prior order enlarging the time for lodging an appeal against the impugned decision, this court has no jurisdiction to entertain this appeal beyond this point [see *Owners of Motor Vessel "Lillian S" v Caltex (K) Limited*].
4. Consequently, this appeal is struck out on the ground that it was lodged outside the limitation period of 30 days. The appellants shall bear costs of the Appeal.

B M EBOSO

JUDGE

12/4/2023

In the Presence of: -

Mr Githii for the Appellant

Ms Nduta and Mr Akech for the Respondents

Court Assistant: Hinga

