



**REPUBLIC OF KENYA**  
**IN THE HIGH COURT OF KENYA**

**AT EMBU**

**Civil Appeal 23 of 2003**

**OBADIAH NDWIGA JASON MUCHIRI.....APPELLANT**

**VERSUS**

**NDWIGA MURANGIRI MURUAMBUSI.....RESPONDENT**

**JUDGMENT**

This is an appeal against the ruling of Trial Magistrate made on 7/6/2002. The application was to set aside Judgment made in favour of plaintiff against the Appellant. The ruling was dismissed on the ground that the hearing was not ex parte as the Defendant was present in court at the material time and that the court had given last adjournment on 16/8/2001 and the hearing date 6/9/2001 was taken by consent. The court also noted that there had been several adjournments and considerable delays in the case and in his view he correctly remarked that litigation must be brought to an end.

I have perused the Judgment and found that the Respondent's claim was regarding a sale of land which was under Land Control Act. The transaction was nullified under the Act. The Judgment was correct. I find the Trial Magistrate acted on correct principles of law. I therefore find the appeal with no merit and the same is dismissed.

Costs to the Respondent.

Dated this 16<sup>th</sup> January, 2008.

**J. N. KHAMINWA**

**JUDGE**