



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

**AT NAIROBI**

**Civil Case 1644 Of 2001**

**WILLIAM M. KHAMASI.....1<sup>ST</sup> PLAINTIFF**

**LEONIDA J. KHAMAAL.....2<sup>ND</sup> PLAINTIFF**

**VERSUS**

**HOUSING FINANCE COMPANY OF KENYA LTD.....DEFENDANT**

**RULING**

The applicant filed this suit seeking orders of injunction to restrain the respondent from advertising, selling, alienating or transferring the suit property known as LR NO. NNAIROBI/BLOCK 82/767 which they had offered as security for a loan of Shs.330,006/=. The suit was dismissed with costs by Lenaola on 24<sup>th</sup> February 2004.

The judge found as a fact that the applicant had settled the balance of the last instalment of Shs.165,610/= by cheque which was dishonoured and for a period of over 6 years up to 2001 no money was paid. By 24<sup>th</sup> February 2006 the interest had accumulated and reached Shs.3,023,278/=. This application is for an injunction pending intended appeal whose main ground is that the interest charged was unlawful.

The application is challenged on the ground that the intended appeal has no chances of success. Further it is submitted that this application is made over 2 years since the judgment was delivered and that though the applicants conceded that they have not made any payments since 2001, no efforts have been made to make any payment even after the judgment. The time within which to file appeal having lapsed and there being no leave granted to appeal out of time the intended appeal is an exercise in futility. Bringing this application over two years after the judgment was delivered is a clear indication that the applicants did not take this matter seriously.

The application is dismissed with costs.

Dated and delivered at Nairobi this 16<sup>th</sup> day of February 2006.

J.L.A. OSIEMO

**JUDGE**