

**REPUBLIC OF KENYA
IN THE HIGH COURT OF KENYA
AT NAIROBI (MILIMANI COMMERCIAL COURTS)**

Civil Case 888 of 2001

BEAT KOCH.....PLAINTIFF

VERSUS

MUKAWA HOTELS HOLDINGS LIMITED.....DEFENDANT

R U L I N G

Under section 99 of the Civil Procedure Act, Cap. 21, clerical or arithmetical mistakes in judgments, decrees or orders, or errors arising therein from any accidental slip or omission, may at any time be corrected by the court either of its own motion or on the application of any of the parties. The Plaintiff herein has applied for an order to correct an error on the face of the judgment delivered by Ibrahim, J. on 2nd March, 2004, but dated the 3rd of March, 2004. The error is stated to be that whereas the judgment was delivered on 2nd March, 2004 it was dated the 3rd of March, 2004. The court record shows that the judgment was indeed delivered on 2nd March, 2004. Under Order 20, rule 3 (1) of the Civil Procedure Rules, a judgment pronounced by the judge who wrote it shall be dated and signed by him in open court at the time of pronouncing it. The judgment in question was written and pronounced by Ibrahim, J. Under subrule (3) of the same rule, a judgment once signed shall not afterwards be altered or added to save as provided by section 99 aforesaid of Cap. 21 or on review.

The Defendant, though served with this application, did not file any papers in response thereto; nor did it appear at the hearing of the application.

Upon my own examination of the judgment and the record of the court I find that there is an error arising therein from an accidental slip or omission, that error being that whereas Ibrahim, J. wrote the judgment, and pronounced it on the 2nd of March, 2004, he dated it the 3rd of March, 2004. I can therefore amend the judgment to correct that error. I shall do so by substituting the 2nd of March, 2004 in place of 3rd of March, 2004 as the date of the judgment. The application by notice of motion dated 10th November, 2005 is therefore allowed upon the above terms with no order as to costs. Order accordingly.

DATED AND SIGNED AT NAIROBI THIS 9TH DAY OF MAY, 2006.

H.P.G. WAWERU

JUDGE

DELIVERED THIS 12TH DAY OF MAY, 2006.