

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT NAIROBI

CIVIL CASE NO. 1549 OF 1989

**MWANGI S/O KIRUNGU.....PLAINTIFF
VERSUS**

SOLOMON NJUGUNA T. MBUTHIA.....1ST DEFENDANT

CONSOLATA WANJIKU SOLOMON.....2ND DEFENDANT

R U L I N G

1. I shall allow the Preliminary Objection by Mr. Wanjie for the Plaintiff/Respondent for this reason: -
Section 4(4) of the Limitation of Actions Act, Cap. 22 provides in part as follows: -

“An action may not be brought upon a judgment after the end of twelve years from the date on which the judgment was delivered”

2. The record in this matter indicates that judgment was passed by Akiwumi, J. (as he then was) on 7th June 1989. Mr. Nabutete may well have sound arguments regarding the judgment but the fact is that it is properly on record and twelve (12) years lapsed on 7th June 2002. No action however sound can be brought after that period.

3. Having ruled on that issue there is no necessity to go to the second limb of his objection, as there is no action before the court.

4. Accordingly, the Application dated 10th February 2003 is hereby struck out with costs.
Orders accordingly.

Dated and delivered at Nairobi this 17th day of February 2004.

I. LENAOLA

Ag. JUDGE

17.2.2004

Before Lenaola Ag. J.

Amos CC

Ruling read in the presence of

Mr. Nabutete for the Defendant

No appearance for the Plaintiff

I. LENAOLA

Ag. JUDGE