

REPUBLIC OF KENYA

THE HIGH COURT OF KENYA AT KISII

CRIMINAL APPEAL NO.213 OF 2003

(From original conviction and sentence of the SRM's court at Kilgoris in criminal case No.69 of 2003.)

**PHILIP KIPKOECH KIRUI APPELLANT
VERSUS REPUBLIC RESPONDENT
JUDGMENT:**

When the appellant was confronted as to how he came into possession of the stolen cattle he readily said that he had bought them from a man who was charged as 1st accused. It was not proved that the appellant knew or had reason to know that the 1st accused had stolen the said animals at the time the cattle were sold to him. That was a vital aspect to the offence of handling stolen property. It means that that vital aspect of the offence was not proved against the appellant and conviction was faulty. So I allow the appeal. I quash conviction and set aside the sentence. The appellant shall be set at liberty forthwith unless otherwise held on another warrant.

Dated and delivered on the 13/8/2003.

**I.C.C. WAMBILYANGAH
JUDGE**