



REPUBLIC OF KENYA



Benson v Consolidated Bank (K) Limited & 2 others (Environment & Land Case 2B of 2020) [2021] KEELC 4780 (KLR) (3 February 2021) (Judgment)

Julia Karwirwa Benson v Consolidated Bank (K) Ltd & 2 others [2021] eKLR

Neutral citation: [2021] KEELC 4780 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT MERU
ENVIRONMENT & LAND CASE 2B OF 2020
LN MBUGUA, J
FEBRUARY 3, 2021**

BETWEEN

JULIA KARWIRWA BENSON APPLICANT

AND

CONSOLIDATED BANK (K) LIMITED 1ST RESPONDENT

SAMWEL MWENDA MBOGORI 2ND RESPONDENT

MUGA AUCTIONEERS & GENERAL MERCHANTS 3RD RESPONDENT

JUDGMENT

1. Vide an application dated 12.2.2020, the applicant filed this suit seeking extension of time to file an appeal against the ruling of Hon. S. Abuya C.M delivered on 18.12.2019 in Meru CM ELC No. 71 of 2018. He contends that he was only late with one day hence the delay is not inordinate, that he was only supplied with a copy of the ruling on 7.2.2020 and that the delay is excusable and not intentional.
2. On 3.11.2020, the counsel for the respondent addressed the court as follows:

“I can assure you that the replying affidavit will be filed today and we can file submissions”.
3. The court granted the respondents their wish and ordered them to file their response by close of business on 3.11.2020. The said order was not complied with, nor was a request made to extend time to file the replying affidavit. In the circumstances, the replying affidavit filed after 3.11.2020 is hereby disregarded. The application is hence unopposed.
4. I find that the applicant has laid a basis for the issuance of the orders sought in the application, See- Fahim Yasin Twaha vs Timamy Issa Abdalla & 2 others (2015) eKLR. All in all, I find that the application dated 12.2.2020 is merited and I allow the same in the following terms;



- (1) The applicant is hereby granted leave to file and serve the memorandum of appeal within 14 days from the date of delivery of this judgment failure to which the orders granted herein shall lapse.
- (2) Each party to bear their own costs of this suit.

DATED, SIGNED AND DELIVERED AT MERU THIS 3RD DAY OF FEBRUARY, 2021

HON. LUCY. N. MBUGUA

ELC JUDGE

Order

The date of delivery of this Judgment was given to the advocates for the parties through a virtual session via Microsoft teams on 18.11.2020. In light of the declaration of measures restricting court operations due to the COVID-19 pandemic and following the practice directions issued by his Lordship, the Chief Justice dated 17th March, 2020 and published in the Kenya Gazette of 17th April 2020 as Gazette Notice no.3137, this Judgment has been delivered to the parties by electronic mail. They are deemed to have waived compliance with order 21 rule 1 of the Civil Procedure Rules which requires that all judgments and rulings be pronounced in open court.

