

REPUBLIC OF KENYA

M. S. Chwala v Joe Mc'mullen

High Court of Kenya at Nairobi **July 3, 2000**

Milimani Commercial Courts

T Mbaluto, Judge

Civil Case No. 36 Of 2000

July 3, 2000 T Mbaluto, Judge delivered the following judgment.

July 3, 2000 T Mbaluto, Judge delivered the following judgment. On January 14, 2000, the plaintiff filed this suit against one Joe Mc'Mullen seeking to recover the sum of Kshs 225,000 which sum the said Mc'Mullen had undertaken to pay to the plaintiff in the course of a transaction involving land. After the suit had been filed, the parties entered into a consent order whereby the sum of Kshs 225,000 due to the plaintiff from the defendant was to be paid from the proceeds of a sale transaction involving land parcel known as L R 330/928. Under the consent order, the issue of costs was to be either agreed or decided by this court.

By virtue of section 27 of the Civil Procedure Act, the costs of any action shall follow the event. As the said sum of money was not paid until after the suit had been filed, I consider the plaintiff to have been the successful party. Accordingly, in exercise of the powers conferred by that section, the costs of the suit shall be borne by the defendant.