

REPUBLIC OF KENYA

IN THE HIGH COURT OF KENYA AT KAKAMEGA

CIVIL APPEAL NO. 42 Of 2019

(Being an appeal from the original judgement and decree of Hon. MI Shimenga, Senior Resident Magistrate, of 4th April 2019 in Butere PMCCC No. 52 of 2018)

SYLANUS MANUEL WALUTSACHI.....APPELLANT

VERSUS

ST. MARY'S HOSPITAL MUMIAS.....RESPONDENT

JUDGMENT

I have read through the record of the trial court. It is about disappearance of a patient after discharge from hospital. It would appear that she went to live elsewhere with another man. The respondent cannot be responsible for that. The said patient was an adult woman of sound mind. It was within her rights and discretion to determine where she went after discharge. It was not established that there was a contract between the parties that the patient had to be handed over only to the appellant upon discharge, and even if that were the case, such contract would be unconscionable, for an adult human being is not a chattel. I do not find any merit in the appeal, and I do hereby dismiss the same, with costs.

DELIVERED, DATED AND SIGNED IN OPEN COURT AT KAKAMEGA THIS 8TH DAY OF MAY, 2020

W. MUSYOKA

JUDGE