



Longolereng & another v Limangura & 2 others (Environment and Land Appeal E015 of 2024) [2025] KEELC 67 (KLR) (22 January 2025) (Ruling)

Neutral citation: [2025] KEELC 67 (KLR)

**REPUBLIC OF KENYA
IN THE ENVIRONMENT AND LAND COURT AT KITALE
ENVIRONMENT AND LAND APPEAL E015 OF 2024**

**CK NZILI, J
JANUARY 22, 2025**

BETWEEN

CHEPOTIS KAYA LONGOLERENG 1ST APPELLANT

MOSES KEYA LORENGA 2ND APPELLANT

AND

JOYLINE CHEPTOO LIMANGURA 1ST RESPONDENT

MUSA PROTUS LIMAPUS 2ND RESPONDENT

DANIEL KATOLIKI RIPONYANG 3RD RESPONDENT

RULING

1. When the hearing of the appeal came up on 16/12/2024, learned counsel for the appellant orally sought leave and adjourned the appeal to file a certified copy of a Decree in terms of Order 42 Rule 2 C.P.R. since the one appearing on page 273 of the record of appeal is not certified. She apparently sought leave to file supplementary submissions. In response, Mr. Kiarie learned counsel for the respondents opposed the same, since the issue had been raised in his written submissions dated 13/12/2024; otherwise, a formal application should be made for a supplementary record of appeal to be filed.
2. Miss Mwemeke, for the appellants, urged the court to find and hold that Order 42 Rule 2 C.P.R. allows the court to grant a party leave to file a certified copy in the interest of justice. The court adjourned the appeal until the ruling is made on this issue.
3. In Philip Chemwolo & Another -vs- Augustine Kubende [1986] eKLR, the court observed that blunders will continue to be made from time to time and that it does not follow that because a mistake is made, a party should suffer the penalty of not having his case heard on merit.



4. Order 42 Rule (2) C.P.R. provides that where a certified copy of the decree or order appealed against is not filed with the memorandum of appeal; the appellant shall file such certified copy as soon as possible and in any event within such time as the court may order. Order 42 Rule 12 C.P.R. provides the documents that must be included in the record of appeal. Among them is the decree or order appealed against.
5. The omission of a decree or order in a record of appeal has been litigated severally. In *Ngala Nyoka -vs- Kitheka Mutisya Ngala* [2017] eKLR, the court took the view that the prejudice to be occasioned to the opposite party on the omission is a key consideration and that Order 42 C.P.R. has to be interpreted in light of Article 159 of the [Constitution](#), Sections 1A and B of the C.P.C., on the need for substantive justice.
6. Applying the forgoing case law, I think the appellants have, though belatedly, taken advantage of the window under Order 42 C.P.R. and sought leave to file a supplementary record of appeal to introduce a certified copy of the decree. I find there will be no prejudice to the respondents, which cannot be remedied by way of costs.
7. The appellants are directed to file and serve a supplementary record of appeal within 7 days to include the certified decree. Costs of Kshs.10,000/= to the respondents in any event. There will be no leave to file supplementary written submissions.
8. Orders accordingly.

RULING DATED, SIGNED, AND DELIVERED AT KITALE THIS 22ND DAY OF JANUARY 2025.

HON. C.K. NZILI

JUDGE, ELC KITALE.

