

REPUBLIC OF KENYA

IN THE COURT OF APPEAL OF KENYA AT KISUMU

CIVIL MISCELLANEOUS APPLICATION 295 OF 1997

HEZEKIEL PAUL OSEWE.....APPLICANT

AND

JOYCE MATETE.....RESPONDENT

(Application for extension of time to lodge an serve Notice of Appeal out of time and as a poor person in an intended Ruling of the High Court of Kenya at Kisii (Mr. Mbaluto, J) dated 13th February, 1995 in

H.C.C.C. NO. 252 OF 1993)

R U L I N G

This is a land matter. The judgment the applicant wishes to appeal against was delivered way back in 1995 some four years ago. The judgment was on the 13th February, 1995 and the applicant filed his notice of appeal on the 15th February, 1995. That was within time. Both the applicant and the respondent are unrepresented and it is clear both of them are, naturally, not clear on the proceedings of the court. The applicant sought the advice of the Chief Justice in May, 1997.

The advice was given within the same month and thereafter he filed the present application. Though the delay is inordinate, taking into account all the surrounding circumstances of the case, I think I should give to the applicant a last chance. I allow this application and make the following orders:-

- 1.The application must lodge a fresh notice of appeal within seven days from the date hereof.
- 2.The applicant shall lodge his record of appeal within fourteen days from the date of lodging the notice of appeal.
- 3.The costs of this application shall be in the intended appeal. Those shall be my orders.

Dated and delivered at Kisumu this 16th day of March, 1999.

R. S. C. OMOLO

JUDGE OF APPEAL

I certify that this a true copy of the original.

DEPUTY REGISTRAR