

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
CORAM: TUNOI, J.A. (IN CHAMBERS)
CIVIL APPLICATION NO. NAI. 123 OF 1999

BETWEEN

KARIUKI AND GATHECHA RESOURCES LTD. APPLICANT

AND

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|------------------------------------------------------------------------------------|----------------------------|
| 1. LUCKY SUMMER ESTATE LIMITED
(ALSO KNOWN AS LUCKY SUMMER ESTATE CO. LTD) | 1 ST RESPONDENT |
| 2. GITATHURO KARIOBANGI COMPANY LIMITED
(ALIAS GITATHURO COMPANY LIMITED) | 2 ND |
| RESPONDENT | |
| 3. HURUMA KUGA NA GWIKA
(ALIAS HURUMA KUGA NA GWIKA COMPANY LIMITED) | 3 RD |
| RESPONDENT | |
| 4. NGUNYUMU HOUSING COMPANY LIMITED
(ALIAS NGUNYUMU COMPANY LIMITED) | 4 TH RESPONDENT |

(Application to serve notice of appeal out of time from the four rulings and orders of the High Court of Kenya (E. O'Kubasu, J.) dated 8th November, 1995, 8th or 10th May, 1995, 7th March, 1996 and 26th July, 1996

in

H.C.C.C. 2587 OF 1994)

RULING

This application is plainly without merit. There has been an inordinate delay in filing the notices of appeal. The delay has not been explained to my satisfaction. The applicant knew way back in 1996 that its advocate was lax and indolent and would not act. Yet it did not take any action. In such circumstances I will not exercise my discretion in its favour.

I would think that this application is belated and an afterthought. It is in public interest that litigation does come to an end. The application before me seeks to prolong it without any justification.

Moreover, the application is defective and the intended appeal a non-starter in view of the fact that no leave to appeal was either sought or granted. I refuse the application. I dismiss it with costs.

Made at Nairobi this 8th day of July, 1999.

P. K. TUNOI

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JUDGE OF APPEAL

Order:Leave to file a reference from this ruling granted.

P. K. TUNOI

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JUDGE OF APPEAL

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I certify that this is a true copy of the original.

DEPUTY REGISTRAR