

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: OMOLO, TUNOI & OWUOR, J.J.A.)
CIVIL APPEAL NO. 228 OF 1999
BETWEEN

JACARANDA HOTEL LIMITED APPELLANT
AND
WILDLIFE LODGES LIMITED RESPONDENT

**(Appeal from the Ruling and Decree of the High Court of Kenya at Nairobi (Oguk, J.) dated 28th
October, 1999 in**

H.C.C.C. NO. 839 OF 1999)

ORDER OF THE COURT

The counsel for the appellant in C.A. NO. 228/99 has brought to our attention the fact that the Notice of Appeal is wrongly dated. He admits that, it being a primary document, it is not capable of being amended; and, consequently it being invalid, the appeal is incompetent. We agree. The appeal therefore is fatally defective and is ordered struck out. We make no order as to costs.

It follows therefore that the order for consolidation made earlier on cannot stand and is vacated. C.A. No. 242/99 shall be heard separately.

Made at Nairobi this 1st day of December, 1999.

R. S. C. OMOLO

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JUDGE OF APPEAL

P. K. TUNOI

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JUDGE OF APPEAL

E. OWUOR

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JUDGE OF APPEAL