

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: GICHERU, KWACH & TUNOI, JJ.A.)
CIVIL APPLICATION NO. NAI. 260 OF 1999

BETWEEN

JOEL MUTHUI KYAMBU APPLICANT
AND
UNITED FINANCE LIMITED RESPONDENT

(Application for striking out of the Notice of Appeal in an
intended appeal from a judgment of the High Court of
Kenya at Nairobi (Pall, J.) dated 8th September, 1991

in

H.C.C.C. NO. 3782 OF 1991)

RULING OF THE COURT

By this application brought under rule 80 of the Rules of this Court, the applicant who is acting in person urges that the Notice of Appeal lodged in this court on 9th October, 1998, be struck out on the ground that the respondent has not filed the appeal within the time prescribed by the Rules. Also, the applicant prays that the orders for stay pending appeal granted by the superior court on 20th November, 1998 be set aside.

Mr. Gaturu, counsel for the respondent, has by a comprehensive replying affidavit, shown detailed steps he has undertaken so far which have culminated in his lodging the appeal which has been registered as C.A. No. 252 of 1999. We are satisfied that the respondent has fully complied with the rules relating to filing an appeal. It is manifestly clear that the superior court delayed in supplying the necessary papers for the lodging of the appeal. The Certificate of delay dated 11th November, 1999, fully explains the position.

We are satisfied that the respondent has not been guilty of laches and has all the way acted diligently in seeing that the appeal was lodged within the parameters of the rules.

This application fails and is accordingly dismissed with costs. However, we are not without sympathy for the applicant whose attempts to seek justice dates back to 1991. We shall order that the appeal C.A. 252 of 1999 be heard on a priority basis.

Delivered at Nairobi this 7th day of December, 1999.

J. E. GICHERU

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JUDGE OF APPEAL

R. O. KWACH

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JUDGE OF APPEAL

P. K. TUNOI

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JUDGE OF APPEAL

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

DEPUTY REGISTRAR