

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT KISUMU

(CORAM: CHESONI, C.J. GICHERU & OMOLO, J.J.A.)

CIVIL APPEAL NO.52 OF 1996

BETWEEN

1. AUGUSTINE ODUODO AMANGA

2. KAROLUS OGENDO NYAKWA

(Suing as the Administrator of the Estate of CHARLES GOGO AWITI

and KARILUS KAIKO OKIDI).....APPELLANTS

AND

PETER OKOLA OCHIENG'.....RESPONDENT

**(Appeal from the Judgment of the High Court of Kenya at Kisumu (Justice Wambilyangah) dated
30th July, 1996 in**

H.C.C.C. NO.138 OF 1995)

RULING OF THE COURT

This judgment appealed from was delivered on 30th July, 1996. Certified copies of the proceedings and judgment were paid for and collected on 17th October, 1996, but the record of appeal was not filed till 20th December, 1996. This was out of time. The application to strike out the appeal was filed on 24th March, 1998 but the appellant say that they were served on 25th March, 1998. We therefore order that the appeal be struck out but decline to award the applicant costs of the application.

Dated and delivered at Kisumu this 25th day of March, 1998.

Z.R. CHESONI

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JUDGE OF APPEAL

J.E. GICHERU

.....

JUDGE OF APPEAL

R.S.C. OMOLO

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JUDGE OF APPEAL