



**REPUBLIC OF KENYA**  
**IN THE COURT OF APPEAL AT NAIROBI**  
**civ app 249 of 97**

**ZEBRON NGUKU MOTE.....APPELLANT**

**V**

**EPHANTUS MOTE WAKARIA.....RESPONDENT**

**JUDGMENT OF THE COURT**

This is a second appeal and concerns land. A portion of the suit land was being cultivated by the appellant, who is the son of the respondent. The respondent not being happy with the presence of the appellant on land told him to leave, or to put it in another manner, withdraw his licence to occupy that portion of the suit land which the appellant was occupying and belongs to the respondent. It is registered in his name. The learned judge in the superior court cannot be faulted for saying that the respondent could do what he liked with his own land.

There is no merit in the appellant's claim when he says that he has acquired overriding interests under section 30 of the Registered Land Act, cap. 300 Laws of Kenya. No

overriding interests arise when a father allows a son to occupy a portion of the land belonging to the father. This appeal is dismissed with costs.

**Dated and delivered at Nairobi this 25th day of May,**

**1998. R.S.C. OMOLO .....**

**JUDGE OF APPEAL**

**A. B. SHAH .....**

**JUDGE OF APPEAL**

**S.E.O. BOSIRE .....**

**JUDGE OF APPEAL**

**DEPUTY REGISTRAR**