

REPUBLIC OF KENYA
IN THE COURT OF APPEAL
AT KISUMU
CORAM: OMOLO J.A (IN CHAMBERS)
CIVIL APPLICATION NO. NAI 260 OF 1998
BETWEEN

BATA SHOE COMPANY LIMITED.....1ST APPLICANT
ALOICE OJUKE.....2ND APPLICANT
AND
LINCOLIN ONCHOKA NYABUTO.....RESPONDENT

**(In the matter of an application for extension of time
to lodge and serve both notice and record of
appeal and also an order of stay of execution of
the decree of the High Court of Kenya at Kisii
(Mr. Justice Mbaluto) dated 4th October, 1995,
in
H.C.C.C. NO. 599 OF 1994)**

RULING

The applicant's previous appeal was struck out as being incompetent on the 18th June, 1998. The present motion for the extension of time to lodge a notice of appeal and the record of appeal out of time was lodged on the 10th July, 1998. That was a reasonable time. Though counsel for the applicant is absent for unexplained reason, Mr. Kirenga for the respondent does not oppose the motion. Accordingly I grant leave to the applicant on the following terms: 1.The notice of appeal must be filed and served within seven days of the date hereof.

2.The record of appeal itself must be filed within twenty one (21) days of the date hereof.

3.The applicant shall pay to the respondent the costs of this application in any event.

Dated and delivered at Kisumu this 25th day of November, 1998 at 9.20 a.m.

R. S. C. OMOLO

JUDGE OF APPEAL

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

DEPUTY REGISTRAR.