



**REPUBLIC OF KENYA
IN THE COURT OF APPEAL OF KENYA
AT NAKURU**

Civil Appeal 168 of 1995

**NYAGA MUVENA P/A NYAGA MUVENA & COMPANY ADVOCATES
.....APPELLANT**

AND

KAMETU KILONZIRESPONDENT

**(Appeal from a ruling of the High Court of Kenya at Machakos (Mr. Justice J.
L.A. Osiero) dated the 21st day of July, 1995**

IN

H.C.C.C. NO. 469 OF 1994

JUDGMENT OF THE COURT

This appeal has no merit and must be dismissed. There is irrefutable documentary evidence that the appellant received money from the respondent for which he issued receipts. He did not receive the money as the respondent's advocate. He was supposed to pass it on to the party for whom he was acting (his client) to whom the respondent was indebted. The allegations of forgery and fraud now being raised by the appellant are baseless as there is no evidence that the respondent would have been involved in these.

Although the appellant clearly had no defence to the respondent's claim, it was still incumbent upon the learned judge to give reasons for his decision. We do not think that in the particular circumstances of this case that failure has resulted in any prejudice to the appellant. Behaviour such as this by a practising advocate does not enhance the dignity of the profession and must be deplored. The appeal is dismissed with costs to the respondent.

Dated and delivered at Nairobi this 18th day of March, 1997.

R. O. KWACH

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JUDGE OF APPEAL

R. S. C. OMOLO

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JUDGE OF APPEAL

S. E. O. BOSIRE

.....

AG. JUDGE OF APPEAL

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

DEPUTY REGISTRAR