

REPUBLIC OF KENYA

IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: SHAH, J.A. (IN CHAMBERS))
(CIVIL APPLICATION NO. NAI. 196 OF 1996)

BETWEEN

RAJDIP HOUSING DEVELOPMENT LIMITEDAPPLICANT
AND
JOHN WACIRA WAMBUGURESPONDENT

(An application for leave to file a Notice of Appeal and an
Appeal out of time in an intended appeal
from a Decree of the High Court of Kenya at Nairobi (Justice
Akiwumi) dated 14th August, 1992
in
H.C.C.C. NO. 3211 OF 1991)

RULING

Mr. Machira for the respondent is not opposing this application by Rajdip Housing Development Co. Limited for extension of time to file a notice of appeal and the consequent record of appeal out of time. There have been many decisions of this court recently allowing such applications as this one provided the applicant moves the court in good time.

This application was filed in a record time of less than two working days, after the first appeal, being C.A. No. 146 of 1992, was struck out as being incompetent, for want of inclusion of certified copy of the decree appealed against in the record of appeal. I allow this application in the circumstances and order that the new notice of appeal be filed within the next seven days and the record of appeal within 21 days thereafter. I think Mr. Machira is correct in seeking costs. It was not for his fault that the appeal in question was struck out. The applicant is seeking an indulgence. The applicant will pay costs of this application within the next 21 days, failing which execution may issue.

Dated and delivered at Nairobi this 29th day of April, 1997.

A.B. SHAH

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JUDGE OF APPEAL

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

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DEPUTY REGISTRAR