

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NYERI

(CORAM: KWACH, PALL, J.J.A. & BOSIRE, AG.J.A.)

CIVIL APPLICATION NO. NAI. 343 OF 1996

BETWEEN

GIBSON MUGWE MURATHI APPLICANTS

AND

WANGARI KANYARI MWANGI NDORIA RESPONDENT

(An application for striking out Notice of Appeal in an intended appeal from a Judgment/Decree of the High Court of Kenya at Nyeri (Justice Tunoi) dated 24th September, 1992

in

H.C.C.A. NO. 61 OF 1986)

RULING OF THE COURT

This is an application under rule 80 of the Court of Appeal Rules seeking an order striking out the Notice of Appeal filed on 24th May, 1995, on the ground that it was not signed by or on behalf of the respondents in breach of rule 74(6) of the Rules of this Court. A notice of appeal is required to be substantially in Form in the First Schedule.

In the notice which is the subject of the present application, there is no signature at the appropriate place. And even if the signature at the bottom left-hand were to be regarded as a signature for the purposes of the rule, there should have been two signatures, not just one. Since filing the purported notice, the respondents have not lodged an appeal. Their notice is accordingly deemed to have been withdrawn under rule 82 of the Rules of this Court. For these reasons, the application succeeds and the Notice of Appeal filed by the respondents is hereby struck out with costs to the applicant.

Made at Nyeri this 13th day of May, 1997.

R.O. KWACH

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JUDGE OF APPEAL

G.S. PALL

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JUDGE OF APPEAL

S.E.O. BOSIRE

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AG.JUDGE OF APPEAL

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

DEPUTY REGISTRAR