



**IN THE COURT OF APPEAL**

**AT KISUMU**

**(CORAM: OMOLO, AKIWUMI & LAKHA JJ.A)**

**CIVIL APPEAL NO 30 OF 1996**

**BETWEEN**

**REV. PETER A INDALO.....APPELLANT**

**OYANI CHRISTIAN RURAL SERVICES.....APPELLANT**

**AND**

**FANANA INVESTMENT LTD.....RESPONDENT**

*(Appeal from the judgment of the High Court of Kenya at Kisumu (Mr. Justice Mango) dated 29<sup>th</sup> July, 1993*

**IN**

**H. C. C. APPEAL NO. 6 OF 1993)**

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**RULING OF THE COURT**

An application has been made by the respondent to strike out the appeal under the rule 80 of the Rules of this court. It is conceded and, in our opinion rightly, by the appellants' advocate that the appeal is out of time. The application made by the appellants for enlargement of time to file the record of appeal out of time, for the second time, will not be of assistance as the Notice of Appeal was filed out of time and no application has been made for enlargement of time to cure this.

Accordingly, the application to strike out succeeds and it is granted with costs. In consequence, the appeal is struck out with costs.

**Made at Kisumu this 22<sup>nd</sup> day of March, 1996.**

**R. S. C. OMOLO**

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**JUDGE OF APPEAL**

**A. M. AKIWUMI**

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**JUDGE OF APPEAL**

**A. A. LAKHA**

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**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**