



**Mworia & another v Githinji & another (Civil Appeal
225 of 2017) [2024] KECA 6 (KLR) (25 January 2024) (Judgment)**

Neutral citation: [2024] KECA 6 (KLR)

**REPUBLIC OF KENYA
IN THE COURT OF APPEAL AT NAIROBI
CIVIL APPEAL 225 OF 2017
HM OKWENGU, HA OMONDI & JM MATIVO, JJA
JANUARY 25, 2024**

BETWEEN

JAMES MUTITU MWORIA 1ST APPELLANT

DAVID CHEGE MWORIA 2ND APPELLANT

AND

ELVIS MUTAHI GITHINJI 1ST RESPONDENT

NATION MEDIA GROUP 2ND RESPONDENT

*(Being an appeal from the judgment and decree of the High Court
(Sergon, J) delivered on 9th September 2016 in Civil Case No. 71 of 2012)*

JUDGMENT

1. This appeal arises from a suit which was filed in the High Court by Elvis Mutahi Githinji (the 1st respondent herein). He had sued James Mutitu Mworia, David Chege Mworia and Nation Media Group (the 1st appellant, 2nd appellant and 2nd respondent herein). The suit was for general damages, aggravated damages and exemplary damages for defamation arising from an alleged defamatory notice, published by the 1st appellant, 2nd appellant and 2nd respondent in the 2nd respondent's newspaper known as 'Daily Nation'.
2. Upon hearing the evidence and the submissions, the High Court (Sergon, J), found the 1st appellant, 2nd appellant and 2nd respondent liable to the 1st respondent for defamation, and gave judgment, awarding the 1st respondent general damages of Kshs. 1,500,000 as well as exemplary damages of Kshs. 2,000,000, and additional damages of Kshs. 400,000 under section 7A (6) of the *Defamation Act*. The learned Judge also ordered the 1st appellant, 2nd appellant and the 2nd respondent to apologize, retract and publish the retraction of the defamatory notice within a period of 30 days.



3. In their memorandum of appeal, the appellants have raised seven grounds contending that the trial Judge erred in law and fact: in failing to appreciate the evidence of the 1st respondent given on cross-examination during the trial; in failing to consider the defence and the evidence of 1st and 2nd appellant, particularly, the evidence of justification and fair comment; in awarding the 1st respondent massive damages, that is, general damages which were excessive, exemplary damages which were underserved and illegal, and additional damages under Part 4 of the Decree which were totally unjustified.
4. The appellants filed written submissions in which they identified seven issues for determination. These issues were drawn along the same lines as the seven grounds stated in the memorandum of appeal that we have already adverted to.
5. The appellants cited *Grace Wambui Ngenye vs Chris Kirubi & Anor*, Civil Appeal No. 40 of 2010 [2015] eKLR, where it was held that a fair comment must be based on facts that are true or substantially true, in arguing that the publication complained of by the 1st respondent was a publication made in good faith, based on true facts and without malice. In addition, that the published words and the photographs which the trial Judge singled out from the publication as being defamatory were no more than a fair comment.
6. The appellants submitted that there was evidence on record that the 1st respondent with one James Ngoci Waweru also a director of Autoscope Limited, jointly incorporated a company known as Autoscope International Limited with the sole intent of undertaking similar business being carried out by Autoscope Limited, by passing it off as one and the same company in the eyes of the public. The appellants argued that by incorporating the new company, the 1st respondent was out to swindle Autoscope Limited by misleading its current clients, prospective clients and the general public, into thinking they were acting on behalf of, and with the authority of Autoscope Limited.
7. The appellants maintained they were justified in making the publication as it was made based on true facts and the matters addressed were matters of public interest. In this regard the appellants relied on *Nation Media Group Limited & anor vs Alfred N. Mutua* [2017] eKLR, among others. They faulted the learned Judge for failing to hold that the publication by the appellants was legitimate and subject to the defence of fair comment. They complained that the general and exemplary damages awarded were excessive, and that there was no evidence to justify the additional damages awarded under Section 7A (6) of the *Defamation Act*. They therefore urged the Court to allow the appeal.
8. In opposing the appeal, the 1st respondent filed written submissions urging the Court to uphold the judgment of the trial court, as there was no reason to disturb the findings of the trial Judge on liability or the amount of damages awarded.
9. On the appellants' submissions that the publication complained of amounted to fair comment, the 1st respondent submitted that the appellants failed to prove the ingredients of the defence of fair comment, which are: that the comment must be on a matter of public interest; that the comment must be based on fact; that the comment can include inference of fact though it must be recognizable as a comment; that the comment must satisfy the objective test where any person honestly expresses that opinion on the proved facts; that even though the comment satisfies the objective test, the defence can be defeated if the plaintiff proves that the defendant was actuated by malice.
10. The 1st respondent argued that the notice published contained false information as it alleged that he was only an employee of Autoscope Limited, and had been removed as such employee, and was not authorised to carry out any transaction on behalf of the company. He maintained that the information was false as he was not an employee but a director of the company, and had not been removed by



the board either as an employee or director of the company, nor had any returns been filed with the Registrar of Companies confirming such removal.

11. The 1st respondent submitted that he had adduced evidence which proved that the appellants' actions were actuated by malice. He argued that the notice published by the appellants was intended to pass information to the public, that he was a corrupt person who had sought to unjustly con members of the public. He asserted that his reputation was lowered in the eyes of right thinking members of the society.
12. In support of his submissions, the 1st respondent relied on *Adan Keynan Wehliye vs Standard Limited & Anor* [2020] eKLR;
Samuel Ndong'u Mukunya vs Nation Media Group Limited & Anor [2015] eKLR; and a book- *Carter-Ruck on Libel and Slander*, 5th edition at page 54. He faulted the 2nd respondent for failing to take all efforts to ensure that the publication it was putting up in its paper was accurate, arguing that the failure was contrary to the 2nd respondent's obligation under Section 3(2)(b) of the Media Act 2013, that required it to be fair and accurate in its publications.
13. In addition, the 1st respondent argued that the appellants did not establish the allegation that he created a company called *Autoscope International Limited* for the purpose of passing it off as *Autoscope Limited*. He stated that the evidence adduced before the trial court showed that *Autoscope Limited* was incorporated on the 22nd October 2009 with four (4) directors, including the two appellants and the 1st respondent, and that *Autoscope International Limited* was registered on 7th December 2011, with the directors being the 1st respondent and James Ngoci Waweru. He maintained that the two companies were not one and the same, and that the appellants also owned other companies doing similar business like *Autoscope Limited*.
14. The 1st respondent relied on this Court's decision in *Mung'are T/A Gikonga & Momanyi Advocates vs Standard Limited* [2002] eKLR, where the Court held that a comment which is based on lies or falsehood, cannot be designated as fair. Finally, the 1st respondent submitted that the trial Judge applied the correct principles in awarding damages, and that an action in defamation is intended to compensate a person for the harm done to his reputation, and no apology, or retraction or withdrawal can completely undo the harm done by the defamatory publication.
15. During the hearing of the appeal, the appellants were represented by Mr. James Njengo, while Mr. Makori appeared for the 1st respondent and Ms. Janmohamed SC, appeared for the 2nd respondent. Ms. Janmohamed SC. informed the Court that they had not filed any written submissions because as between the 1st respondent and the 2nd respondent, the matter has been resolved. This was confirmed by Mr. Makori. As between the appellants and the 1st respondent, Mr. Njengo and Mr. Makori, each adopted and highlighted their written submissions that we have already highlighted, each urging the Court to find in favour of their clients.
16. We have carefully considered the evidence which was adduced in the trial court, the judgment, the contending submissions before us, the authorities cited, and the law. It is not disputed that the 1st and 2nd respondent caused the offending notice to be published in the 2nd respondent's *Daily Nation Newspaper*.
17. The 1st respondent pleaded that the words in the notice were in their natural and ordinary meaning defamatory of him, as they implied: that he was not a director of *Autoscope Limited*; that he had been sacked by *Autoscope Limited*; and that he was taking advantage of unsuspecting members of



the public. He also claimed that the words were by way of innuendo understood to mean that he was corrupt and that he had sought to con unsuspecting members of the public, and was unfit to be employed as a member of Autoscope Limited or to be its director.

18. There are three main issues in this appeal. The first two are issues on liability. That is whether the impugned notice was based on true facts and published in good faith without malice, or to put it in another way, whether the defence of justification and fair comment was available to the appellants, and secondly, whether the 1st respondent proved that his estimation was lowered in the eyes of right thinking members of the society.

The third issue is on the quantum of damages awarded, that is whether the general damages awarded were excessive, the exemplary damages underserved, and additional damages unjustified such as to warrant the intervention of this Court.

19. In *Nation Media Group Limited & another vs Alfred Mutua* (supra), a decision that was cited by the 1st respondent, this Court referring to its previous decisions, made the following instructive statements on the defence of fair comment.

“28. To sustain the defence of fair comment, the appellants were required to demonstrate that the words complained of are comment, and not a statement of fact; that there is a basis of fact for the comment, contained or referred to in the article complained of; and that the comment is on a matter of public interest. (See *Gatley on Libel & Slander*, 8th edition [1981] (Sweet & Maxwell) at paragraph 692 at page 291.

29. The respondent could however defeat the defence of fair comment by showing that the comment was not made honestly or was actuated by malice. In *J.P. Machira T/A Machira & Company Advocates vs Wang’ethi Mwangi & another* [1998] eKLR, the Court said that malice “can be inferred from a deliberate, reckless, or even negligent ignoring of facts’ and that “deliberate lies can also be evidence of malice”.

30. In *Mong’are t/a Gikonga & Momanyi Advocates vs Standard Limited* (above), this Court stated, “that comment can only be fair if the basic facts upon which the comment is premised are correct. A comment which is based on lies or falsehood cannot be designed as fair.” And in *Grace Wangui Ngenye vs Chris Kirubi & another*, Civil Appeal No. 40 of 2010 [2015] eKLR, this Court reiterated that a fair comment must be based on facts that are true or substantially true; and that a fair comment is a commentary, an expression of opinion based on true or substantially true facts.”

20. In light of the above legal premise, in order to succeed in the defence of fair comment/justification, the appellants had to demonstrate that the publication was not necessarily a statement of fact, but an expression of opinion based on true facts or substantially true facts. Conversely, if the 1st respondent established that the publication was based on lies or falsehood, the defence of fair comment or justification would not succeed.

21. The appellants while admitting publication of the notice, maintained that the same was justified having been made in good faith and without malice. They denied the meaning imputed to the notice by the 1st respondent, whether in their natural and ordinary meaning or by innuendo, but maintained that the 1st respondent together with James Ngoci Waweru, another director of Autoscope Limited, jointly



- incorporated Autoscope International Limited with the intention of undertaking similar business and passing it off as Autoscope Limited.
22. On the other hand, the 1st respondent maintained that the appellants were actuated by malice because the notice was not based on true facts as no meeting was held by Autoscope Limited in which the 1st respondent was removed either as an employee or as director, and that although Autoscope International Limited in which the 1st respondent and another were directors, was incorporated, this did not necessarily imply that the 1st respondent intended to con the public. In addition, that the appellants also had similar companies in which they were directors.
 23. Going by the decisions that we have referred to earlier, the 1st respondent who claimed that the appellants were actuated by malice, had the burden of establishing the alleged malice. On the other hand, the appellants who claimed that they were justified in making the impugned notice, and that the allegations were true, had to prove the truth of the allegations, as the onus was on them to prove the truth of the words in their ordinary and natural meaning.
 24. In this case, although the appellants claimed that the 1st respondent was an employee of the company who had been removed, they were not able to prove this, nor were the appellants able to prove that the 1st respondent whom they admit was a director of the company, was removed as a director.
 25. From the evidence that was adduced, the 1st respondent conceded that Autoscope International Limited a company in which he and one James Ngoci Waweru were directors was incorporated. He claimed that the company was a sister company to Autoscope Limited, but there was no evidence adduced in this regard. What is clear is that Autoscope International Limited was actually formed when the relationship between the 1st respondent and the appellants had turned sour and the appellants were not involved in the formation or the activities of Autoscope International Limited.
 26. A look at the evidence that was adduced by the appellants, reveals that there was an acrimonious relationship between the directors of Autoscope Limited, and the notice was an attempt by some directors namely the appellants to pull a fast one on the 1st respondent another director, who had attempted to steal a match by forming another company, “Autoscope International Limited.” The notice was not entirely based on truth as the 1st respondent was still a director of Autoscope Limited and had not been removed as an employee, nor was he ever an employee of the company.
 27. Furthermore, the appellants did not prove their allegation that the 1st respondent incorporated the new company, with the intention of swindling the funds of or business of Autoscope Limited, nor did they prove how the 1st respondent had misled prospective clients and the general public, into thinking he was acting on behalf of and with authority of Autoscope Limited. What the 1st respondent did by incorporating another company doing similar business as Autoscope Limited, was to create competition for Autoscope Limited. Much as there may have been some apparent conflict of interest with the 1st respondent being a director of both companies, there was no evidence that the 1st respondent acted to the detriment of Autoscope Limited or used his position in Autoscope Limited for the benefit of Autoscope International Limited.
 28. As to whether there was an element of malice, we are in agreement with Mativo J (as he then was), in Joseph Njogu Kamunge vs Charles Muriuki Gachari [2016] eKLR, in thus unpacking the words ‘malicious’ in a defamatory statement:

“Malicious here does not necessarily mean spite or ill will but there must be evidence of malice and lack of justifiable cause to utter the words complained of. Evidence showing the



defendant knew the words complained of were false or did not care to verify can be evidence of malice. The defamatory words must be shown to have been published by the defendant.”

29. Given the circumstances leading to the publication of the notice, the appellants were not honest in placing the notice. There was a clear distortion of facts in the notice, and it is apparent the appellants were actuated by an ulterior motive based on the acrimonious relationship between them and the 1st respondent. On its part the 2nd respondent did not make any attempt to verify the truth of the information that was in the notice. Malice can therefore be inferred from the circumstances in which the notice was published and the conduct of the appellants and the 2nd respondent.
30. As stated by Aganyanya, J. (as he then was), in *George Mukuru Muchai vs The Standard Limited* HCCC No. 2539 of 1997:
- “The most important ingredient in a defamation case is the effect of spoken or written words in the minds of third parties about the complaint and not how he/she itself/herself feels the words portrayed about him or her”.
31. Clearly, the words as published in the notice was not an opinion or fair comment, but an inaccurate statement that gave a negative view of the 1st respondent, portraying him as an imposter who was holding himself out as a person authorised to transact business on behalf of Autoscope Limited, when he was no longer an employee of that company. We have no doubt that these words were defamatory of the 1st respondent not just in their ordinary and natural meaning, but also by implication. We therefore agree with the learned Judge that the published notice lowered the 1st respondent’s reputation in the estimation of right thinking members of the society. We therefore come to the conclusion that the appellants and 2nd respondent were properly found liable to the appellant for libel.
32. In *Kenya Tea Development Agency Limited vs Benson Ondimu Masese T/A B.O Masese & Company Advocates* [2008] eKLR, this Court identified the principles that should guide a court on the amount of damages to be awarded to a party who suffers libel. These are:
- “(i) The objective features of the libel itself such as its gravity, its province, the circulation of the medium in which it is published and any repetition.
- ii. The subjective effect of the plaintiff’s feelings not only from the prominence itself, but from the defendants conduct thereafter both up to and including the trial itself.
- iii. Matters tending to mitigate damages such as the publication of an apology.
- iv. Matters tending to reduce damages.
- v. Vindication of the plaintiff’s reputation, past and future.”
33. The publication of the defamatory statement against the 1st respondent involved wide circulation through a popular newspaper.
- In awarding general damages, the trial judge was guided by the following principles set out in *Ole Kaparo vs Standard Ltd & Others* [2009]2 EA 360:
- a. The award must be sufficient to convince those who knew of the defamation that the plaintiff was wrongly accused.



- b. The award must cover the injured feelings, the anxiety and uncertainty undergone in the litigation.
 - c. Failure to contradict the libel, insistence of defences of justification and absence of apology will aggravate damages.
 - d. The conduct of the defendants at the time of publication and thereafter will also be a factor.
34. The trial judge having referred to this passage from *Ole Kaparo vs Standard Ltd & Others* (supra), rendered himself as follows:

“I will apply these principles in assessing damages in this case.

20. The plaintiff tendered evidence showing that he was one of the directors of Autoscope Limited that carried out transport business. The plaintiff further informed the court that as a result of the negative publication, he suffered great business loss and prejudice from his church members. I am convinced that such publication paints the plaintiff in bad light and his reputation was dented. Though the plaintiff was the only witness to tender evidence for his case, it is obvious that his congregants and clients seeing the published advertisement must have become suspicious of him. Any reasonable person reading that public notice, gets a message that the plaintiff's services were terminated and he no longer works for the company for the reason that he carried out some fraudulent dealings by transferring the business of Autoscope Ltd to Autoscope International Ltd whilst working as an employee of Autoscope Ltd, which is not the case. The published notice injured the reputation of the plaintiff lowering him in the estimation or right thinking members of society. The defendants are jointly and severally liable.
 21. I therefore enter judgment in favour of the plaintiff against the defendant in the following terms:
 1. The defendants are ordered and directed to apologise, retract and publish the retraction of the defamatory notice published in the Daily Nation of the 3rd defendant within a period of 30 days.
 2. General damages for
Defamation of kshs.1,500,000/=
 3. Exemplary damages
for defamation of kshs.2,000,000/=
 4. Additional damages under Section 7(A) (6) of the
Defamation Act kshs.400,000/=Total kshs.3,900,000/”
35. We have perused the record of appeal and the evidence of the 1st respondent, but have not found any evidence in support of the position taken by the trial Judge that the 1st respondent suffered business loss as a result of the defamatory statement, nor have we found any evidence other than the 1st respondent's testimony, that the alleged defamatory statement had any adverse effects on the 1st respondent's congregation as to cause loss to him. We have no doubt that the publication was



defamatory and lowered the estimation of 1st respondent. Nevertheless, the 1st respondent did not show any loss that he suffered as he did not call any witness other than himself to show the effect of the defamatory statement. Whereas proof of such loss is not necessary in regard to liability, it is a relevant factor in the assessment of damages. The learned Judge therefore erred in taking into account an imaginary “great business loss and prejudice from his church members,” in assessing damages, and consequently the award of Kshs 1,500,000 was on the high side.

36. In addition to general damages, the learned Judge awarded exemplary damages. The locus classicus in this regard is the decision of this Court in *Obongo & Another vs Municipal Council of Kisumu* [1971] EA 91 in which the Court followed the House of Lords decision in *Rookes vs Bernard and others* [1964] AC 1129, and accepted the law to be as laid out in *Rookes vs Bernard* (supra) that:

“...exemplary damages for tort may only be awarded in two classes, of case (apart from any case where it is authorized by statute): these are first, where there is oppressive, arbitrary or unconstitutional action by the servants of the government and secondly, where the defendant’s conduct was calculated to procure him some benefit, not necessarily financial, at the expense of the plaintiff. As regards the actual award, the plaintiff must have suffered as a result of the punishable behaviour, the punishment imposed must not exceed what would be likely to have been imposed in criminal proceedings if the conduct were criminal: and the means of the parties and everything which aggravates or mitigates the defendant’s conduct is to be taken into account. It will be seen that the House took the firm view that exemplary damages are penal, not consolatory as had sometime been suggested.”

37. In *Godfrey Julius Ndumba Mbogori & another v Nairobi City County* [2018] eKLR this Court addressing a claim for exemplary damages stated:

“Exemplary damages are essentially different from ordinary damages. The object of damages in the usual sense of the term is to compensate. The object of exemplary damages is to punish and deter. We are guided by the case of *Rookes V Barnard* [1964] AC 1129 where Lord Devlin set out the categories of cases in which exemplary damages may be awarded which are:

- i. in cases of oppressive, arbitrary or unconstitutional action by the servants of the government,
- ii. cases in which the defendant’s conduct has been calculated to make a profit for himself which may well exceed the compensation payable to the plaintiff and
- iii. where exemplary damages are expressly authorized by statute.

Lord Devlin also gave expression to 3 considerations which must be borne in mind in any case in which an award of exemplary damages is being claimed. The first category is that the plaintiff himself must be the victim of the punishable behaviour; the second category is that the power to award exemplary damages must be used with restraint for it constitutes a weapon and can be used either in defence of liberty or against liberty and thirdly, the means of the defendant, irrelevant in the assessment of compensation, are material in the assessment of exemplary damages.”

38. In the circumstances before us, neither the appellants nor the 2nd respondents were servants of government, nor was there any evidence of oppressive, arbitrary or unconstitutional action by government employees or agents as to justify an additional punitive award. In addition, there was no evidence that the appellant’s conduct was calculated to procure them some benefit, at the expense of



the 1st respondent. In our view this was not an appropriate case for award of exemplary damages as the award of general damages for defamation was sufficient compensation to the 1st respondent.

39. As regards the additional damages awarded under section 7A of the *Defamation Act*, we reproduce Section 7A hereunder as follows:

1. Any person or body of persons shall be entitled to a right of reply to any factual inaccuracy affecting them which the character, reputation or good standing of that person or body of persons.
2. Where a person or body of persons is entitled to a right of reply under subsection (1) a correction shall be printed in the next possible edition of the newspaper.
3. The correction shall be printed free of charge and be given similar prominence as the item complained of and shall appear at a similar place in the newspaper.
4. The correction must be of such length as is necessary to identify the original item.
5. Any person or body of persons seeking to exercise the right of reply under the provisions of this section shall do so in writing to the editor or publisher of the newspaper within a period of fourteen days from the date of publication of the damaging material: Provided that the right of reply shall not be exercisable after a period of six months from the publication of the relevant damaging material.
6. In any civil proceedings for libel, the court, unless it is of the opinion that any reply under this section is either irrelevant or unreasonable in all the circumstances of the case, shall be at liberty to award an additional amount of damages together with the damages for defamation where the publisher has failed or refused to publish a correction or failed to give it the prominence required by this section.
7. In any civil proceedings for libel instituted by a person or body of persons entitled to a right of reply who or which has failed to exercise such right in accordance with this section the court shall, in the event of it having found in favour of the plaintiff, be at liberty to reduce the amount of damages which it would have otherwise awarded by such sum as the court considers appropriate having regard to all circumstances of the case.

40. Section 7 of the *Defamation Act*, requires that a person seeking to exercise his right of reply under that section, must have any factual inaccuracies about him/her corrected, and the correction printed in the next publication of the newspaper. However, such demand must be done in writing to the editor or publisher of the newspaper, within 14 days from the date of printing the offending publication. From the judgment of the trial court, it is apparent that the only reason why the court awarded exemplary damages was the fact that the appellants and the 2nd respondent did not retract the defamatory notice nor offer any apology following the 1st respondent's demand notice, even during the pendency of the suit.

41. We note that apart from the demand letter dated 24th January 2012 that was written to the appellants and the 2nd respondent before the suit was filed, there was no evidence produced that the 1st respondent was denied his right of reply under Section 7 of the *Defamation Act*. Additional damages under



Section 7 of the Defamation Act would only be justified, where there has been repeated publication of the defamatory statement notwithstanding the demand notice, or where despite the aggrieved party exercising the right of reply under Section 7, the publication of the defamatory statement is repeated. This was not the case as there was no evidence produced of any repeat publication of the defamatory notice. There was therefore no justification for the award that was made under Section 7A of the Defamation Act.

42. In *William J Butler v Maura Kathleen Butler* [1984] eKLR this Court cautioned that:

“The assessment of damages is more like an exercise of discretion by the trial judge and an appellate court should be slow to reverse the trial judge unless he has either acted on wrong principles or awarded so excessive or so little damages that no reasonable court would; or he has taken into consideration matters he ought not to have considered, or not taken into consideration matters he ought to have considered and, in the result, arrived at a wrong”

43. Taking cognizance of our above stated circumscribed jurisdiction, we come to the conclusion that the learned Judge misdirected herself in assessing damages by taking into account factors that had not been established and failing to take into account the principles for awarding exemplary damages, and also misapplying Section 7A (6) of the Defamation Act. Consequently, there is sufficient justification for us to interfere with the damages that were awarded.

44. In the ultimate, we dismiss the appeal in regard to liability, but allow the appeal in regard to award of damages to the extent of setting aside the award of Kshs 2,000,000 for exemplary damages and the additional award of Kshs 400,000/= made under Section 7A(6) of the Defamation Act. We confirm the award of Kshs 1,500,000/= as general damages. The appellants having partly succeeded in this appeal, they shall have 50% of the costs of the appeal.

Those shall be the orders of the Court.

DATED AND DELIVERED AT NAIROBI THIS 25TH DAY OF JANUARY 2024.

HANNAH OKWENGU

.....

JUDGE OF APPEAL

H.A. OMONDI

.....

JUDGE OF APPEAL

J. MATIVO

.....

JUDGE OF APPEAL

I certify that this is a true copy of the original

Signed

Deputy Registrar

