



REPUBLIC OF KENYA



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**Angote (Suing as Personal Representative of the Estate of Lucas Adam Onyango) v Mweu & another (Civil Appeal E093 of 2021) [2024] KECA 729 (KLR) (21 June 2024) (Judgment)**

Neutral citation: [2024] KECA 729 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT MOMBASA  
CIVIL APPEAL E093 OF 2021  
AK MURGOR, KI LAIBUTA & GV ODUNGA, JJA  
JUNE 21, 2024**

**BETWEEN**

**ANN AYAKO ANGOTE (SUING AS PERSONAL REPRESENTATIVE OF THE  
ESTATE OF LUCAS ADAM ONYANGO) ..... APPELLANT**

**AND**

**MONICA NZILANI MWEU ..... 1<sup>ST</sup> RESPONDENT**

**MUNICIPAL COUNCIL OF MOMBASA ..... 2<sup>ND</sup> RESPONDENT**

*(Being an appeal arising from the Judgment and Decree of the  
Environment and Land Court at Mombasa (Yano, J.) dated 22nd  
January 2020 in E.L.C No. 340 of 2015 (Formerly H.C.C 563 of 2001)*

**JUDGMENT**

1. In this appeal, the appellant, Ann Ayako Angote (suing as personal representative of the late Lucas Adams Onyango), and the 1<sup>st</sup> respondent, Monica Nzilani Mweu, laid claim to a property known as Plot No. 1287 Mikindani with House No. 210 being thereon (the suit property). Both parties assert that they are the bona fide purchasers of the suit property having purchased it from the original owner, the late Leonard Awuor Obado Ochola (deceased).
2. The history of the suit property as can be discerned from the rather scanty record was that the suit property was allocated to the Late Leonard Obado by the 2<sup>nd</sup> respondent, the former Municipal Council of Mombasa (now the County Government of Mombasa). According to the appellant, the Late Obado sold the property to her husband, the late Lucas Adam, in his capacity as the Chairman of the Mikindani Friends Club vide a sale agreement dated 17<sup>th</sup> February, 1994. It is also alleged that, on 8<sup>th</sup> April 1994, the late Obado donated an irrevocable Power of attorney to the late Lucas Adam, effectively passing possession and ownership of the suit property to him. The late Obado died on 19<sup>th</sup> December 1994 before completing the transaction. By this time, the Club had fallen on hard times and



the late Lucas Adam sought to salvage the transaction by paying the balance of the purchase price to the late Obado's wife, Margaret Awuor Obado and refunding the club members. Thereafter, he sought to have the 2<sup>nd</sup> respondent reflect the changes in its records, but the then Director of Housing and Social Services failed or neglected to do so. The late Lucas Adam died on 21<sup>st</sup> April 2008. He was substituted in the suit by his wife, the appellant, who claimed that he was the lawful owner of the suit property.

3. Subsequently, following the demise of the late Obado, his widows, Gloria Auma Obado and Margaret Orede Awuor, who did not testify, sought to sell the suit property to the 1<sup>st</sup> respondent for Kshs. 550,000 and entered into a sale agreement dated 24<sup>th</sup> November 1998. Upon payment of the purchase price, Gloria Obado and Margaret Awuor sought to transfer the suit property to the 1<sup>st</sup> respondent. The 2<sup>nd</sup> respondent was notified of the transfer and, by a letter of allotment, it purported to transfer the suit property to the 1<sup>st</sup> respondent. On this basis, the 1<sup>st</sup> respondent contended that the title of the suit property passed to her and that, therefore, she was the lawful owner.
4. In the amended plaint filed on 8<sup>th</sup> November 2021, the appellant sought a permanent injunction to restrain the respondents whether by themselves, their servants or agents from demolishing House No. 210, from fencing, constructing, digging or in any other manner interfering with the suit property. A further order was sought to cancel any allocation or transfer of the suit property by the 2<sup>nd</sup> respondent to the 1<sup>st</sup> respondent, and a declaration that any subsequent allocation by the 2<sup>nd</sup> respondent was unlawful. It was her case that, sometime in 2001, unauthorized persons started demolishing the house on the suit property claiming that it had been sold to a third party. The deceased managed to stop the demolition and later learnt that the 2<sup>nd</sup> respondent had purported to transfer the house to the 1<sup>st</sup> respondent. She stated that the 1<sup>st</sup> respondent's claim over the suit property had no basis since the plot was lawfully sold to the Mikindani Friends Club by the previous owner and later transferred to the Late Lucas Adam upon payment of the full purchase price.
5. On her part, the 1<sup>st</sup> respondent denied the claim. In her defence and counter-claim, she asserted that she is the legal owner of the suit property, having purchased it for a consideration of Kshs. 550,000. She claimed that the suit property was transferred to her sometime in March 2000 after payment to the 2<sup>nd</sup> respondent of the requisite fees, including all the land rates and outgoings.
6. She also filed a counterclaim in which she stated that she has suffered loss as a result of the interim injunction issued against her, as she had plans to develop the suit property and had assembled building material on it; and that she had been unable to obtain any income from the suit property. She prayed for mesne profits of Kshs. 15,000 per month from the date the interim injunction was issued.
7. The 2<sup>nd</sup> respondent equally denied the claim and filed two statements of defence, but did not call any witness or lead any evidence in support of the matters pleaded.
8. Upon considering the dispute, the trial Judge framed two main issues for determination, namely whether the late Obado sold the suit property to the late Lucas Adam; and whether the 1<sup>st</sup> respondent lawfully acquired the suit property.
9. Addressing the first issue, the trial Judge concluded:

Indeed there was no evidence that the suit property was bought by the deceased plaintiff, neither was there evidence to show that the same was bequeathed to him by Mikindani Friends Club. In the absence of such evidence, the Plaintiff has failed to discharge her duty of proving her case to the required standard...and is not entitled to the reliefs sought”



10. With regard to the second issue, the trial Judge held that the 1<sup>st</sup> respondent had purchased the suit property from Gloria Obado and Margaret Awour, the heirs of the late Obado through a sale agreement dated 24<sup>th</sup> November 1998; that she had paid the entire purchase price of Kshs 550,000 together with the Council rates; and that Gloria Obado and Margaret Awour had executed a transfer of the suit property in her favour. The court concluded that the 1<sup>st</sup> respondent proved that she lawfully acquired the suit property in terms of her counterclaim.
11. Having made that finding, the court dismissed the appellant's case for want of proof and allowed the 1<sup>st</sup> respondent's counter claim, save for the claim for mesne profits.
12. The appellant was aggrieved by the decision and filed an appeal to this Court on the grounds that the learned Judge was in error in law and fact: in dismissing the appellant's claim and allowing the 1<sup>st</sup> respondent's counterclaim when the evidence on record was clear that the suit property belonged to the Estate of the late Lucas Adam and that, therefore, the 1<sup>st</sup> respondent did not acquire any valid right or title over the suit property; in failing to find that the late Lucas Adam lawfully purchased and acquired the suit property for valuable consideration from the previous owner and that, therefore, the suit property was not available for sale by the Estate of the late Obado, or for allocation by the 2<sup>nd</sup> respondent; in holding that the Late Obado did not sell the suit property to the Late Lucas Adam when the uncontroverted evidence on record was that the Agreement of Sale dated 17<sup>th</sup> February 1994, the Power of Attorney dated 27<sup>th</sup> August 1998 and correspondence from the 2<sup>nd</sup> respondent, confirmed the intention and fact that the late Obado and his heirs sold and transferred ownership of the suit property to the late Lucas Adam; in failing to hold that Gloria Obado and Margaret Awour had no capacity to sell or transfer the suit property without a Grant of representation of the Estate of the late Obado, who died on 31<sup>st</sup> December 1994; in failing to hold that the 2<sup>nd</sup> respondent had expressly confirmed in writing that the suit property had been transferred by the previous allottee to the Late Onyango and was not available for re-allocation to the 1<sup>st</sup> respondent; in failing to hold that the purported change of records by the 2<sup>nd</sup> respondent in favour of the 1<sup>st</sup> respondent was fraudulent, illegal, null and void ab initio; and in arriving at a decision that was contrary to the evidence on record.
13. In the course of this appeal, the 1<sup>st</sup> respondent passed away and, pursuant to an application dated 16<sup>th</sup> January 2023 allowed by this Court vide an order dated 2<sup>nd</sup> May 2023, the 1<sup>st</sup> respondent was substituted for Rogers Musau Mweu and Emmanuel Mutuku Mweu.
14. The appellant and the 1<sup>st</sup> respondent filed written submissions and, when the appeal came up for hearing on a virtual platform, the appellant appeared in person and highlighted her submissions. It was submitted that the 1<sup>st</sup> respondent purchased the suit property from Gloria Obado and Margaret Awuor, who were not the owners of the suit property and, since the original owner of the suit property was deceased, they were intermeddlers; that the sale agreement relied upon by the 1<sup>st</sup> respondent was signed by Gloria Obado alone and that, therefore, it was not binding on Margaret Awuor, who did not sign the agreement; and that the 1<sup>st</sup> respondent could not rely on the agreement to claim that she purchased the suit property.
15. It was further submitted that the agreement between the appellant's husband and the late Obado was still in force even after his death, and that the 1<sup>st</sup> respondent had no right to purchase it; that, even after the death of the late Obado, his personal representatives had the duty to ensure that the agreement was enforced; and that the 2<sup>nd</sup> respondent fraudulently transferred the suit property to the 1<sup>st</sup> respondent as the sale agreement relied upon by the 1<sup>st</sup> respondent was signed by persons who had no legal capacity to transact on behalf of the estate of the late Obado. The appellant maintained that she had established her



case to the required standards, and that the trial Judge was wrong in dismissing her claim and allowing the 1<sup>st</sup> respondent's counterclaim.

16. Learned counsel for the 1<sup>st</sup> respondent, Ms. Umara, also filed written submissions and argued that the appellant failed to prove that the late Lucas Adam acquired the suit property as a result of the Power of Attorney dated 27<sup>th</sup> August 1998; that there is no evidence to suggest that the heirs of the deceased received any consideration from the appellant towards the purchase price of the suit property; and that the Late Lucas Adam did not at any point present evidence of purchasing the suit property.
17. On their part, learned counsel for the 2<sup>nd</sup> respondent, Ms. Muronji holding brief for Ms. Jadi, submitted that the appellant failed to prove her case and, as a result, the trial court found that the case lacked merit; that the appellant tendered no documentary evidence in support of her allegations; that she was required to lead evidence showing that the purchase price was indeed paid to the estate of the Late Obado together with the outstanding Council dues to the 2<sup>nd</sup> respondent, and yet no evidence was adduced in this regard; that no particulars of the alleged fraud or illegality were pleaded or proved, and that no evidence was adduced during the hearing; and that the trial court rightly dismissed the appellant's suit.
18. This being the first appeal, this Court's mandate as re-affirmed in *Abok James Odera t/a AJ Odera & Associates vs. John Patrick Machira t/a Machira & Co Advocates* [2013] eKLR is:

To re-evaluate, re-assess and re-analyse the extracts on the record and then determine whether the conclusions reached by the learned trial Judge are to stand or not and give reasons either way.”
19. Restating this Court's mandate in *Peters vs. Sunday Post Ltd* [1958] EA 424, this Court rendered itself thus:

“An appeal court cannot properly substitute its own factual finding for that of a trial court unless there is no evidence to support the finding or unless the Judge can be said to be plainly wrong. It is a strong thing for an appellate court to differ, from the finding, on question of facts, of the Judge who tried the case and who had the advantage of seeing and hearing the witnesses. An appellate court has indeed the jurisdiction to review the evidence in order to determine whether the conclusion originally reached upon evidence should stand. But this is jurisdiction, which should be exercised with caution; it is not enough that the appellate court might itself have come to a different conclusion.”
20. We have considered the record of appeal and the submissions by counsel and are of the view that the issues for determination are: whether the learned Judge was right in finding that the late Lucas Adam did not lawfully acquire the suit property for valuable consideration from the late Obado Ochola; whether Gloria Obado and Margaret Awour had capacity to sell the suit property to the 1<sup>st</sup> respondent; and whether the 1<sup>st</sup> respondent acquired good title.
21. On the first issue as to whether the Late Onyango lawfully purchased and acquired the suit property for valuable consideration from the late Obado, it was the appellant's case that the suit property was purchased by her deceased husband in his capacity as the Chairman of the then Mikindani Friends Club from the late Obado vide a sale agreement dated 17<sup>th</sup> February 1994; and that, since the club had disintegrated and the members were no longer meeting their financial and other obligations, the deceased sought permission from the members to purchase the property at an auction; that he thereafter refunded them their shares in the club thereby acquiring the property together with the house; and that the deceased then regularized the records at the Municipal Council of Mombasa to



- reflect the changed position, but met resistance from the then Director of Housing and Social Services, who appeared to favour one of his colleagues who was interested in acquiring the property. She stated that the deceased made further payments to the widows of the late Obado being the balance of the purchase price.
22. From a reading of the sale agreement dated 17<sup>th</sup> February 1994, it is clear that, first, the late Lucas Adam entered into the sale agreement, not on his own behalf, but as Chairperson of Mikindani Friends Club. This would beg the question as to how it was possible for him to acquire ownership of the suit property if it belonged to the members' club. Moreover, the appellant did not adduce any evidence that alluded to the existence of the club or its membership. There was also nothing that showed how the suit property passed from Mikindani Friends Club to her husband, or which of the club members agreed to sell the property to the deceased. Neither were any members called to testify.
23. It is also instructive that at no point did the appellant produce a transfer or any ownership documents in respect of the suit property. It is trite law that he or she who alleges must prove.
24. Section 107 of the *Evidence Act* states that:
- i. Whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.
  - ii. When a person is bound to prove the existence of any fact it is said that the burden of proof lies on that person.
25. This Court in the case of *Mbuthia Macharia vs. Annah Mutua & Another* [2017] eKLR considered the burden of proof and stated thus:
- [16] “The legal burden is discharged by way of evidence, with the opposing party having a corresponding duty of adducing evidence in rebuttal. This constitutes evidential burden. Therefore, while both the legal and evidential burdens initially rested upon the appellant, the evidential burden may shift in the course of trial, depending on the evidence adduced. As the weight of evidence given by either side during the trial varies, so will the evidential burden shift to the party who would fail without further evidence? In this case, the incidence of both the legal and evidential burden was with the appellant.”
26. In the same vein in the case of *Jennifer Nyambura Kamau vs. Humphrey Mbaka Nandi NYR CA Civil Appeal No. 342 of 2010* [2013] eKLR this Court held that:
- “We have considered the rival submissions on this point and state that section 107 and 109 of the *Evidence Act* places the evidential burden upon the appellant to prove that the signature on these forms belong to the Respondent. Section 107 of the *Evidence Act* provides that “whoever desires any court to give judgment as to any legal right or liability dependent on the existence of facts which he asserts must prove that those facts exist.” Section 109 stipulates that the burden of proof as to any particular fact lies on the person who wishes the court to believe in its existence. If an expert witness was necessary, the evidential burden of proof was on the appellant to call the expert witness. The appellant did not discharge the burden and as Section 108 of the *Evidence Act* provides, the burden lies on that person who would fail if no evidence at all were given on either side.”
27. In the absence of any evidence to show how the suit property passed from the Mikindani Friend Club to the appellant's husband, we agree with the trial Judge that there was no basis upon which to reach a finding that the appellant proved to the required standard that she was entitled to be registered as owner of the suit property.



28. Further, the appellant claimed that her husband paid the consideration to the original proprietor's widow. But once again, the appellant did not produce any documents to show that indeed her husband paid for the suit property.
29. When faced with a similar situation in the case of Samuel Kamere vs. Lands Registrar, Kajiado [2015] eKLR, this Court, whilst interrogating whether a purchaser had paid valuable consideration for a property, observed:
- “On the question of whether the valuable consideration was paid, there is nothing in the evidence to show that the appellant paid valuable consideration, or indeed, any consideration at all, for the suit property. It was the appellant's testimony that he drew cash from his bank account, and paid the alleged seller of the suit property. But, he did not produce a bank statement evidencing the cash withdrawal, or provide any relevant proof of payment. Furthermore, no sale agreement was produce showing that a purchase had taken place. There was no seller in evidence who testified. He did not produce any acknowledgments confirming receipt of the purchase price. Without such evidence, we are not satisfied that appellant actually pay any consideration, and if at all, to whom.”
30. The record is devoid of any evidential material showing that the appellant's late husband paid the purchase price in respect of the suit property. No receipts, or acknowledgments from the late Obado or his estate are evident from the record. Since payment of the purchase price was not proved, as did the trial court, we too find that the appellant failed to prove lawful purchase of the suit property.
31. With regard to the Power of attorney allegedly donated to the appellant's husband, the record shows that a Power of attorney was issued to the appellant's husband on 8<sup>th</sup> April 1994. According to the record, the Late Obado died on 19<sup>th</sup> December 1994.
32. Black's Law Dictionary 8<sup>th</sup> Edition defines 'Power of Attorney' as:
- An instrument granting someone authority to act as agent or attorney. Infact for the grantor. An ordinary power of attorney is revocable and automatically terminates upon the death or incapacity of the principle.”
33. It is well-established that a power of attorney extinguishes upon the death of the donor and is automatically revoked. It therefore goes without saying that, by virtue of the death of the late Obado, the power of attorney was revoked and could not be relied upon by the appellant's husband to enable him transfer the suit property.
34. When the totality of the evidence is considered, it becomes evident, and we agree with the trial Judge that there was nothing to demonstrate that the appellant's husband was a bona fide purchaser or proprietor of the suit property and, on this basis, we are satisfied that the trial Judge rightly dismissed the appellant's suit. This ground of appeal lacks merit and fails.
35. Turning to the question as to whether the 1<sup>st</sup> respondent lawfully acquired the suit property, the record shows that the 1<sup>st</sup> respondent entered into a sale agreement with Gloria Obado and Margaret Awour dated 24<sup>th</sup> November 1998 where it was agreed that the 1<sup>st</sup> respondent would purchase the suit property for Kshs. 550,000. A review of the record shows the receipts issued by the firm of Omwitsa & Mwacharo Advocates for the account of Gloria Obado and Margaret Obado being the purchase price paid by the 1<sup>st</sup> respondent totaling Kshs 550,000 together with payments in respect of Council dues.



36. By way of an undated transfer, Gloria Obado and Margaret Awour sought to transfer the suit property to the 1<sup>st</sup> respondent. A letter from the advocates to the Director, Housing Development, Mombasa Municipal Council, dated 14<sup>th</sup> March 2000 reads:

“TRANSFER OF PLOT NO. 1287 MIKINDANI

We shall be grateful if you will transfer the above plot in the name of MONICAH NZILANI MWEU who has purchased the same from the current owner.

We forward you herewith a copy of a duly signed transfer documents for your reference”

37. At this point, the question that arises is whether Gloria Obado and Margaret Awour had capacity to lawfully transfer the suit property to the 1<sup>st</sup> respondent. The appellant argued that Gloria Obado and Margaret Awour had no legal capacity to sell the suit property to the 1<sup>st</sup> respondent since they had not obtained a grant of representation in respect of the estate of the late Obado. So, was the learned Judge right in finding that the 1<sup>st</sup> respondent lawfully acquired the suit property?

38. When the evidence is considered, the record discloses a letter addressed to the Assistant Administrator General, Office of the Public Trustee from the District Commissioner Kisumu District dated 24<sup>th</sup> June 1996 referenced Leonard Awour – Deceased, administration Cause No. 49 of 1995, that indicated the list of legal heirs of the Late Leonard Obado. Margaret Awour was listed as a widow of the deceased. There was no document identifying Gloria Obado or specifying her relationship to the Late Leonard Obado.

39. It is also instructive that, following a complaint made by the late Lucas Adam to the 2<sup>nd</sup> respondent, one P. Angore, Ag. Director Housing Development Department, responded to the appellant’s husband in a letter dated 8<sup>th</sup> September 1998 that reads:

PENDING PAYMENT WITH RESPECT TO PLOT NO. 1287 – MIKINDANI, in response read:

“Margaret Orede Awour has been to see me for assistance i.e. she has not been paid her dues amounting to Kshs. 200,000/= as per her claim.

Please note that I have two options to take:-

1. To register the plot in your name subject to my receiving from you a Sale Agreement between LUCAS ADAM AND THE LATE LEONARD OBADO and your confirmation that you paid all the money due; or
2. To register the plot in the name of Margaret Orede Awour and her children as per letter Ref. PT/M/49/95/NHC dated 27<sup>th</sup> July 1998 from the Public Trustee after which she may deal as she wishes.

Please therefore urgently avail the Sale Agreement within the next 7 days. From the date of this letter.”

40. These documents are revealing. What they infer is that, upon his demise, the estate of the Late Obado vested in the Office of the Public Trustee. The Public Trustee having taken over the conduct of his estate, the assets of his estate, including the suit property, would have fallen under the remit of such representation with the result that there could be no dealings with the suit property unless under the hand of the Public Trustee.



41. Section 6(1) of the Public Trustee Act provides that:

Where a report of action taken under section 46 of the Law of Succession Act has been made to the Public Trustee, or where the Public Trustee has been informed of the death of any person in Kenya and has been requested to take action in respect of the deceased's estate by any person appearing to have a legitimate interest in the succession to, or administration of, the estate, the Public Trustee shall cause further inquiries to be made as to the estate of the deceased.

42. Section 6(2) further specifies that if it appears to the Public Trustee following inquiries made as to the estate of a deceased person that "... (a) the person died intestate, ..." he or she may apply under the Law of Succession Act to the court for a grant of representation and the court shall, except for good cause shown, make a grant of representation to the Public Trustee.

43. In addition, section 45(1) of the Law of Succession Act prohibits intermeddling with a deceased's property. It provides:

Except so far as expressly authorized by this Act, or by any other written law, or by a grant of representation under this Act, no person shall, for any purpose, take possession or dispose of, or otherwise intermeddle with, any free property of a deceased person.

44. It is therefore clear that an individual cannot purport to take possession of any property of a deceased person except as sanctioned by law or grant of representation, in this case, the Public Trustee.

45. Against this backdrop, the 1<sup>st</sup> respondent's case was that she purchased the suit property from Gloria Obado and Margaret Awour by way of a sale agreement dated 24<sup>th</sup> November 1998. If indeed by this time the estate of the Late Obado had vested in the Office of the Public Trustee, and there is nothing on the record that is indicative of a contrary position, then, neither Gloria Obado nor Margaret Awour had capacity to act on behalf of the estate of the late Obado and sell or transfer the suit property to the 1<sup>st</sup> respondent. The actions of signing the sale agreement dated 24<sup>th</sup> November 1998 with the 1<sup>st</sup> respondent, and purporting to sign the undated transfer, were unlawful and contrary to the express provisions of the Act. As a consequence, any sale agreement or transfer procured in disregard of the Public Trustee was rendered a nullity for want of legal capacity, and we so hold.

46. As observed by Lord Denning M.R in the case of *Macfoy vs. United Africa Co. Ltd* [1961] 3 All ER 1169 at pg. 1172:

"...If an act is void, then it is in law a nullity. It is not only bad, but incurably bad. There is no need for an order of the court to set aside. It is automatically null and void without more ado, though it is sometimes convenient to have the court declare it to be so. And every proceeding which is founded on it is also bad and incurably bad. You cannot put something on nothing and expect it to stay there. It will collapse".

47. The 1<sup>st</sup> respondent's transaction having been rendered a nullity means that her counter claim lacked merit and ought to have been dismissed. Accordingly, we find that the learned Judge misdirected himself when he failed to appreciate that the estate of the Late Obado was under representation of the Public Trustee, and yet went on to find that the 1<sup>st</sup> respondent lawfully acquired the suit property from unauthorized persons, namely Gloria Obado nor Margaret Awour.



- 48. In view of the foregoing, both parties utterly failed to establish their proprietary rights over the suit property in that the appellant has failed to prove that her husband purchased the suit property, and the 1<sup>st</sup> respondent has failed to establish that she lawfully acquired the suit property.
- 49. In sum, the appeal succeeds in part. Therefore, we make the following orders:
  - i. The judgment of the Environment and Land Court dated 22<sup>nd</sup> January 2020 be and is hereby set aside only to the extent that the 1<sup>st</sup> respondent's counterclaim stands dismissed; and
  - ii. the appeal having partly succeeded, each party to bear their own costs.

It is so ordered.

**DATED AND DELIVERED AT MALINDI THIS 21<sup>ST</sup> DAY OF JUNE, 2024**

**A. K. MURGOR**

.....

**JUDGE OF APPEAL**

**DR. K. I. LAIBUTA C.Arb, FCI Arb.**

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**JUDGE OF APPEAL**

**G. V. ODUNGA**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original

Signed

**DEPUTY REGISTRAR**

