Jubilee Insurance Company v Kiguoya (Civil Appeal 474 of 2019) [2024] KECA 1630 (KLR) (8 November 2024) (Judgment)

Neutral citation: [2024] KECA 1630 (KLR)

REPUBLIC OF KENYA

IN THE COURT OF APPEAL AT NAIROBI

CIVIL APPEAL 474 OF 2019

DK MUSINGA, MSA MAKHANDIA & P NYAMWEYA, JJA

NOVEMBER 8, 2024

BETWEEN

JUBILEE INSURANCE COMPANY .... APPELLANT

AND

ERICK MACHARIA KIGUOYA .... RESPONDENT

(Being an appeal from the Judgment of the High Court of Kenya at Nairobi (Sergon, J.), dated 6th April 2018 in Civil Appeal No. 182 of 2015)

JUDGMENT

1. Before this Court is an appeal against the judgment and decree of the High Court at Nairobi (Sergon, J.) delivered on 6th April 2018 in Civil Appeal No. 182 of 2015.

2. The respondent, a licensed provisional agent with the Association of Kenya Insurers, brought proceedings against the appellant at the Chief Magistrates' Court, Milimani, to wit, CMCC No. 3128 of 2013, seeking payment of special damages of Kshs.4,829,788/=. He contended that on 10th February 2011, he was appointed by the appellant as a Medical Sales Tied Agent and tasked with the role of canvassing Medical Insurance Business on behalf of the appellant. In return, the appellant was obligated to pay him commission of 11% for both new and renewal business. On the basis of his appointment, he was not allowed to transact business with any other insurance company.

3. The gravamen of the respondent's suit was that he procured medical insurance business from the Hotel Intercontinental, Nairobi, (hereinafter referred to as "the hotel") on behalf of the appellant for both management and unionisable employees. The net commission for the new business was duly paid to him by the appellant on 31st January 2012 and 28th August 2012. The contract between the hotel and the appellant was renewed on 7th January 2013 following a series of negotiations between the hotel, the employees of the appellant and the respondent. The premium payable as per the renewed contract was Kshs.41,507,154/= and Kshs.12,653,200/= respectively. The hotel paid the said premiums to the

appellant on diverse dates between 23rd November 2012 and 13th March 2013, but the latter declined to remit the commission payable to the respondent in the sum of Kshs.3,691,000/= and Kshs.1,138,788/= respectively, totaling to Kshs.4,829,788/=.

4. In its defence dated 19th July 2013 and which was subsequently amended on 23rd December 2013, the appellant admitted having appointed the respondent to work for it on 10th February 2011 on contractual terms. As regards the request for a quotation from the hotel, the appellant denied that the respondent had anything to do with the said quotation and averred that the said request originated from direct discussions and/or negotiations between it and the hotel. It was further averred that all the negotiations in respect of the provision of medical insurance to the hotel were conducted by and/or carried out directly by the appellant through its full-time members of staff, the respondent having played no actual role in the process. In any case, the respondent could not have been involved in the procurement of the said business as the hotel had barred the participation of any broker or agent in the transaction.

5. The appellant contended that it made a presentation to the hotel through its members of staff and that the respondent had merely presented himself as one of the appellant's members of staff even though he was not, in fact, a member of the appellant's staff that were in attendance at the said presentation. In any case, the respondent was not one of the persons to whom an email from the hotel dated 13th October 2011 was addressed, and which was entitled "Medical Insurance Presentation-Management Option". The respondent therefore could not have participated in the said presentation as he was not one of the invitees to the presentation.

6. By way of a counterclaim, the appellant sought from the respondent refund of the sum of Kshs.5,934,969/= being monies paid to him by the appellant irregularly, erroneously and/or under a mistake of fact as commissions on premiums paid by the hotel for the first period of insurance of the Medical Insurance Scheme.

7. The respondent testified as PW1 and as the only plaintiff's witness. On its part, the appellant presented one Mr. Johannes Kitaka, an Accountant with the company, and Mr. Patrick Tumbo, its Chief Executive Officer, who testified as DW1 and DW2 respectively.

8. The trial court (Hon. C. Obulutsa) vide a judgment dated 31st March 2015 held, inter alia, that the respondent was a medical sales agent appointed by the appellant and that he did a presentation at the hotel on 11th October 2011 and the medical scheme was confirmed on 4th January 2012 and he was named as the sales executive. However, the court held that the respondent was at the said meeting as part of the team from the appellant company doing the presentation and that there was no direct communication between him and the hotel. On this basis therefore, the appellant was justified in declining to make the payment.

9. As regards the commission of Kshs.5,934,969/= allegedly paid to the respondent in error, the court held that those who processed the payments ought to have appeared before the court to testify and explain how and why the said payment was made to the respondent.

10. In the end, the court held that the appellant had not proved that he was entitled to the sum of Kshs.4,829,788/= as commission for the renewed business. His claim as well as the counterclaim by the appellant were found to be unproven and were accordingly dismissed.

11. Dissatisfied with the said decision, the respondent appealed to the High Court in Nairobi, to wit, Civil Appeal No. 182 of 2015. The grounds in support of his appeal were that the trial magistrate erred in law and in fact in making contradictory findings; in ignoring the plaintiff's evidence on record; by considering evidence contrary to section 35 of the *Evidence Act*; in failing to provide a concise statement

of the case and points for determination contrary to Order 21 rule 4 of the Civil Procedure Rules; in failing to make findings on issues framed, with reasons on each separate issue contrary to Order 21 rule 5; and in making a finding that the respondent did not prove his case.

12. The appellant herein also filed a cross-appeal on grounds that the trial magistrate erred in law and fact by finding that the cross-appellant had failed to prove its counterclaim of Kshs.5,934,969/= while the appellant had acknowledged receipt of the sum from the cross-appellant in his pleadings and testimony; by failing to find that payment of the counterclaim sum made by the cross-appellant to the appellant was not a fact in issue, having been expressly admitted by the appellant; following the finding that the appellant had not proved the claim that he procured business from the hotel in favour of the cross-appellant, the trial magistrate erred in law and in fact by dismissing the cross-appellant's counter-claim; and by making contradictory findings.

13. Vide judgment dated 6th April 2018, the High Court (Sergon, J.) held that the respondent had presented evidence showing that he made a power point presentation which enabled the hotel to renew the medical insurance scheme for its employees with the appellant. The High Court faulted the trial magistrate for relying on a disputed email to dismiss the respondent's claim, yet there was correspondence on the official letterhead of the appellant showing that the respondent was the appellant's liaison person. The High Court further held that the respondent had presented a letter from the hotel to the Head of Sales of the appellant confirming that the respondent was their contact person. On this basis, therefore, the learned judge was satisfied that the respondent had proved his claim on a balance of probabilities. Consequently, the court set aside the order dismissing the respondent's suit and substituted it with an order entering judgment in favour of the respondent in the sum of Kshs.4,829,780/=. The respondent was also awarded costs of the appeal and that of the suit before the trial court.

14. As regards the cross-appeal by the appellant, the first appellate Court, in agreeing with the trial court, held that the appellant failed to prove how it paid the respondent in error the sum of Kshs.3,929,545/= and Kshs.2,750,000/= on 7th December 2011. In the end, the court dismissed the cross-appeal in its entirety.

15. Dissatisfied with that decision, the appellant (Jubilee Insurance Company) preferred the instant appeal on grounds that the learned judge erred in law and misdirected himself on documentary evidence adduced by the appellant in support of its case, and as a result made a finding contrary to the rules of evidence under section 35 of the *Evidence Act*; erred in law by overlooking a well settled principle of the law of agency and disregarded a key obligation of the respondent to produce crucial documentary evidence in proof of agency which was a material issue of law, thereby making findings that were contrary to the provisions of the *Evidence Act*; erred in law by considering on appeal a fresh objection to production of documentary evidence, which objection had not been raised by the respondent in the trial court and as a result contravened well settled provisions of the *Evidence Act* and the Civil Procedure Rules, 2010; erred in law by ignoring the appellant's submissions on record; and erred in law by failing to re-evaluate and re-consider the appellant's tendered evidence.

16. At the hearing of this appeal, learned counsel Ms. Kinyanjui appeared for the appellant, while the respondent was represented by Mr. Wambugu, learned counsel. Highlighting the appellant's written submissions dated 4th September 2020, counsel contended that the respondent ought not to have raised the issue of admissibility of the email from the hotel dated 7th January 2013 on grounds that its maker did not testify or produce it before the trial court. It was contended that the issue of the admissibility of the email based on the provisions of section 35 of the *Evidence Act* was not a ground of appeal as the email from the hotel was produced by the appellant's Chief Executive Officer by consent of the parties following an application by the appellant. Therefore, having accepted the production of the

said email, the respondent was barred from raising an objection to its production at a subsequent stage, including in his appeal before the High Court. On this basis, therefore, the appellant faulted the High Court for having considered the objection raised by the respondent regarding the email. According to the appellant, by considering a new objection at an appeal stage, grave injustice was occasioned upon it as it was made to meet an entirely different case late in the day, and without an opportunity to adduce evidence that would have been necessary to counter the respondent's new objection. To buttress its argument, the appellant cited the decision of Kenya Hotels Limited vs. Oriental Commercial Bank Limited [2018] eKLR.

17. Further, and still on the issue of whether the High Court should have allowed the objection based on the provisions of section 35 of the *Evidence Act*, counsel cited the decisions of this Court in Securicor (Kenya) Ltd vs. E A Drappers Ltd and Anor (1987) KLR 338, Openda vs. Ahn [1983] KLR and Wachira vs. Ndanjeru (1987) KLR 252 where it was held that the discretion to admit a new point on appeal must be exercised sparingly, and that the new point must not raise disputes of fact, and it must not be at variance with the facts or case decided by the court below.

18. Regarding the duty of the first appellate court, the appellant contended that it had the duty to re-evaluate the evidence tendered before the trial court and make its own conclusion as per the decisions of this Court in Selle vs. Associated Motor Boat Company Ltd [1968] EA 123 and Kiruga vs. Kiruga & Another [1989] KLR 348. It was submitted that the learned judge failed to consider the appellant's documents and legal arguments contained in the pleadings and submissions and thus arrived at a wrong conclusion. In this regard, it was submitted that the learned judge failed to consider the evidence of DW1 and DW2 on the manner in which the business from the hotel was acquired, and the clear evidence that showed that the hotel had chosen to procure the insurance policy by directly contacting and negotiating with the appellant and did not appoint the respondent as an intermediary.

19. Lastly, on the issue of the relationship between the respondent and that appellant as far as the transaction in question was concerned, counsel relied on the definition of the term "agent" as per the decisions of this Court in Industrial & Commercial Development Corporation (ICDC) vs. Patheon Limited [2015] eKLR and Julius Mwema Nyuguto vs. Anne Wairimu Githogori [2019] eKLR, where the Court defined an agent as a person appointed by another (the principal) to act on his behalf, often to negotiate a contract between the principal and a third party. It was submitted that for an agent to act for a principal, there must have been consent from the principal to conduct certain activities. In this regard, it was submitted that the respondent did not have authority to act on behalf of the hotel as he did not possess a letter from the hotel stating that he had been appointed as an agent or broker in both new and renewal business and that in any case, the hotel was categorical that the respondent was never its agent. According to the appellant, the onus of proving that a contract existed between the insured and the respondent rested on the latter as per the provisions of section 107 (1) of the *Evidence Act*. It was submitted that in the absence of the evidence proving consent from the hotel, the learned judge erred by overlooking a well settled principle of the law of agency and disregarded a key obligation of the respondent to produce crucial documentary evidence in proof of agency which was a material issue of law.

20. On his part, learned counsel Mr. Wambugu, highlighting the respondent's submissions dated 17th April 2023, contended that the 1st appellate Court was within its powers to re-evaluate the evidence tendered before the trial court and make its inferences, including deciding whether or not to give the email from the hotel dated 7th January 2013 weight or not, and thus, it cannot be said that the learned judge erred in law and misdirected himself on the documentary evidence adduced by the appellant, or that he made a finding contrary to the provisions of section 35 of the *Evidence Act*.

21. On whether the learned judge considered on appeal a fresh objection to the production of the email dated 7th Janaury 2013, it was submitted that the said email and its contents was a subject of contest before the trial as per the proceedings of the trial court, and that it was indeed on the basis of the said email that the trial court dismissed the respondent's claim. According to the respondent, the High Court was duty bound to consider the email and the fact the dismissal of its suit was on the basis thereof and arrived at its own independent conclusion that the email, and more particularly its content, was suspect.

22. Regarding the issue whether the learned judge overlooked a the well settled principle of the law of agency and disregarded a key obligation that of proof of agency by the respondent, it was contended that as agent of the appellant, the respondent was only supposed to show that the appellant authorized him to conduct certain activities and that his mandate was captured in the letter of appointment at Clauses 2, 3, 4 and 5 respectively. It was also submitted that the respondent had annexed emails showing how he serviced the account by facilitation of deletions, issuance and delivery of medical cards, review meetings, member education, and collection of premiums to enable him meet targets as stipulated at Clause 4 of his appointment letter. In this regard, therefore, the respondent submitted that he had fulfilled the evidential burden of proof as per section 107 of the *Evidence Act* that he was an agent of the appellant for the transaction in question.

23. Lastly, on the issue whether the learned judge failed to re- evaluate and reconsider the appellant's evidence, it was submitted that a keen perusal of the impugned judgment reveals that a re-evaluation of the evidence was done, and therefore this ground of appeal has no basis whatsoever.

24. In a second appeal, the Court confines itself to matters of law only, unless it is shown that the courts below considered matters that they should not have considered, or failed to consider matters they should have considered, or looking at the entire decision, it is perverse. See Maina vs Mugiria [1983] KLR 78, Kenya Breweries Ltd vs. Godfrey Odongo, Civil Appeal No. 127 of 2007, and Stanley N. Muriithi & Another vs. Bernard Munene Ithiga [2016] eKLR.

25. Having carefully considered the record in the light of the rival submissions set out above, this appeal, in our view, turns on the singular issue, which is, whether the learned Judge erred in law in finding that the respondent had proved his claim of Kshs.4,829,780/= on a balance of probabilities and thus overturned the findings of the trial Magistrate on the issue.

26. It is not in dispute that the respondent was, vide a letter of appointment dated 10th February 2011 appointed by the appellant as a Medical Sales Agent for a period of 12 months with effect from 20th December 2012. His mandate as per Clause 2 of the letter of appointment was to canvass for medical insurance business only for which, in terms of Clause 6 of the letter of appointment, he was to be paid in the form of commissions at the rate of 11% for both new and renewal business.

27. It is also a fact that during the period the respondent alleges to have canvassed for business on behalf of the appellant from the hotel, he was at all times a duly licensed agent by the Association of Kenya Insurers (AKI). In this regard, the respondent produced before the trial court Provisional Agents Licence S.No. 000593 for the period 10th February 2011 to 9th February 2012 which would fall squarely with the period of the business between the hotel and the appellant. He also produced Provisional Agents Licence S.No. 000892 for the period 29th June 2012 to 28th June 2013 which matches the renewal phase of the medical insurance cover issued to the hotel by the applicant. As is evident on the face of each of these licenses, the respondent was authorized to represent the applicant in transacting general business within the license period.

28. The germane issue which we must address our minds to in this appeal is whether the respondent, as a tied agent of the appellant, was responsible for acquiring business from the hotel on behalf of the appellant for the renewal business and thus entitled to a commission at the rate of 11% of the total premiums paid, which in his tabulation amounted to Kshs.4,829,780/-

29. In his pleadings and testimony before the trial court, the respondent alluded to having been the appellant's agent who initiated and spearheaded the negotiations between the hotel and the appellant, leading to the acquisition of business from the hotel and the subsequent renewal. In this regard, he detailed the extent of his efforts towards the acquisition of the said business which, included holding a meeting with senior finance department employees of the hotel where his proposal to sell medical insurance products on behalf of the appellant was discussed; doing a PowerPoint presentation which he emailed to the Assistant Finance and Business Support Manager of the hotel; obtaining and forwarding to the hotel quotes for the proposed business; servicing the account by facilitating various variations of the policy; issuance of medical cards; review meetings; member education; and collection of premiums. He contended that the hotel through its various letters and emails confirmed severally that he was its liaison and contact person for the said business. On this basis therefore, he argued that he was entitled to the commission for the renewal business.

30. On its part, the appellant rebuffed the respondent's allegation that he was directly involved in the acquisition of business from the hotel. According to the appellant, the business from the hotel was not acquired through an agent and/or intermediary and that the negotiations between it and the hotel were initiated by the hotel's Director of Human Resources and an employee of the appellant known as Gideon Githaiga. To buttress the argument that the respondent had no role to play in the acquisition of the said business, the appellant relied on an email dated 7th January 2013 from Mr. Steven Mutuma, the hotel's Director of Human Resources to Mr. Patrick Tumbo, the Chief Executive Officer of the appellant. In the said email, the hotel denied having appointed any intermediary for the business between it and the appellant, and more specifically that the respondent was its agent for the said business. It is worth pointing out that the trial court relied on, inter alia, the contents of the said email in disallowing the respondent's claim for the renewal commission. On appeal, the learned judge faulted the trial magistrate for relying on the said email, whose contents were in dispute.

31. It is therefore evident that the crux of the dispute was whether the respondent played any role in the acquisition of business from the hotel to entitle him to a commission at the rate of 11%. Both parties produced compelling evidence in support of their arguments, and what we are called upon to ascertain is whether or not the High Court properly re-evaluated the evidence as the first appellate court, and if so, whether the decision it arrived at was the correct one.

32. Mr. Steven Mutuma, the author of the email dated 7th January 2013 through which the hotel denied that the respondent was its agent, did not testify before the trial court. The trial court issued witness summons upon him and even warrants for his arrest owing to his failure to obey the witness summons. Besides his failure to attend court, the appellant did not procure any witness statement from him. That notwithstanding, the appellant, vide a notice of motion dated 5th February 2015 sought leave of court to have Mr. Patrick Tumbo testify and produce the email dated 7th January 2013 since it had been addressed to him, owing to Mr. Steven Mutuma's failure to attend court. That application was not opposed by the respondent, and the trial court allowed it. Mr. Patrick Tumbo testified on behalf of the appellant as DW2 and also produced a copy of the said email as DEXH. 2.

33. Section 35 of the *Evidence Act*, Cap 80 Laws of Kenya provides for admissibility of documentary evidence as to facts in issue. It reads in part as follows:

> "(1) In any civil proceedings where direct oral evidence of a fact would be admissible, any statement made by a person in a document and tending to establish that fact shall, on production of the original document, be admissible as evidence of that fact if the following conditions are satisfied, that is to say—
>
> a. if the maker of the statement either—
>
> i. had personal knowledge of the matters dealt with by the statement; or
>
> ii. where the document in question is or forms part of a record purporting to be a continuous record, made the statement (in so far as the matters dealt with thereby are not within his personal knowledge) in the performance of a duty to record information supplied to him by a person who had, or might reasonably be supposed to have, personal knowledge of those matters; and
>
> b. if the maker of the statement is called as a witness in the proceedings:
>
> Provided that the condition that the maker of the statement shall be called as a witness need not be satisfied if he is dead, or cannot be found, or is incapable of giving evidence, or if his attendance cannot be procured without an amount of delay or expense which in the circumstances of the case appears to the court unreasonable.
>
> 2. In any civil proceedings, the court may at any stage of the proceedings, if having regard to all the circumstances of the case it is satisfied that undue delay or expense would otherwise be caused, order that such a statement as is mentioned in subsection 1. of this section shall be admissible or may, without any such order having been made, admit such a statement in evidence—
>
> a. notwithstanding that the maker of the statement is available but is not called as a witness;
>
> b. notwithstanding that the original document is not produced, if in lieu thereof there is produced a copy of the original document or of the material part thereof certified to be a true copy in such manner as may be specified in the order or the court may approve, as the case may be."

34. Our reading and interpretation of the above provision of the *Evidence Act* is that a document will be admissible if the person making it is dead, cannot be found, has become incapable of giving evidence, their attendance cannot be procured, or even if it can be procured but that would actually occasion expense and delay which, in view of the court, is unreasonable.

35. It is clear in our minds that Mr. Steven Mutuma, despite having authored the email dated 7th January 2013, was not intent on appearing before court to produce it. This is informed by the various witness summons issued against him, culminating in a warrant of his arrest. In essence, therefore, despite the appellant making all the necessary effort to secure his attendance before court, Mr. Mutuma was unwilling to do so. The process of compelling him was going to occasion further expense and delay in the finalization of the matter.

36. In addition, section 33 (b) of the *Evidence Act* provides for admission of hearsay evidence when a statement is made in the ordinary course of business, and in particular when it consists of any entry or memorandum made by a person in books kept in the ordinary course of business, or discharge of professional duty; or of an acknowledgment written or signed by him of the receipt of money goods securities or property of any kind. The email in question was authored by Mr. Steven Mutuma in the ordinary course of business and in the discharge of his professional duty. Therefore, on the basis of the provisions of section 33 (b) and 35 of the *Evidence Act*, we are convinced that the trial court was right in allowing the production of the said email, the absence of its author notwithstanding. After all, the application that sought production of the said email by Mr. Tumbo had not been opposed. However, that did not imply that the contents of the email and the veracity thereof could not be considered by the trial court and reevaluated by the first appellate court.

37. The pertinent question for our consideration is the probative value of the said email against the evidence tendered by the respondent that he was the agent for the business between the hotel and the appellant. Against this backdrop, we are alive to the fact that the respondent was paid commissions for the new business between the hotel and the appellant, although the latter stated categorically that the said payment was made to him in error. However, it is instructive to note that the two witnesses who testified on behalf of the appellant did not demonstrate how the payment of Kshs.5,934,969/= made to the respondent was in error. This was a colossal sum of money. The payments were made in cheques that were processed and signed by the appellant's authorized signatories. It was not demonstrated by the appellant that there was any fraud in the making of the payments. In addition, save for filing a counter claim, the appellant did not demonstrate any efforts or measures it had taken to recover the monies erroneously paid to the respondent, including but not limited to filing a complaint with the police.

38. On the other hand, the respondent demonstrated by way of emails his engagement with the hotel and employees of the appellant before the acquisition of business from the hotel during the first phase of the said business and in the period leading to the renewal. The mandate of the respondent was to canvass for medical business on behalf of the appellant. The respondent was not an employee of the appellant but a tied agent. What business, therefore, did he have in exchanging emails with the hotel on behalf of the appellant if at all he knew he would not get any monetary compensation at the end? Under what circumstances did the appellant engage in the exchange of correspondence between itself and the respondent if at all times it knew that he was not its agent for this business? These questions, in our view, did not find answers in either the defence filed by the appellant or in the testimony of its two witnesses.

39. The respondent produced before the trial court a copy of a letter on the hotel's letterhead dated 27th October 2011. In the said letter the hotel through Ms. Florence Mwaisaka, the Director of Human Resources who was succeeded in office by Mr. Steven Mutuma confirmed that the respondent, a sales executive with the respondent, was its contact person in the appellant company. In a different letter dated 7th January 2013, the hotel informed the appellant that the respondent continued to be their liaison with it. Further, in a letter dated 11th January 2012, the hotel confirmed that the respondent was one of its contact persons in the appellant company. In addition, the hotel's Utility Report 2011-12

which was prepared by an employee of the appellant identified the respondent as the broker for this business. Clearly, the identification of the respondent as a broker must have been in error as his appointment by the appellant was as a tied agent.

40. Based on the different letters from the hotel and the email exchange between the hotel and the respondent on the one hand and between the respondent and the appellant employees on the other, the inescapable conclusion which we make is that the respondent was instrumental in the acquisition of business from the hotel, the negotiations, discussions, and presentations that took place and the eventual awarding of business to the appellant and the subsequent renewal thereof. Had he not been the agent for the said business, the appellant would, in our considered view, stopped the exchange of communication between him and the hotel at a very early stage. If he was not the agent for this business, then it is difficult to reconcile why the hotel identified him as its contact person in the appellant company and why the appellant did not correct any misinformation on the part of hotel, if at all.

41. Taking all the relevant factors into consideration, we agree with the findings of the learned judge that the trial magistrate unnecessarily assigned too much probative value to the email by Mr. Steven Mutuma dated 7th January 2013 and disregarded the totality of the evidence adduced by the respondent which showed that he was the appellant's agent for the business between it and the hotel and was therefore entitled to a commission of Kshs.4,829,780/= for the renewal business.

42. Based on the foregoing, it is our finding that the learned judge properly re-evaluated and re-assessed the evidence on record and thereby arrived at a correct finding. We find no grounds for interfering with the learned judge's decision. Consequently, this appeal has no merit and we hereby dismiss it with costs to the respondent.

43. Orders accordingly.

DATED AND DELIVERED AT NAIROBI THIS 8TH DAY OF NOVEMBER 2024.

D. K. MUSINGA, (P.)

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JUDGE OF APPEAL

ASIKE-MAKHANDIA

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JUDGE OF APPEAL

P. NYAMWEYA

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JUDGE OF APPEAL

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

Signed

DEPUTY REGISTRAR.