

IN THE COURT OF APPEAL

AT KISUMU

(CORAM: TUNOI, O’KUBASU, J.J.A. & ONYANGO OTIENO, AG.

J.A.)

CIVIL APPEAL NO. 135 OF 2000

BETWEEN

**JOE LOIUS MARTIN..... APPELLANT
AND**

SHYAM SINGH BANSAL RAM..... RESPONDENT

(Appeal from the Ruling and Order of the High Court of

Kenya at Kisumu (Justice Wambilyangah) dated 22

nd

March, 2000

in

H.C.C.S. NO. 15 OF 1991 (O.S.)

ORDER OF THE COURT

Both Counsel agree that this appeal was instituted in the name of Joe Louis Martin, who at the time the appeal was instituted, was dead. Rule 83(1) states that an appeal shall not be instituted in the name of a person who is dead but may be instituted in the name of his legal representative.

Under these circumstances, the appeal is incompetent and it is struck out. The respondent will have costs of the appeal.

Made at Kisumu this 23rd day of March, 2004.

P. K. TUNOI

JUDGE OF APPEAL

E. O. O’KUBASU

JUDGE OF APPEAL

J. W. ONYANGO OTIENO

AG. JUDGE OF APPEAL

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

DEPUTY REGISTRAR