

IN THE COURT OF APPEAL

AT NAIROBI

(CORAM: LAKHA, O'KUBASU & KEIWUA, JJ.A)

CIVIL APPEAL NO. 173 OF 2002

BETWEEN

SOUTHERN CREDIT BANKING CORPORATION LTD.....APPELLANT

AND

TULIP APARTMENTS LIMITED1ST RESPONDENT

LORIMAR APARTMENTS LIMITED2ND RESPONDENT

MOHAMED A.K. MADHANI ADVOCATE

Practising as MOHAMED MADHANI & CO. ADVOCATES3RD RESPONDENT

(Appeal from the ruling and order of the High Court of
Kenya at Nairobi (Mr. Justice Rimita) dated 16th
May, 2002

in

H.C.C.C NO. 284 OF 2002)

RULING OF THE COURT

The record of appeal does not include the practising certificate of the advocate as is properly conceded although this was a matter which was very much in issue. The learned judge refers to the production of this certificate in his judgment as having been produced by consent. That being so, this omission is in breach of the mandatory provision of rules 85(1) (f) of the Rules of this Court and renders the appeal incurably defective and incompetent.

It is therefore not necessary to deal with the question whether leave to appeal was required or not.

Accordingly, the appeal being incompetent, is struck out but with no order as to costs as it was not raised by the respondents.

Made at Nairobi this 16th day of January, 2003.

A.A. LAKHA

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JUDGE OF APPEAL

E.O O'KUBASU

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JUDGE OF APPEAL

M. Ole KEIWUA

.....
JUDGE OF APPEAL

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