



**IN THE COURT OF APPEAL**  
**AT NAIROBI**  
**(CORAM: TUNOI, LAKHA & OWUOR, J.J.A.)**  
**CIVIL APPLICATION NO. NAI. 409 OF 2001 (UR. 219/2001)**

**BETWEEN**

**JAMES HERBERTS ODHIAMBO ..... APPLICANT**

**AND**

**FAR EAST CHINESE MEDICAL CENTRE ..... RESPONDENT**

**(Application for stay of execution of the ruling and  
order of the High Court of Kenya at Nairobi (Justice  
Githinji) delivered at Nairobi on 22nd November,  
2001  
in  
H.C.C.C. NO. 1706 OF 1996)  
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**RULING OF THE COURT**

This is an application under rule 5(2)(b) of the Rules of this Court seeking a stay of execution of a decree passed in 1996. It is now well settled that an intended appeal must be arguable. There is no material before us to persuade us that any arguable appeal can be shown. The notice of appeal has admittedly not been served on the purchaser. Nor is the notice in due form. There has been an inordinate delay which has not been explained. His hands are not clean. In all the circumstances, we see no merit in this application. Accordingly, it is dismissed with costs.

**Made at Nairobi this 6th day of February, 2002.**

**P.K. TUNOI**

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**JUDGE OF APPEAL**

**A.A. LAKHA**

.....

**JUDGE OF APPEAL**

**E. OWUOR**

.....

**JUDGE OF APPEAL**

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

**DEPUTY REGISTRAR**