

**IN THE COURT OF APPEAL
AT NAIROBI
(CORAM: OMOLO, LAKHA & KEIWUA, JJ.A.)
CIVIL APPEAL (APPLICATION) NO. 250 OF 2000**

BETWEEN

PETER NJERU MUGOAPPELLANT

AND

JIMBA CREDIT CORPORATION LTD..... 1STRESPONDENT

GEORGE GIKUBU MBUTHIA 2NDRESPONDENT

RULING OF THE COURT

This is an application under rule 80 of the Rules of this Court to strike out the appeal on the ground that an annexure of an Affidavit, an exhibit, was excluded from the record of appeal in breach of the mandatory provisions of rule 85(1)(f) of the Rules. The omission is incurable and renders the record defective and the appeal incompetent.

Accordingly, the motion succeeds. The appeal is struck out with costs including the costs of the motion.

Dated and delivered at Nairobi this 4th day of October, 2001.

R.S.C. OMOLO
.....
JUDGE OF APPEAL

A.A. LAKHA
.....
JUDGE OF APPEAL

M. KEIWUA
.....
JUDGE OF APPEAL

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