

REPUBLIC OF KENYA

**IN THE COURT OF APPEAL
AT KISUMU**

**(CORAM: (OMOLO, BOSIRE & O'KUBASU J.J.A)
CIVIL APPLICATION NO. NAI.43 OF 2000(KSM 29/99)**

BETWEEN

**JULIUS OMEDOAPPLICANT
AND
WILLIAM MAGWARRESPONDENT**

**(An application to strike out Notice of Appeal in an
intended appeal from the judgment of the High Court
of Kenya at Kakamega (Justice Tanui) dated 30th
November 1998**

in

H.C.C.C. No.124 of 1991

RULING OF THE COURT

The respondent was the unsuccessful party in High Court Case No.124 of 1991. The judgment of the court was delivered on 30th November, 1998, and the respondent promptly filed a notice of appeal on 8th December, 1998, declaring his intention of appealing against that decision. He had 60 days thereafter to file a record of appeal, which he has so far not done. He has also not applied for copies of proceedings and the judgment against which an appeal is intended. Clearly this is a proper case in which this court should not let a Notice of Appeal remain in the Superior Court record as the respondent does not seem to be in any hurry to do anything towards pursuing his intended appeal. We allow the application dated 23rd July 1999, and order that the Notice of Appeal dated and filed in the above suit be struck out with costs.

Dated and delivered this 24th day of March, 2000.

R.S.C.

OMOLO

.....

JUDGE OF APPEAL

S.E.O.

BOSIRE

.....

JUDGE OF APPEAL

E.O.

O'KUBASU

.....

JUDGE OF APPEAL

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

DEPUTY REGISTRAR