



REPUBLIC OF KENYA



**Alambo v Ricord Investments & 2 others (Environment and Land Appeal E036 of 2022) [2024] KEELC 7069 (KLR) (24 October 2024) (Judgment)**

Neutral citation: [2024] KEELC 7069 (KLR)

**REPUBLIC OF KENYA  
IN THE ENVIRONMENT AND LAND COURT AT KISUMU  
ENVIRONMENT AND LAND APPEAL E036 OF 2022**

**E ASATI, J**

**OCTOBER 24, 2024**

**BETWEEN**

**MOHAMMED SAID ALAMBO ..... APPELLANT**

**AND**

**RICORD INVESTMENTS ..... 1<sup>ST</sup> RESPONDENT**

**CHARLES OCHOME ..... 2<sup>ND</sup> RESPONDENT**

**SILVESTER OLUOCH ..... 3<sup>RD</sup> RESPONDENT**

*(Being an appeal from the ruling of the Senior Principal Magistrate (Hon. K Cheruiyot) in CMCC ELC CASE NO. 165 OF 2021 – Ricord Investments -vs- Charles Ochome, Silvester Oluoch))*

**JUDGMENT**

1. Vide the Memorandum of appeal dated 15<sup>th</sup> September 2022, the appellant filed the present appeal against the ruling of the trial court in Ksm CMCC ELC case No 165 of 2021.
2. The appellant seeks that the appeal be allowed, the order of the trial court be set aside and be replaced by an order allowing the appellant's application before the trial court.
3. Though the date of the ruling appealed against is not indicated in the Memorandum of Appeal, the heading of the Record of Appeal indicates that the ruling appealed against is the one delivered on 8<sup>th</sup> June 2022. The Memorandum of Appeal dated 15<sup>th</sup> September 2022 was filed and received in court on 5<sup>th</sup> of October 2022 on which date the filing fees in respect thereof of Kshs 1500 was paid.
4. It is clear that the appeal was filed out of time and in contravention of the provisions of section 79G of the *Civil Procedure Act*. Section 79G provides in mandatory terms that appeals from subordinate courts to the High Court shall be filed within a period of thirty days from the date of the decree or order



appealed against. There is no evidence that enlargement of time for filing of the appeal was sought and obtained under the proviso to section 79G.

5. Perusal of the lower court file shows that the suit was compromised by a consent order recorded on 17/11/2022 and the file closed.
6. For the foregoing reasons, I find that the appeal is incompetent. The appeal is hereby struck out. Costs to the Respondents.

Orders accordingly.

**JUDGEMENT DATED AND SIGNED AT KISUMU AND DELIVERED THIS 24<sup>TH</sup> DAY OF OCTOBER, 2024 VIRTUALLY THROUGH MICROSOFT TEAMS ONLINE APPLICATION.**

**E. ASATI,**

**JUDGE.**

In the presence of:

Maureen: Court Assistant.

R. Odhiambo for the appellant.

Nyakongo for the 1<sup>st</sup> Respondent.

