

REPUBLIC OF KENYA
IN THE INDUSTRIAL COURT AT NAIROBI
CAUSE NUMBER 18 OF 2014

BETWEEN

MOSES KIMANI NJARAMBA.....CLAIMANT

VERSUS

CHUNA HOUSING CO-OPERATIVE SOCIETY.....RESPONDENT

RULING

The Applicant filed an *ex parte* Originating Summons on 27th February 2014, seeking leave to file Claim against the Respondent, outside the prescribed time.

He initially filed a Claim for unlawful termination in the Co-operative Tribunal at Nairobi, on 5th August 2011.

He withdrew the Claim from the Co-operative Tribunal on the prompting of the Tribunal, on 27th February 2014.

3 years limit prescribed under Section 90 of the Employment Act 2007 on filing of employment claims, had already lapsed at the time of withdrawal from the Tribunal, the Applicant having lost his employment on 12th February 2010.

The Application was heard on 26th March 2014.

The Court Finds and Orders:-

1. There is no Law which allows the Industrial Court to vary the time limits given under Section 90 of the Employment Act 2007. Neither Section 27 nor 28 of the Limitation of Actions Act Cap 12 the Laws of Kenya, nor Section 3A of the Civil Procedure Act, invoked by the Applicant, allow the Industrial Court to alter the mandatory time Limit prescribed under Section 90 of the Employment Act 2007.
2. The Applicant was represented by Mandala & Co. Advocates at the Tribunal, a Law Firm which has made several successful Claims on employment termination at the Industrial Court. It is difficult to see why this particular Claim was first filed in the Tribunal in the year 2011.
3. Unfortunately, this Court finds it has no power to assist the Applicant in overcoming this hurdle which is self-imposed. *The Application is dismissed, with no order on the costs.*

Dated and delivered at Nairobi this 8th day of July 2014

James Rika

Judge