

THE REPUBLIC OF UGANDA
IN THE HIGH COURT OF UGANDA AT MBARARA

HCT-05-CV-CA-0009-2003
(From BUS-00-CV-EPAP0034-2002)

MWEBEMBEZI MILTONAPPELLANT

VS

1. STEVEN KARUTI
2. THE ELECTORAL COMMISSIONRESPONDENT

BEFORE: THE HON. MR. JUSTICE P. K. MUGAMBA

RULING

Following the decision of the Grade I Magistrate at Bushenyi the appellant herein who was the petitioner in an election petition lodged his appeal with this court. However before hearing of the appeal could proceed counsel for the first respondent objected to the appeal saying it was incompetent because it had been filed in disregard of the Local Governments Act and the Parliamentary Election (Petition) Rules. It was counsel's submission that section 172 of the Local Governments Act 1997 enjoins the appellant to follow Election (Petition) Rules and as such Rule 30 should have been adhered to. Counsel for the appellant on the other hand said in her submissions that by filing the appeal within 30 days the appellant had complied with the requirements of section 145 of the Local Governments Act. 1997.

I have looked at the Local Governments Act 1997 and read it together with the Local Governments (Amendment) Act 2001. No procedure is given in any of the two Acts concerning the way to initiate an appeal to the High Court or to the Court of Appeal even. Section 172 of the Local Governments Act 1997 after the amendment of 2001 reads:

‘For any issue not provided for under this Part of the Act, the Presidential Elections Act and the Parliamentary Elections Act in force shall apply to the Local Councils with such

modifications as may be deemed necessary by the Electoral Commission.' The emphasis is added.

I do not find such provisions available either. The solution lies in section 79 of the Civil Procedure Act. Since the appeal was lodged on 14th February 2003 computing from the date of judgment on 17 January 2003 it was within the period of 30 days.

Consequently the objection cannot be sustained and is rejected. Costs in the cause.

P. K. Mugamba

Judge

27th April 2005

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Mr. Dhabangi holding brief for Ms Ahimbisibwe for appellant

Both parties in court

Mr. Tumwesigye holding brief for Mr. Magoba for the respondent

Ms Tushemereirwe court clerk/interpreter

Court:

Ruling read in open court,

P. K. Mugamba

Judge