

**THE REPUBLIC OF UGANDA**  
**IN THE COURT OF APPEAL OF UGANDA**  
**CIVIL APPLICATION NO. 24/97**

*(Coram: S.T. Manyindo DCJ; Mpagi-Bahigeine J.A; and S.G. Engwau J.A)*

**JAMES BEMBA..... 1<sup>ST</sup> APPLICANT**

**ANDREW BEMBA.....2<sup>ND</sup> APPLICANT**

**-VERSUS-**

**VICTORIA TEA ESTATES LIMITED.....RESPONDENT**

**REASONS FOR DECISION**

On 25/9/98 we dismissed an application by Mr. Kayondo S.C to strike out this appeal promising to *give* our reasons later which we now do.

The application was brought by way of Notice of Motion under rr 77, 81, 87 and 42(1) & (2) of the Rules of this court.

The Notice of Appeal was filed on 4/14/96 and -therefore comes under the Supreme Court Rules (Statutory Instrument .191 No. 19). Though the current 1996 Rules are almost a duplication of the former Supreme Court Rules it was erroneous for Mr. Kayondo S.C to cite them as they were not in force at the time of filing the appeal. An appeal has to be made in conformity with the rules in force relating thereto. Therefore Mr. Kayondo should have cited the Rules of the Supreme Court alleged to have been breached.

Secondly the point so insisted upon by Mr. Sekandi and which turned out to be fatal to Mr. Kayondo's application was his noncompliance with Rule 75(1) of the Rules of the Supreme Court.

This stipulates:

*“Every person on whom a notice of appeal is served shall,*

- (a) within fourteen days after service on him of the notice of appeal lodge in the appropriate registry and serve on the intended appellant notice of a full and sufficient address for service and*
- (2) A notice of address for service shall be substantially in the form E in the first Schedule hereto and shall be signed by or on behalf of the person lodging it.*

Though Mr. Kayondo faintly argued that it was not necessary to lodge his address afresh since it was known and he had already been served with the Notice of Appeal, the Rule is mandatory. It is to take care of any changes in Advocates that might occur and to ensure expedition in the service and exchange of all relevant documents and correspondence relating to the appeal. Needless to say these rules must in general be strictly complied with subject to the power of the court to extend the time for good cause being shown.

*Rule 87(1) of the old Rules of the Supreme Court corresponds with Rule 87 (1) of this court.*

*The appellant shall, before or within seven days after lodging the memorandum of appeal and the record of appeal in the **appropriate registry, serve copies thereof on each respondent who has complied with the requirements of rule 78”***

(Rule 78 of the Rules Supreme Court corresponds with Rule: 79 of the Rules of this court.)

This provision too is couched in mandatory terms. In the authority on the point cited by Mr. E. Sekandi C/A No 7/90 S.C. Hussein Mohamed V Augustine Kyeyune, the Supreme Court

confirmed the position at law. A respondent who fails to furnish an address for service disqualifies himself from being served with the Memorandum and Record of appeal. Mr. Kayondo therefore lost his right to complain of late service upon him once he failed to furnish an address for service after receipt of the Notice of Appeal. The Rule prescribes a form which must substantially be complied with. We consider its overall purpose is to notify the public of what is happening and the participants.

We agreed with Mr. Sekandi's objections and it is for these reasons that the application was dismissed with costs.

Dated at Kampala this 19<sup>th</sup> day of November, 1997

S.T. Manyindo

***DEPUTY CHIEF JUSTICE***

A.E.M. Bahigeine

***JUSTICE OF APPEAL***

S.G. Engwau

***JUSTICE OF APPEAL***