

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

H.C. CIVIL APPEAL NO. 12 OF 1995
(From Civil Suit No. 34/94 before Mag. G.I Mbarara)

VICENT KAFUREKA.....APPELLANT

VERSUS

YOWANA KATOROBO.....RESPONDENT

BEFORE: THE HON. JUSTICE P. K. MUGAMBA

J U D G M E N T

This is an appeal against the ruling/order of Magistrate Grade 1 Mbarara delivered on 19th June 1995 according to the memorandum of appeal registered on 23rd June 1995. Significantly when the memorandum of appeal was registered it was not accompanied by an extract of the order appealed from. The file however contains an extracted order dated 27th June 1995. The two documents cannot be said to be referring to the same order as they are eight days distant in the matter each refers to.

This court has held that failure to extract a formal decree or order before filing the appeal is a defect going to the jurisdiction of the court and could not be waived. Such failure renders the appeal incompetent.

See Yowana Yakuze —vs— Victoria Nakabembe [1988—1990] HCB 138.

It is instructive also to bear Order 18 rule 7 of the Civil Procedure Rules in mind.

Even if I were to invoke Article 126 (2) (e) of the Constitution where courts are enjoined to administer justice without undue regard to technicalities I would not wish away the fact that the order sought to be appealed from is uncertain.

In the result I find the appeal incompetent and strike it out with costs.

P. K. Mugamba

Judge

15th November 2002

Mr. Mwene—Kahima for respondent

Mr. Ngaruye holding brief for Mr. Katembeko for appellant

MS Tushemereirwe Court clerk

Court:

Judgment read in court.

P. K. Mugamba

Judge