

**THE REPUBLIC OF UGANDA**  
**IN THE HIGH COURT OF UGANDA AT KAMPALA**  
**(LAND DIVISION)**  
**CIVIL APPEAL NO. 39 OF 2008**

**HENRY BAGANDA** ..... **APPELLANT**

**V E R S U S**

**1. GODFREY ZINGA** }  
**2. WILLIAM MUKASA** } ..... **RESPONDENTS**

**RULING BY HON. MR. JUSTICE JOSEPH MURANGIRA**

The appellant, **Henry Baganda**, filed in this court, Civil Appeal NO. 39 of 2008 through his lawyers, M/s Bwambale, Musedde & Co. Advocates, on 3<sup>rd</sup> July, 2009 against **Godfrey Zinga** and **William Mukasa**, the respondents. The respondents are represented by M/s Lutaakome & Co. Advocates.

On 6<sup>th</sup> November, 2009 when the appeal came up for hearing, Mr. Bugembe Patrick, Counsel for the respondent raised preliminary objection that this appeal was filed out of time. He submitted that judgment was delivered on 19<sup>th</sup> December, 2008, and that however, the memorandum of appeal was filed on 3<sup>rd</sup> July, 2009, almost six (6) months after the deliver of the judgment.

I perused the record of the court and ascertained that judgment in the lower court was delivered on 19<sup>th</sup> December 2008. And that the appeal was filed on 3<sup>rd</sup> July 2009 when the memorandum of appeal was filed in this court. Certainly, this appeal was filed out of time. Section 79 of the Civil Procedure Act provides that an appeal to the High Court shall lie within 30 days from the date of the delivery of the judgment. Again, Order 43 rule 1 (i) of the Civil Procedure Rules provides that an appeal shall commence to the memorandum of appeal. I also noted that the appellant

never filed a decree arising out the judgment that was delivered on 19<sup>th</sup> December 2008, as required by section 220 (i) (a) of the Magistrate's Courts Act, cap 16 Laws of Uganda.

In view of all the above, I agree with counsel for the respondents, that the appeal was filed out of time. Therefore, there is no appeal before me.

Accordingly, Civil appeal NO. 39 of 2008 is dismissed with costs to the respondents.

Dated at Kampala this 9<sup>th</sup> day of November, 2009

**Sgd**

**Judge**

**09/11/09**

09/11/09

Mr. Ronald Karizi from Lutakome & Co. Advocates holding brief from Bugembe Patrick. It is for a ruling. I am ready to receive the same.

The 1<sup>st</sup> respondent is in court.

The 2<sup>nd</sup> respondent is absent so is the appellant.

Ms. Namusoke Justine, the clerk in court.

**Court:** Ruling is delivered in open court.

**Sgd**

**Judge**

**09/11/09**