

IN THE SUPREME COURT OF UGANDA

CIVIL APPLICATION NO. 31 OF 1993

BETWEEN

POLYCARP SEKIBOBO ::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::: APPLICANT

AND

CLARE OBONYO::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::::: RESPONDENT

RULING OF MANYINDO, D.C.J:-

This is an application for an order extending the time within which to file a fresh Memorandum and record of appeal. It is brought under Rule 4 of the Rules of this Court. The applicant was the unsuccessful party in a civil suit in the High Court. He appealed to this court through Ms. Katongole & Co. Advocates. The latter filed a defective record of appeal in that it did not contain orders appealed against. It was also an omnibus appeal as it attacked an order of the Deputy Registrar of the High Court as well as two other orders made by two Judges separately.

Realising the mistake, the Counsel for the applicant sought to withdraw the appeal but the move was resisted by Counsel for the Respondent. Subsequently, the Registrar of the Supreme Court closed the file with this endorsement:-

“The appeal stands dismissed with costs under Rule 93(4).”

The applicant promptly dropped Ms. Katongole & Co. Advocates and instructed his present Advocates Ms. Katureebe, Twinomukunzi & Co., Advocates to bring the present application. Their argument is that since the appeal was never heard on its merits it can be resurrected or reinstated with the proper record and Memorandum of appeal. On the other hand Counsel for the Respondent submitted that the appeal cannot be reopened as it was dismissed.

I am of the view that the application must fail but on a different ground. There is no provision enabling the Registrar of this Court to dismiss an appeal. An Order that an appeal stands

dismissed can only be made by the Court and the Registrar is not a member of this Court. It follows therefore that his order was ultra vires his powers. It must be vacated. It is set aside. This leaves the appeal still pending. The Counsel for the applicant may now take the next step-withdraw appeal and then take other appropriate course of action.

In the result the application is dismissed with costs to the Respondent.

DATED at Mengo this 12th day of July 1994

S.T. MANYINDO
DEPUTY CHIEF JUSTICE..

I CERTIFY THAT THIS IS A TRUE
COPY OF THE ORIGINAL.

A.L. KYEYUNE,
AG. ASST. REGISTRAR.
8/11/1994.

12/7/1994

Mr. Babigumiru for the applicant

M/s. Kadaga & Co., Advocates for Respondent absent though service effected.

Court:- Ruling delivered.

T. OPESEN
AG. ASST., REGISTRAR.