

IN THE HIGH COURT OF TANZANIA

AT BUKOBA

PC. CIVIL APPEAL NO. 37/2001

(From original civil case No. 27/2000 Kyaka Primary Court and civil appeal No. 65/2000 Bukoba District Court) (Before: I. N. B. Bashemela, Esq. PDM)

PASCHAL WAMALA.....APPELLANT

VRS.

ABDUL OMARY PUNJA.....RESPONDENT

JUDGMENT

LUANDA, J.

When this PC civil appeal came on for hearing Mr. Katabalwa learned counsel for the Respondent informed the court that the appeal was not filed within 30 days after the decision of the appellate district court was handed down and without leave of this court.

He said the decision of the district appellate court was delivered on 12/3/2001; whereas this appeal was lodged on 17/4/2001 vide ERV 13147113.

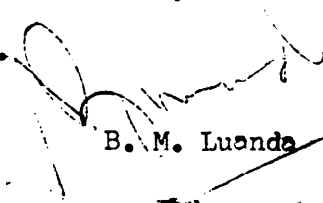
He prayed the appeal be struck out with costs.

I have carefully perused the record. I am in agreement with Mr. Katabalwa, save the prayer of striking.

Under S. 25 (1) (b) of the Magistrates' Courts Act, 1984 if one is aggrieved with a decision of a district court exercising its appellate or revisional jurisdiction and intends to appeal to this court he is required to do so within 30 days after the date of the decision or order. In case he is late or sees he would not be able to do so, he is required to seek leave of the court.

In this appeal, the appeal was filed on the 35th days i.e. five days late and without leave of this court. The appeal is time barred.

As the appeal is time barred, the same is dismissed with costs.  
Order accordingly.



B. M. Luanda

Judge


8/7/2004

Judgment delivered

Appellant - Absent

Respondent - Present.

Mr. Katabalwa for the Respondent.



B. M. Luanda

JUDGE

AT BUKOBA

8/7/2004.