

UGANDA / JUDGMENT

Mwebembezi Milton v Steven Karuti, Electoral Commission (HCT-05-CV-CA-0009-2003) (HCT-05-CV-CA-0009-2003) [2005] UGHC 94 (27 April 2005)

[2005] UGHC 94

COURT

High Court of Uganda

CASE / FILE NUMBER

HCT-05-CV-CA-0009-2003

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Following the decision of the Grade I Magistrate at Bushenyi the appellant herein who was the petitioner in an election petition lodged his appeal with this court.

However before hearing of the appeal could proceed counsel for the first respondent objected to the appeal saying it was incompetent because it had been filed in disregard of the Local Governments Act and the Parliamentary Election (Petition) Rules. It wa

s counsel\rsquote s submission that section 172}\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid16542310 of the Local Governments Act 1}\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid14430424\charrsid16542310

997 enjoins the appellant to follow Election (Petition) Rules and as such Rule 30 should have been adhered to. Counsel for the appellant on the other hand said in her submissions that by

filing the appeal within 30 days the appellant had complied with the requirements of section 145 of th}\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid16542310 e Local Governments Act. 1997.

\par }\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid14430424\charrsid16542310 I have looked at the Local Governments Act 1997 and read it together with the Local \line Governments (Amendment) Act 2001. No procedure is given in any of the two Acts \line

concerning the way to initiate an appeal to the High Court or to the Court of Appeal even. \line Section 172 of the Local Governments Act 1997 afte}\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid16542310 r the amendment of 2001 reads:

\par }\pard \ltrpar\s15\qj \li720\ri0\sb100\sa240\sbauto1\sl360\slmult1\widctlpar\wrapdefault\aspa
lpha\aspnum\faauto\adjustright\rin0\lin720\itap0\ipgp1\pararsid16542310 {\rtlch\fcs1 \af0
\ltrch\fcs0 \insrsid14430424\charrsid16542310 \lquote

For any issue not provided for under this Part of the Act, the Presidential Elections Act and the Parliamentary Elections Act in force shall apply to the Local Councils with such modifications as may be deemed necessary }\rtlch\fcs1 \af0 \ltrch\fcs0

\ul\insrsid16542310 by the }\rtlch\fcs1 \af0 \ltrch\fcs0 \ul\insrsid14430424\charrsid16542310 Electoral Commission.\rsquote }\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid16542310 The emphasis is added.

\par }\pard \ltrpar\s15\qj \li0\ri0\sb100\sa240\sbauto1\sl360\slmult1\widctlpar\wrapdefault\aspalp
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I do not find such provisions available either. The solution lies in section 79 of the Civil Procedure Act. Since the appeal was lodged on }\rtlch\fcs1 \ab\af0 \ltrch\fcs0
\insrsid14430424\charrsid16542310 14th }\rtlch\fcs1 \af0 \ltrch\fcs0

\insrsid14430424\charrsid16542310 February 2003 computin}{\rtlch\fcs1 \af0 \ltrch\fcs0
\insrsid16542310 g from the date of judgment on 1}{\rtlch\fcs1 \af0 \ltrch\fcs0
\insrsid14430424\charrsid16542310 7 January 2003 it was}{\rtlch\fcs1 \af0 \ltrch\fcs0

\insrsid16542310 within the period of 30 days.

\par }{\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid14430424\charrsid16542310 Consequently the objection
cannot be sustained and is}{\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid16542310 rejected. Costs in the
cause.

\par }{\pard \ltrpar\s15\qc \li0\ri0\sl360\slmult1\widctlpar\wrapdefault\aspalpha\aspnum\faauto\ad
justright\rin0\lin0\itap0\ipgp1\pararsid16542310 }{\rtlch\fcs1 \af0 \ltrch\fcs0
\insrsid16542310\charrsid8146100 P. K. Mugamba

\par Judge}{\rtlch\fcs1 \af0 \ltrch\fcs0 \insrsid16542310

\par }{\rtlch\fcs1 \ab\af0 \ltrch\fcs0 \insrsid14430424\charrsid16542310 27th }{\rtlch\fcs1 \af0
\ltrch\fcs0 \insrsid16542310 April 2005

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\insrsid14430424\charrsid16542310 h }{\rtlch\fcs1 \af0 \ltrch\fcs0
\insrsid14430424\charrsid16542310 April 2005 \line Mr. Dhabangi holding brief for Ms
Ahimbisibwe for appellant \line Both parties in court \line

Mr. Tumwesigye holding brief for Mr. Magoba for the respondent \line Ms Tushemereirwe court
clerk/interpreter \line }{\rtlch\fcs1 \af0 \ltrch\fcs0 \ul\insrsid14430424\charrsid16542310 Court: }
{\rtlch\fcs1 \af0 \ltrch\fcs0

\insrsid14430424\charrsid16542310 \line Ruling read in open court,

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\insrsid16542310\charrsid8146100 P. K. Mugamba

\par Judge

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656e74323d22616363656e74322220616363656e74333d22616363656e74332220616363656e74343d22616363656e74342220616363656e74353d22616363656e74352220616363656e74363d22616363656e74362220686c696e6b3d22686c696e6b2220666f6c486c696e6b3d22666f6c486c696e6b222f3e}

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\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority9 \lsdlocked0 heading 1;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 2;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 3;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 4;

\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 5;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 6;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 7;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 8;\lsdqformat1 \lsdpriority9 \lsdlocked0 heading 9;

\lsdpriority39 \lsdlocked0 toc 1;\lsdpriority39 \lsdlocked0 toc 2;\lsdpriority39 \lsdlocked0 toc 3;\lsdpriority39 \lsdlocked0 toc 4;\lsdpriority39 \lsdlocked0 toc 5;\lsdpriority39 \lsdlocked0 toc 6;\lsdpriority39 \lsdlocked0 toc 7;

\lsdpriority39 \lsdlocked0 toc 8;\lsdpriority39 \lsdlocked0 toc 9;\lsdqformat1 \lsdpriority35 \lsdlocked0 caption;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority10 \lsdlocked0 Title;\lsdpriority1 \lsdlocked0 Default Paragraph Font;

\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority11 \lsdlocked0 Subtitle;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority22 \lsdlocked0 Strong;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority20 \lsdlocked0 Emphasis;

\lsdsemihidden0 \lsdunhideused0 \lsdpriority59 \lsdlocked0 Table Grid;\lsdunhideused0 \lsdlocked0 Placeholder Text;\lsdsemihidden0 \lsdunhideused0 \lsdqformat1 \lsdpriority1 \lsdlocked0 No Spacing;

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\lsdunhideused0 \lsdqformat1 \lsdpriority30 \lsdlocked0 Intense Quote;

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