**Devani and another v Patel**

[1974] 1 EA 465 (HCK)

**Division:** High Court of Kenya at Nairobi

**Date of judgment:** 2 December 1974

**Case Number:** 36/1973 (133/74)

**Before:** Simpson and Kneller JJ

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*[1] Rent Restriction – Standard rent – Identity of premises – Two rooms added – Premises not identical*

*– Standard rent calculated on cost of construction – Rent Restriction Act* (*Cap.* 296), *s.* 4 (*K.*).

*[2] Rent Restriction – Rent – Overpayment by tenant – No jurisdiction for Tribunal to order repayment*

*by landlord – Rent Restriction Act* (*Cap.* 296) *ss.* 5, 19(*K.*).

**Editor’s Summary**

The tribunal assessed the standard rent of premises by adding to the rent on 1 January 1965 a sum based

on the cost of alterations which added to the premises another bedroom and a study.

The Tribunal calculated the overpayment and gave the respondent the judgment for this sum.

On appeal the appellants contended that the Tribunal had no power to give judgment for rent overpaid

by a tenant, and that the Tribunal had incorrectly assessed the standard rent, since the alterations made

were not minor, and the standard rents should have been calculated on the costs of construction of the

premises.

**Held** –

(i) the Tribunal has no power to give judgment against a landlord for rent overpaid by a tenant;

( ii) the identity of the premises leased had changed and the standard rent should have been calculated

on the cost of construction.

Appeal allowed.

**No cases referred to in judgment**