**Kiboro v Posts & Telecommunications Corporation**

[1974] 1 EA 155 (CAN)

**Division:** Court of Appeal at Nairobi

**Date of judgment:** 24 April 1974

**Case Number:** 50/1973 (56/74)

**Before:** Sir William Duffus P, Law Ag V-P and Mustafa JA

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**Appeal from:** High Court of Kenya – Harris, J

*[1] Appeal – Record – Supplementary record – Cannot contain basic document – East Africa Court of*

*Appeal, r.* 89*.*

*[2] Appeal – Out of time – Sufficient cause – Misreading of rule – Not sufficient cause.*

*[3] Contract – Offer without consideration – Not relied on by offeree – Not binding.*

**Editor’s Summary**

The appellant filed a record of appeal which did not contain a certified copy of the decree appealed

against. Just before the appeal was to be heard, he filed a fresh record of appeal which contained the

decree, contending that he was entitled to file it as a supplementary record, alternatively that he should be

allowed to file it out of time. The reason given was that a clerk had mistakenly followed the High Court

rule.

The appellant wished to resign from the respondent corporation and was offered a gratuity. He

resigned and thereafter the respondent withdrew the offer of gratuity.

**Held –**

(i) a supplementary record cannot contain one of the basic documents required by the rules;

( ii) sufficient reason had not been shown for the granting of leave to file the decree out of time;

(iii) the appellant had not relied on the offer in acting to this detriment, so as to make the respondent

liable.

Appeal struck out.

**Cases referred to Judgment:**

(1) *Schweitzer v. Cunningham* (1955) 22 E.A.C.A. 252.

(2) *Hatimali Adamji v. Posts & Telecommunications Corporation*, C.A. 50 of 1972 (*T*) (unreported).