

IN THE COURT OF APPEAL OF BOTSWANA  
HELD AT LOBATSE

Civil Case No. 31/96

In the matter of:

SIMON NTSHEKANG Appellant

and

THE ATTORNEY GENERAL Respondent

No representation for the Appellant  
Mr M Chamme for the Respondent

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**R U L I N G**

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**CORAM:** T.A. Aguda  
P.H. Tebbutt  
Lord W.L.K. Cowie

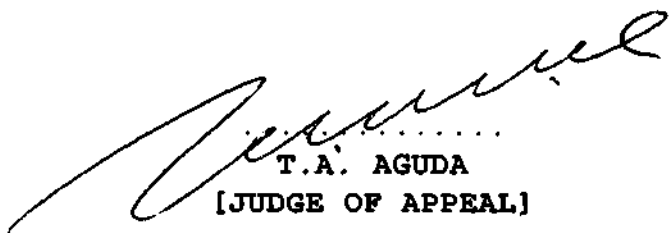
**AGUDA JA:**

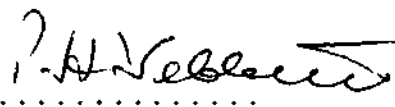
In this appeal the Appellant was granted leave to appeal in October 1996. He filed Notice to Appeal on October 10 1996. Notice of Hearing during this session was sent out in May. Mr Chamme has informed us that he received this on May 20. Up to now the Appellant has not filed any Heads of Argument as provided for under Rule 26 of the Court of Appeal Rules. There has been conflicting information as to whether the appellant is seeking a postponement or an abandonment of the appeal. When the case was called this morning in Court the appellant was absent and there was no appearance for him. This Court takes very serious

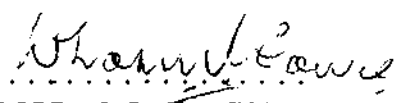
exception to the conduct of the attorney representing the Appellant in this appeal. He has not made his intention clear as to what precisely he wanted and he has caused this Court to go into the trouble of reading the record. Similarly he has caused the attorney for the Respondent to come to court in vain. Every attorney for an appellant is bound to comply with the rules of court and especially to file the Heads of Argument within time provided for under Rule 26. And this appellant has failed to do.

This appeal is therefore struck out with costs. It must not be reinstated without leave of this court.

Delivered in open court at Lobatse on 14 July 1997.

  
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T.A. AGUDA  
[JUDGE OF APPEAL]

I agree:   
.....  
P.H. TEBBUTT  
[JUDGE OF APPEAL]

I agree:   
.....  
LORD W.L.K. COWIE  
[JUDGE OF APPEAL]