

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**  
**SUB - REGISTRY OF MWANZA**  
**AT MWANZA**

**MISC. LAND APPEAL No. 10 OF 2022**

*(Originating from the Ngoma Ward Tribunal Land Case No. 26 of 2014, Appeal from the Judgment and Decree of the District Land and Housing Tribunal for Ukerewe at Nansio in the Land Appeal No. 77 of 2015 dated the 20<sup>th</sup> day of September, 2018, before Hon. Philip D., Chairperson)*

**KABATI MGANGA .....APPELLANT**

**VERSUS**

**LEONARD NGOROMA.....RESPONDENT**

**RULING**

*22<sup>nd</sup> September & 03<sup>rd</sup> October, 2022*

**OTARU, J.**

This is a Ruling on a preliminary objection raised by the Respondent in the Appeal against the decision of the District Land and Housing Tribunal (DLHT) for Ukerewe at Nansio of quashing the decision of the Ward Tribunal of Ngoma which gave the Respondent legal right to a shamba that was disputed between the parties.

Before the matter could be heard on merits, the Respondent raised a preliminary objection that the Appeal is *hopelessly time barred, in the alternative and without prejudice that it is fraudulently filed in court therefore improperly before this court* and prayed for the Court to dismiss the Appeal with costs.

*M. Oramu*

At the hearing the parties appeared in person and unrepresented. The Respondent submitted that the DLHT decided the case on 20/09/2018 but the Appeal was filed on 26/02/2019 and he was served on 09/06/2022.

In response, the Appellant submitted that after the judgment of 20/09/2018, he started the appeal process which took time. He received a copy of the Judgment on 6<sup>th</sup> February 2019 and took it to Ukerewe on 25<sup>th</sup> February 2019. He attached evidence of payment for the copy of the judgment. He also stated to have lodged the Notice of intention to Appeal although he did not remember the dates. He prayed that since he followed all procedures the court to give him his rights in accordance with the law.

In considering this objection, I went through the record of Appeal as well as the relevant provisions of the law. I have observed that as the Appellant stated, judgment was delivered on 20<sup>th</sup> September 2018. The Appellant filed Notice of Intention to Appeal on 3<sup>rd</sup> October 2018. The Memorandum of Appeal was signed on 25<sup>th</sup> February 2019 and filed on the following day. According to Section 38(1) of the **Lands Disputes Courts Act**, Cap. 216 of the Laws, limitation of time for filing appeals to the High Court from DLHT in exercise of its appellate jurisdiction is 60 days.

The Appellant submitted evidence of payment for copies of judgment and proceedings on 6<sup>th</sup> February 2019 which he received on the same day.

*M. Olan*


The Memorandum of Appeal was filed on 26<sup>th</sup> February 2019. Some 20 days after the receipt of the judgment as well as the proceedings. Further, the Appellant showed his intention to Appeal on 3<sup>rd</sup> October 2018 when the Notice of Appeal was filed. As the record is silent as to when the Judgment and proceedings were ready for collection, I think it is only fair to give the Appellant the benefit of the doubt that there was no delay on his part.

On the question as to why the Respondent was served only in June 2022 more than three years after the Appeal was filed. Having perused the file, I came across some internal communication beyond the control of the Appellant that has caused the delay, I do not think this can be used to penalize the Appellant as basically he has done everything he was supposed to do on his part.

Consequently, I overrule the Preliminary Objection raised as the Appellant cannot be faulted on any of the delays observed. The matter is to proceed on merits. No order as to costs.

It is so ordered .

**DATED** at **MWANZA** this 03<sup>rd</sup> day of October, 2022.

  
**M.P. OTARU**  
**JUDGE**

This ruling is delivered under my hand and the seal of this Court this 03<sup>rd</sup> day of October, 2022 before the Appellant and the Respondent both in person.

The right of appeal is duly explained.



*M. Otaru*  
**M.P. OTARU**  
**JUDGE**  
**03/10/2022**