

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(MWANZA DISTRICT REGISTRY)
AT MWANZA**

CIVIL APPEAL NO. 6 OF 2022

(Arising from Judgment of District Land and Housing Tribunal of Ukerewe at Nansio in Land Appeal No. 77 of 2015 dated 20/09/2018 Delivered By, Philip. D, Chairman, Originating from the decision of Ngoma Ward Tribunal in Land Application No 26 of 2014)

KABATI MGANGA..... APPELLANT
VERSUS
LEONARD NGOROMA..... RESPONDENT

JUDGMENT

4th & 11th October 2022

OTARU, J.:

This Appeal has arisen from the decision of Ukerewe District Land and Housing Tribunal, which quashed the proceedings and Judgment of the Ward Tribunal on the main ground that the Respondent who instituted the matter had no *locus standi* to do so.

When the matter came up for hearing, both parties appeared in person. Submitting in support of the Appeal, the Appellant told this Court that he is appealing against the decision of the District Land and Housing Tribunal (DLHT) for not declaring who the lawful owner of the land is. He therefore prayed for this Court to declare who is the lawful owner of the land in dispute.

The Appellant repeated his arguments raised at the DLHT. It was his claim that the Respondent had no *locus standi* because the purchaser of the land has never appeared to claim the purchased land

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although he is alive and well, he has never claimed because the shamba has never been his. He was of the strong view that the decision of the Ward Tribunal was not correct and should be quashed. Likewise the decision of the DLHT. He maintained that the Respondent herein said that he is the owner and produced an untruthful contract while he was not representing anyone thus, he is a thug as he has used a fake document.

In reply, the Respondent submitted that he purchased the piece of land from the Appellant's father on behalf of his relative who sent him money. He submitted further that during farming period the Appellant went to farm and that's when the Respondent looked for the Appellant's father who instructed him to go to the Ward Tribunal to resolve the issue there. He was advised to communicate with his relative whose name appears on the land sale agreement and he got oral authorization to represent him.

The Appellant concluded his rejoinder by praying that the Appeal be decided as per the law on who is the lawful owner of the piece of land in dispute. He prayed that he be declared the lawful owner of the land and other remedies that the Court may deem fit to grant.

Having gone through the submissions both for and against this Appeal and proceedings thereof, the record shows that the sale

agreement which was tendered before the trial Ward Tribunal was between Faustine Mganga Kabati (the seller) and Zebius Ngoroma (the buyer). The Respondent Mr. Leornad Ngoroma is the one who instituted the suit at the trial tribunal. The law is quite clear that any person who seeks any relief against another person before the court of law, must have *locus standi*. The Court, in the case of **Lujuna Shubi Ballonzi vs Registered Trustees of Chama cha Mapinduzi**, [1996] TLR 208 held that;

'in this country locus standi is governed by common law. According to that law, in order to maintain proceedings successfully, a plaintiff or applicant must show not only that a court has the power to determine the issue but also that he is entitled to bring the matter before the court.'

In the case of **Attorney General vs Malawi Congress Party and Another**, Civil Appeal No. 32 of 1996 (unreported), it was held that;

'locus standi is a jurisdictional issue. It a rule of equity that a person cannot maintain a suit or action unless he has an interest in the subject of it, that is to say, unless he stands in sufficiently close relation to it so as to give a right which requires prosecution or infringement of which he brings the action.'

In light of the above cited decisions, for a person to have *locus standi* to sue, he has a duty to show that his right has been directly infringed by the act he is complaining about.

In the matter at hand, throughout his submissions, the Appellant was busy faulting the decision of the trial Ward Tribunal that it was wrongly attained due to a number of irregularities, it is clear that the Appellant must have missed out the point that the said irregularities were properly dealt with in his appeal before the DLHT which nullified the proceedings of the Ward Tribunal mainly on the reason that the Respondent had no *locus standi* to institute the matter. Having said so, I join hands with the learned Chairman of the DLHT that it was improper for the Respondent to institute this case before the Ward Tribunal for lack of *locus standi*.

Consequently, as the Respondent has no *locus standi* as correctly held by the DLHT. Since the matter has already been declared a nullity by the DLHT, this Court has no mandate of deciding who is the rightful owner of the land as prayed by the Appellant. The Appeal is therefore dismissed. The decision of the DLHT is upheld.

It is so ordered.

DATED at **MWANZA** this 11th day of October, 2022.



M. P. OTARU
M.P. OTARU

JUDGE