

IN THE COURT OF APPEAL OF TANZANIA

AT MWANZA

(CORAM: KISANGA, J.A., LUBUVA, J.A., And LUGAKINGIRA, J.A.),

CRIMINAL APPEAL NO. 38 OF 1995

BETWEEN

DENIS DANIEL WEREMA ..... APPELLANT/

AND

THE REPUBLIC ..... RESPONDENT

(Appeal from the conviction of the High  
Court of Tanzania at Mwanza)

(Chipeta, J.)

dated the 15th July, 1994

in

Criminal Appeal No. 384 of 1992

JUDGMENT OF THE COURT

LUGAKINGIRA, J.A.:

This appeal is from the decision of the High Court sitting at Mwanza which upheld the appellant's conviction on a charge of corrupt transaction and sentence of five years' imprisonment. The appellant elected not to be present at the hearing and it seems he has completed the sentence. Mr. Feleshi who appeared for the respondent Republic submitted that the appeal was incompetent for lacking points of law and prayed that it be struck out. He cited section 6 (7) of the Appellate Jurisdiction Act, No. 15 of 1979, and Rule 65 (2) of the Court Rules.

We have examined the grounds of appeal carefully and agree with learned counsel that they do not raise any point of law but contain quite a lot of nonsense. This includes the claim that no witness whatsoever testified on the giving of a bribe to the appellant, the claim that the appellant's defence was extracted by force, and a lot more of such to which it is not necessary to refer.

Section 6 (7) (a) of Act No. 15 of 1979 requires an appeal in criminal proceedings originating from a subordinate court to be on matters of law but not on matters of fact. The points of law are to be specified in the grounds of appeal set forth in accordance with Rule 65 (2). We are satisfied that this appeal does not satisfy these requirements but we do not agree with learned counsel that the appeal is incompetent. An incompetent appeal is one not authorised by law or, if authorised by law, one brought without complying with procedure. This appeal suffers neither the former disability nor the latter defect. It simply has no merits and, therefore, cannot be struck out but ought to be dismissed.

It is accordingly dismissed in its entirety.

DATED at MWANZA this 1st day of December, 2000.

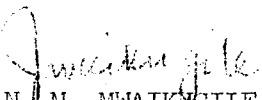


R. H. KISANGA  
JUSTICE OF APPEAL

D. Z. LUBUVA  
JUSTICE OF APPEAL

K.S.K. LUGAKINGIRA  
JUSTICE OF APPEAL

I certify that this is a true copy of the original.

  
N. M. MWAIKUGILE  
SENIOR DEPUTY REGISTRAR