IN THE COURT OF APPEAL OF TANZANIA

AT DAR-ES-SALAAM

(CORAM: MUGASHA, J.A., NDIKA, J.A And KITUSI, J.A.)

CRIMINAL APPEAL NO. 210 OF 2017

1. RAMADHANI OMARY.....1ST APPELLANT
2. MWINYIKONDO ALLY.....2ND APPELLANT

VERSUS

THE REPUBLIC ..... RESPONDENT

(Appeal from the decision of the High Court of Tanzania at Dar-es-salaam)

(Mruma, J.)

dated the 14th day of November, 2007
in
Criminal Session No. 60 of 2006

JUDGMENT OF THE COURT

5th & 15th May, 2020

MUGASHA, J.A.:

The appellants and another person (George Winston Maginga) were charged with the offence of murder contrary to section 196 of the Penal Code Cap 16 RE: 2002. It was alleged by the prosecution that on 3rd February, 2004, at Modeco Melela area, within the District and Region of Morogoro they jointly and together did murder one Mleli s/o Paulo, the deceased.

They did not plead guilty and in order to prove its case the prosecution lined up six prosecution witnesses and tendered three documentary exhibits namely: The Report on Post Mortem Examination (Exhibit P1); the sketch map of the scene of crime (Exhibit P2) and the identification parade register (Exhibit P3).

In order to appreciate, the gist underlying the apprehension, arraignment and conviction of the appellants, it is crucial to briefly state the background as follows: From a total of six witnesses, the prosecution case was to the effect that, in the morning of 3/2/2004, Kamei Saramba (PW1) and Sayuni Dongo (PW2) both cattle keepers, while on the way to Langaiti auction, the deceased overtook them riding a motor cycle. A moment later, they heard what sounded like a tyre burst or a gun shot. Having cautiously approached the scene of crime, they saw the 1st appellant dragging the deceased's body in the bush, the 2nd appellant holding a gun while other bandits were pushing the deceased's motor cycle. PW1 and PW2 retreated and then boarded a pick-up which proceeded to the direction of the crime scene. They as well, told the trial court that, the appellants were not strangers because before they had

seen them at the auctions and as such, they managed to identify them at the scene of crime and later at the identification parade which was conducted at the Police on 24/2/2004. Pembe Mwaluganye (PW3) and Nanu Sokoine (PW4) told the trial court to have learnt about the fateful incident in October, 2004 after they heard George Madinda bragging to have been involved in the killing incident and that he is the owner of the gun used at the killing incident which was in the possession of the 2nd appellant.

Those involved in the investigation of the killing incident were Faustine Bethod Matabala (PW5) the retired, a police Inspector and D. 4239 D/Cpl Edishiria. PW5 recalled to have conducted two identification parades, one on 9/2/2004 and the other one on 14/2/2004 whereby PW1 identified the 1st appellant. PW6 recounted to have visited the scene of crime in a bush between Ngaiti and Melela and found the deceased's body with a big bullet wound on the right upper quadrant. Upon investigation, five people were arrested including the appellants and the person who was bragging to have been involved in the fateful incident and later others were discharged after the Director of Public Prosecutions entered *nolle*

prosequi. However, none of the prosecution witnesses inclusive of the police officers testified as to when and where the appellants were arrested.

In their defence, the appellants denied each and every detail of the prosecution account. The 1st appellant testified to have been at Turiani from 2/2/2004 to 4/2/2004 when he travelled to Melela mines. Upon arrival at the mine and after being introduced to those who worked there he worked up to 1.00 pm. While going for lunch, he was attacked by Masai boys, beaten and taken to the police station on 5/2/2004. Three days later, he was lined up along with other persons in the identification parade and he was identified to have been at the killing incident. The presence of the 1st appellant at Turiani on the fateful day, was supported by his wife Fatuma Joseph (DW4) who told the trial court that on those dates, her husband was at home until on 4/2/2004 when he left accompanied by Hassan Abeid and Selemani Mustapha Mchao.

The 2nd appellant claimed to have been in Kilosa on 3/2/2004 and conducted Maulid celebrations for his daughter in which guests invited included the area chairman one Joachim Michael Mapunda (DW5) and Ally

Omari Mundo (DW7) his father in law. Moreover, his wife Cheka Abdalla (DW6), DW5 and DW7 all recounted that the Maulid was conducted on 3/2/2004 at 8.00 am and the 2nd appellant was present. In addition, the 2nd appellant told the trial court that, initially, he was arrested by the OCCID and charged vide criminal case No. 209/2001 following a quarrel between them. Subsequent to his acquittal, the OCCID had promised to revenge against him. He denied to have been identified at the scene of crime.

After a full trial, the judge summed up the case to the assessors who all returned a unanimous verdict of guilt. Ultimately, the other person was acquitted and the appellants were convicted and sentenced to suffer death by hanging.

Aggrieved, the appellants have appealed to the Court challenging the decision of the trial court. A total of eight grounds of complaint were raised in the Memorandum of Appeal and the Supplementary Memorandum of Appeal. The Memorandum of Appeal contained the following seven grounds:

1. *THAT, the learned trial Judge erred in law and fact for relying and considering on the noted Exhibit P.1 (a report of Postmortem examination) since there is blatantly variance against the names of the deceased and the same is authenticated on the charge sheet as well as on the Postmortem report.*
2. *THAT, the learned trial Judge erred for relying and considering on exhibit P.1 while the same contravened the provisions of section 291 of the Criminal Procedure Act as the doctor who performed it did not come to Court for the cross examination hence it ought to have been expunged for being uncorroborated.*
3. *THAT, the learned trial Judge erred for considering on the procedural identification Parade conducted by PW.5 and admitted in Court as Exhibit P3 since the 1st and 2nd appellants were known to the identifying witnesses and the same was allegedly (sic) by PW.1 and PW.2 during their examination in chief.*
4. *THAT, the learned trial Judge erred for admitting and considering on the incredible and unreliable testimony of PW.1, PW.2 and*

PW.5 whose evidence was very contradictory as regards to the identification of the 1st and 2nd appellants during the identification Parade.

5. *THAT, the learned trial Judge erred for relying on the testimony of PW.1 and PW.2 whose evidence merely based on the mistakenly (sic) identity and the same is lacking a supportive material evidence as the identifying witnesses did not provide the proper descriptions of the 1st and 2nd appellants as to how they managed to identify the killers at the saga and bear in mind the said witnesses were in the state of fear.*
6. *THAT, the learned trial Judge erred for refusing to draw an adverse inference to the Prosecution for failure to tender the informants (sic) statements as exhibit in Court in order to attest whether or not PW1 and PW2 patently mentioned the 1st and 2nd appellant at the time of reporting such incident to the Police station.*
7. *THAT, the learned trial Judge erred for disregarding on the defense of alibi of which its contents had already been bolstered*

thereof since the same was patently supported by the testimony of DW.1 DW.2, DW.3 DW.4, DW.5, DW.6 and DW.7.

The Supplementary Memorandum of Appeal had only one ground as follows:

1. *That, the learned trial judge erred in holding to unreliable visual identification of PW1 and PW2 against all appellants vide procedural identification parade done by PW5 where the former asserted to have known them before contrary to rules of the PGO Rule 2 (1).*

To prosecute the appeal, the appellant had the services of Mr. Abubakar Salim, learned counsel whereas the respondent had the services of Ms. Anna Chimpaye and Mr. Adolph Bulaye, learned State Attorneys.

Initially, Mr. Salim abandoned the 6th ground and the sole ground in the supplementary Memorandum. He opted to argue together the 3rd, 4th and 5th grounds, the 1st and 2nd grounds and the 7th ground each separately. In addressing the initial set of the grounds of appeal, Mr. Salim faulted the trial court to have relied on the doubtful evidence on visual identification to convict the appellants. He submitted that, although PW1

told the trial court to have seen the 1st appellant holding a gun and the 2nd appellant dragging the deceased's body. When subjected to cross examination, he denied to have described the appellants and yet claimed to have identified them both at the scene of crime and the identification parade. When probed by the Court on the relevance of the identification parade while the identifying witnesses knew the appellants before the fateful incident, Mr. Salim submitted that the parade had no value. Moreover, he argued that, since the record is silent on the date and manner of arrest, the evidence on the visual identification of the appellants is doubtful and it was wrongly acted upon by the trial court to convict the appellants.

In respect of the 1st and 2nd grounds, the appellants faulted the trial court in not having addressed them on the right to have the Doctor summoned to testify being the one who conducted and authored the autopsy report which was admitted in the evidence. As such, Mr. Salim argued this to be an omission which vitiated the trial and urged the Court to expunge the autopsy report from the record. To support his

propositions, he referred us to the case of **ABUBAKAR HAMIS AND STEVE FOCUS VS REPUBLIC**, Criminal Appeal No. 253 of 2012 (unreported).

Pertaining to the 7th ground, it was the appellants' complaint that, the trial judge did not consider their defence of *alibi* and instead he wrongly concentrated on the weaknesses in the testimonial account of the defence witnesses such as, the manner in which the Maulid was conducted. He thus argued that, apart from the improper visual identification, the appellants successfully proved that they were not at the scene of crime on the fateful day and they ought to have been acquitted. Ultimately, Mr. Salim urged the Court to allow the appeal, quash and set aside the convictions and sentences and set the appellants free.

On the other hand, initially, the learned State Attorney did not support the appeal and raised a point of law concerning the irregular summing up to the assessors. She pointed out that the assessors were not directed on vital points of law on the meaning of malice aforethought and the defence of *alibi* which was in violation of section 298 of the Criminal Procedure Act [CAP 20 RE.2002] (the CPA). To back up her proposition she relied on the case of **KATO SIMON AND ANOTHER VS REPUBLIC,**

Criminal Appeal No. 180 of 2017 (unreported). She thus argued that, on account of non-direction to the assessors, they were not fully involved in the trial and this is an omission which vitiated the trial. In this regard, she urged the Court to nullify the entire proceedings and make an order for a retrial arguing that on the record, there exists credible and sufficient prosecution evidence to ground the conviction. When probed by the Court if the incident was reported to the police and who arrested the appellants and the respective date and place, on a serious reflection, she conceded that on account of weak prosecution account a retrial is not worthy. In a brief rejoinder, Mr. Salim supported Ms. Chimpaye's submission on non-direction to the assessors and its effects to the case.

Having carefully considered the submissions of learned counsel and the record before us, at the outset we have to determine the propriety or otherwise of the summing up to the assessors and its bearing on the trial.

Both learned counsel are at one that, the summing up to the assessors was irregular because the trial judge did not direct them on vital points of law. The conduct of the trial before the High Court with the aid

of the assessors is a mandatory requirement stipulated under section 265 of the CPA which reads as follows:

> *"All trials before the High Court shall be with the aid of assessors the number of whom shall be two or more as the court thinks fit."*

In that regard, in terms of section 298 (1) of the CPA, after the close of the prosecution case and that of the defence, the trial Judge must sufficiently sum up the evidence of both sides in the case to the assessors and explain the law in relation to the salient facts of the case, and thereafter require them to give their opinion. This is crucial because the opinion of assessors can be of great value and assistance if the assessors fully understand the facts of the case before them in relation to the law. If the law is not explained and attention not drawn to the salient facts of the case, the value of opinion of assessors is correspondingly reduced. See - **WASHINGTON S/O ODINDO VS REPUBLIC** [1954] 21 EACA 392.

The remedial measures of a trial in which the trial judge does not address the assessors on vital points of law were discussed in the case of **MASOLWA SAMWEL VS REPUBLIC,** Criminal Appeal No, 206 of 2014 (unreported). In this case, the appellant was charged with the offence of

murder contrary to section 196 of the Penal Code. After a full trial, in the summing up, the trial judge did not address the assessors on among other things, the defence of *alibi*. The Court held the anomaly to be fatal and it vitiated the trial.

In the present appeal, the trial judge did not address the assessors on the meaning of malice aforethought and the defence of *alibi* and its bearing in the homicide case. These were vital points of law which ought to have been addressed to the assessors so as to make them properly informed to give meaningful and rational verdicts. Apart from omitting to address the assessors on the vital points of law, the trial Judge acted on them in his judgment as reflected at page 160 to 161 of the record of appeal as follows:

> *"I now turn to the intention, and that is, what was the attitude of minds of the accused persons towards the particular evil consequences of their act? There is unchallenged testimony of PW1 and PW2 that the deceased was a businessman and that on material day he was going to Ngaite auction. There is also undisputed evidence of DCPL Edishiria (PW6) to the effect that the motorcycle the deceased was riding has not yet recovered (sic). This means that he was robbed of whatever*

was in his possession. The immediately (sic) intention the accused therefore was to rob the deceased. However, in order to amount to the crime of murder the offender if he did not intend to kill must have intended or foreseen as likely consequence of his act that human life would be endangered. In this case the accused shot the deceased on the upper quadrant of abdomen (just below the chest) which resulted into perforated liver. He must have contemplated the consequences of his act."

Moreover, from page 154 to 156 in his judgment, the trial judge extensively discussed the defence of *alibi* its weight and manner of proof and upon whom the burden lies. He ultimately rejected that defence on account that the evidence on visual identification by the prosecution was overwhelming.

As correctly submitted by the learned State Attorney, the non-direction on vital points of law was a serious omission because before giving their opinions, the assessors as lay persons did not know the meaning and consequences of malice aforethought and the defence of *alibi*. Therefore, the assessors could not make informed and rational opinions as to the guilt or otherwise of the appellants. This is tantamount

to the trial not being conducted with the assessors contrary to what is envisaged by the mandatory dictates of section 265 of the CPA and as such, the trial was vitiated.

In view of the pointed out procedural irregularities, we agree with the learned counsel that the trial was flawed. Ordinarily, this anomaly would have been remedied by ordering a retrial. However, having carefully scrutinized the evidence on record we are hesitant to follow that course and we shall give our reasons. This takes us to scrutinizing the evidence which was acted upon to convict the appellants.

Before dealing with the sufficiency or otherwise of the prosecution account we had to determine the propriety of the admission of the autopsy report (Exhibit P1). The appellants' counsel urged us to expunge it arguing that, following its admission the trial judge did not address the appellants on their right to have the Doctor who conducted the autopsy summoned to testify as mandatorily required by section 291 (3) of the CPA which stipulates as follows:

> *"Where the evidence is received by the court, the court may, if it thinks fit, and shall, if so requested by the accused or his advocate, summon and examine or make available for cross-*

examination, the person who made the report; and the court shall inform the accused of his right to require the person who made the report to be summoned in accordance with the provisions of this subsection".

The Court had a similar encounter in the case of **DAWIDO QUMUNGA VS REPUBLIC** [1993] TLR 120 and thus held:

"The provisions of section 291 Criminal Procedure Code are mandatory and require that an accused must be informed about his right to have the doctor who performed the postmortem called to testify in order to enable him decide whether or not he wants the doctor to be called;"

Also in the case of **ANDREA NGURA VS REPUBLIC,** Criminal Appeal No. 15 of 2013 (unreported), the trial court did not record if the accused was informed of his rights under section 291 (1) of the CPA to call the doctor who prepared the autopsy to testify. The Court held:

"...it has also been held by this Court that, the provisions of the CPA are mandatory and place on the trial court, the duty of informing an accused person of his right to call the doctor who prepared the postmortem report to testify, and that it is only him (the accused) who can decide whether or not to call him. No one can wish away that right, and non-compliance was fatal."

It is thus settled law that whenever a medical document is admitted in the evidence in a trial before the High Court, the accused must be addressed on his/her rights as envisaged under section 291 (3) of the CPA. In the present case, it is evident that after the autopsy report was admitted during the preliminary hearing, the appellants were not addressed in terms of section 291 (3) of the CPA as to whether or not they wished to have the Doctor called to testify at the trial. That apart, following admission, the autopsy report was not read out to the appellants which is another omission which occasioned a miscarriage of justice because the appellants were not made aware of the contents of such documentary evidence on the cause of death of the deceased. On this account, we have no option but to expunge the Postmortem examination report (Exhibit P1). In the absence of the autopsy report, still the issue regarding proof of the fact of the deceased was sufficiently canvassed by PW1 and PW2 who all testified to know the deceased. The other witness was D 4239 D/CPL Edishiria, the investigation officer who told the trial court to have found the deceased's body in the bush and it had a big bullet wound below the right upper quadrant. From the evidence of the three witnesses, it is beyond question that Mleli Paulo is, indeed, dead.

Next issue for determination is the sufficiency or otherwise of the prosecution evidence and if it warrants an order of a retrial.

The conviction of the appellants hinged on the evidence on visual identification as reflected at page 153 to 154 of the record of appeal whereby the trial judge concluded as follows:

> *" In conclusion therefore I find that PW1 and PW2 saw the 1st and 2nd accused in broad day light. They knew both accused long time before the incident and had sufficient opportunity to see the two persons at the scene. They actually saw what the two were doing. The features of the accused were well fixed in their minds not only on the account of their observation of the accused at the scene of crime but also on account of being known to them prior to the incident. In the circumstances therefore, I can say that even if no identification parade were (sic) held at all to identify the accused by PW1 and PW2, their evidence could not be rejected."*

Moreover, the trial judge rejected the defence of *alibi* of the appellants on account that, those paraded to support such defence had contradictory account of what transpired where the appellants claimed to have been. It is crucial to note that, the trial Judge did not convict the

appellants on the basis of the evidence on the identification parade. As such we shall not deal with it.

On the issue of visual identification, the Court has always stated that, evidence on visual identification is of the weakest kind and most unreliable and no court should act on such evidence unless all possibilities of mistaken identity are eliminated and the court is fully satisfied that, the evidence before it is absolutely watertight. On this account the Court has enumerated some of the factors to be considered in the determination of watertight identification which include: **One,** the time the witness had the accused under observation; **two,** the distance at which he observed him; **three** the conditions in which such observation occurred, for instance, whether it was day or night time, whether there was poor lighting at the scene; and **four** whether the witness knew or had seen the accused before or not. See **WAZIRI AMANI VS REPUBLIC** [1980] T.L.R. 250, **CHOKERA MWITA VS. REPUBLIC,** Criminal Appeal No. 17 of 2010 and **YASSIN HAMIS ALLY @ REPUBLIC,** Criminal Appeal No. 254 of 2013 (both unreported).

We are alive to the fact that, PW1 and PW2 testified that they knew the appellant before the fateful incident having seen them at the auctions. The evidence of prior knowledge of suspect is a relevant factor that enables easy identification of the suspect. However, this has to be considered not in isolation from the conditions of identification which eliminate possibilities of mistaken identification. This was emphasised in the case of **ISSA NGARA @ SHUKA VS REPUBLIC,** Criminal Appeal No. 37 of 2005 (unreported) where the Court among other things, held:

> *"...even in recognition cases where such evidence may be more reliable than identification of a stranger...when the witness is purporting to recognise someone whom he knows, as was the case here, mistakes in recognition of close relatives and friends are often made."*

See - also **PHILLIPO RUKANDIZA @ KICHECHEMBOGO VS REPUBLIC,** Criminal Appeal No, 215 of 1994 and **JARIBU ABDALLA VS REPUBLIC,** Criminal Appeal No 220 of 1994 (both unreported).

We shall be guided by the said factors to determine whether or not the appellants were properly identified at the scene of crime.

It is not in dispute that the appellants were not strangers to the identifying witnesses. However, we have gathered that in the entire prosecution account none of the witnesses testified about the fateful incident to have been reported to the police and as to when and place where the appellants were arrested. This is regardless of the fact that two police officers (PW5 and PW6) were involved in the investigation of the homicide and were among the prosecution witnesses who gave their testimony at the trial. The date of arrest is crucial in order to vouch if the arrest was not delayed considering that, the identifying witnesses claimed to have seen them at the scene of crime. Having gone through the appellants' evidence we have gathered that while the 1st appellant testified to have been apprehended by certain Masai boys at a mine and then taken to the police on 5/2/2004, the 2nd appellant claimed to have been arrested by the OCCID with whom they had a quarrel earlier. That apart, none of the prosecution witnesses was led to give an account as to when and where the appellants were arrested which cast doubt on the prosecution case.

Another crucial issue is whether the appellants were identified at the scene of crime. On this, PW1 and PW2 both told the trial court that a moment after the deceased had surpassed them riding the motorcycle,

they heard a gunshot, approached close to the scene of crime and saw what had befallen the deceased. We found this proposition not credible in three fronts namely, **one,** the incident was horrifying and PW1 and PW2 could not have approached close to the scene or else expose themselves to the hands of armed bandits who were familiar to them. **Two,** neither PW1 nor PW2 testified on the time they had the appellants under observation and **three** none of the prosecution witnesses gave any account on the estimation of distance where PW1 and PW2 had observed the appellants. Moreover, we found no clue in the sketch map of the scene of crime (Exhibit P2) which apart from indicating the key points and respective distances as to where the deceased was lying and where his motorcycle was found, it is silent as to where PW1 and PW2 stood while observing the appellants. All these cast a shadow of doubt on the prosecution case and as such, it was unsafe for the trial judge to have accepted the visual identification evidence which was not watertight to convict the appellants.

Pertaining to the defence of *alibi,* the trial judge rejected it as reflected at page 154 to 155 of the record of appeal due to the following reasons:

> *"The first accused called his mother to support his story that he was at Turiani. However, the evidence of his mother Fatuma Joseph Sagala (DW4) differs materially with that of 1st accused regarding the persons who accompanied the 1st accused when he left home on 3.2.2004. While the accused told the trial court that he left home with his two friends Hassan Abeid and Selemani Mustapha, his mother said that the 1st accused left home with only one friend who she mentioned by one name of Ramadhani of Kabuko Tanga... Coming to the 2nd accused, he called three witnesses to support his assertion that he was at Rufiji street in Kilosa town the material day and time. However, each of three witnesses gave a different version on how the maulid was conducted. While the 2nd accused told the trial court that he recited duah (prayers) ...the wife Cheka Abdala Jafari (DW6) and his father Ally Omari Mundo (DW7) told the court that the sermons and duah were recited by one Sheikh Ngalima. The witnesses contradicted themselves on who among their neighbours attended the ceremony. The accused and the local government chairman (retired) Joachim Michael Mapunda (DW5) told the court that Mapunda had other*

assignments on the day therefore he just passed by the place at around 8.00am when he was going to his other assignment and again at 2.00 pm when he was going back home. Cheka Abdalla Japhari (DW6) told the court that Mapunda had arrived at 8.00 am left at 10.00am and that one Mama Mwega (DW6) served him with food.... On the other hand Ally Omari Mundo (DW7) told the court that Mapunda (DW5) came at 8.00am and he remained there till the Maulid was over at about 2.00 pm."

With respect, the trial judge did not correctly comprehend the evidence of DW4 which was in support of the 1st appellant's evidence that he was at Turiani from 1/2/2002 to 4/2/2004. We are fortified in that regard because part of DW4's account reflected at page 90 of the record of appeal is as follows:

"On 3.2.2004 the 1st accused was at home. He had just arrived from Amani mines in Tanga on 1.2.2004 and he spent two days there. He left on 4.2.2004.... On 2.2.2004 they spent a night there. ***They left on 4.2.2004 with Hassan and another boy who lives there."***

We have noted that this account was not contested by the prosecution. In view of what is evident on the record, we agree with Mr. Salim that, apart

from the trial judge dwelling much on the discrepancies as to who accompanied the 1st appellant when he left Turiani on 4/2/2004, how the Maulid was conducted and who was present, he fell short of considering the appellants' evidence to the effect that on the fateful day the appellants were not at the scene of crime as cemented by the account from their respective witnesses. In our considered view, the appellants' uncontroverted defence of *alibi* did cast a heavy shadow of doubt on the prosecution account on the claimed identification of the appellants by recognition.

In view of what we have endeavoured to discuss, it is glaring that due to the blemishes on the prosecution account, it was unsafe for the trial court to act on such evidence to convict the appellants. As such, a retrial is not worthy because it will not be ordered for the purpose of enabling the prosecution to fill up gaps in its evidence at the first trial. A retrial should be made where interests of justice so require. (See **FATEHALI MANJI VS. THE REPUBLIC (1966) E.A. 341**).

In view of the pointed out anomalies occasioned by the irregular summing up to the assessors, we invoke revisional powers under section

4(2) of the Appellate Jurisdiction Act **[CAP 141 R.E.2002],** to nullify the entire proceedings of the trial court, quash and set aside the convictions and consequential sentences. We order the appellants to be released forthwith unless he is otherwise held for another lawful cause.

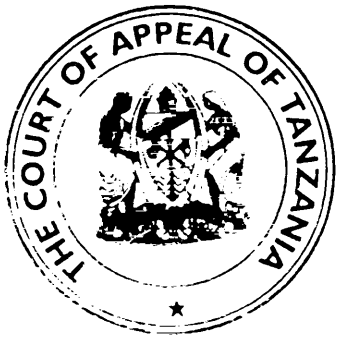
DATED at **DAR-ES-SALAAM** this 14th day of May, 2020.

S. E. MUGASHA
JUSTICE OF APPEAL

G. A. M. NDIKA
JUSTICE OF APPEAL

I.P. KITUSI
JUSTICE OF APPEAL

The Judgment delivered this 15th day of May, 2020 in the presence of 1st and 2nd appellants in person via-video conference, and Mr. Candid Nasua, State Attorney for the Respondent/Republic is hereby certified as a true copy of the original.



B. A. MPEPO
DEPUTY REGISTRAR
COURT OF APPEAL