

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

AT ARUSHA

CIVIL REVISION NO 15 OF 2018

(Originating from Karatu District Court Civil Case No. 15 of 2017; Civil Application No. 14/2017)

JACKLINE JOHN MANDA.....APPLICANT

VERSUS

UCHUMI COMMERCIAL BANK.....1ST RESPONDENT

TANFIN CONSULTANT LTD.....2ND RESPONDENT

RULING

Date of last Order: 12/04/2018

Date of Ruling: 12/04/2018

BEFORE: HON. S.C. MOSHI, J:

The case originates from Karatu District Court. The revision is initiated by the court suo motu in order to correct the material error involving jurisdiction of the court.

The plaintiff Jackline John Manda sued the defendants Uchumi Commercial Bank and Tanfin Consultant (E. A) Limited, the first and second defendant respectively over declaratory orders that, " ..the plaintiff is still agreed in terms of the loan facility". It is very obvious that the plaint does not disclose the cause of action. However the crucial issue is in regard to the jurisdiction of the court. The plaint, at paragraph

9 shows that the subject matter is a residential house that is located at Sumawe at Karatu town.

The court is not seized with jurisdiction to entertain a land matter. The jurisdiction on land matters is vested in special organs as provided under section 3 of the Land Disputes Courts Act, Cap. 216 R.E. 2002 which reads thus:-

*(1) Subject to section 167 of the Land Act *, and section 62 of the Village Land Act *, every dispute or complaint concerning land shall be instituted in the Court having jurisdiction to determine land disputes in a given area.*

(2) The Courts of jurisdiction under subsection (1) include:

- (a) the Village Land Council*
- (b) the Ward Tribunal;*
- (c) the District Land and Housing Tribunal;*
- (d) the High Court (Land Division);*
- (e) the Court of Appeal of Tanzania.*

Section 4 of the same Act ousts the Jurisdiction of the Magistrates' Courts and it reads that:-

*(1) Unless otherwise provided by the Land Act, no Magistrate's Court established by the Magistrates' Courts Act * shall have civil jurisdiction in any matter under the Land Act * and the Village Land Act *.....*

Therefore the magistrate committed a material error because he assumed jurisdiction that he was not seized with.

In the event, I quash all the proceedings and decisions in respect of Civil case No 14/2017 and Civil Application No. 15/2017, I also set aside all orders that are made there from.

The order should be read to the parties by the Ag. District Resident Magistrate in- charge.




S.C. MOSHI

JUDGE

12/04/2018