

IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT BUKOBA

LAND CASE REVISION NO. 13/2015

(From the Decision of the District Land and Housing Tribunal of Kagera

District at Bukoba in Land Case Application No. 55 of 2008)

ARON EMILY BYALILE & ANOTHERAPPLICANT

VERSUS

PASCHAZIA WILLIAM.....RESPONDENT

RULING

23rd & 23rd April, 2018

S.M. RUMANYIKA, J


When application for order of revision, against the 06/07/2015 judgment and decree of the District Land and Housing Tribunal Bukoba (the DLHT) was today the 23/04/2018 called on for hearing, and, just as Mr. Bitakwate learned defence counsel for the applicants had submitted and infact faulted the DLHT for having not observed its previous order. But upon closure of the prosecution case on 04/12/2013 held it in abeyance pending appointment of the respondent's legal representative (the respondent now reportedly died), therefore until such time, matter was adjourned several times and repeatedly, that this time, but quite unusually, the DLHT just dispensed with appointment and appearance of a legal representative. The former therefore set date of judgment. Hence the

impugned judgment. The learned counsel prayed, and this the respondent (admin of the estate) now appointed readily conceded.

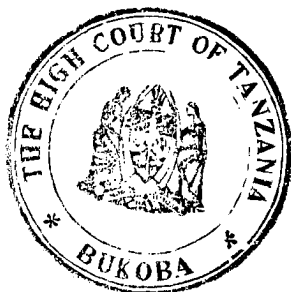
The issue is whether the applicant has demonstrated good and sufficient grounds to demonstrate incorrectness and impropriety of the records of the DLHT. The answer is yes for FIVE main reasons – *One*; it was not disputed that the order of adjournment of the matter pending appointment of the respondent's legal representative had not been, any way legally reversed/vacated *Two*; no respondent's legal representative had ever been reported appointed *Three*; the respondent wasn't to blame for such long pendency of the matter, *Four*; I know no law which took cognizance of a mention or date thereof for a case. Save for good court practice. I think once the practice was established and traditionally accepted, nobody would casually disregard it. *Five*; court record is a serious document. It cannot be lightly impeached. As the presumption is always that it accurately represented what transpired (see the case of **Halfan Sudi V. Abieza chichil (1998) TLR 527 (CA)**).


I will increasingly hold that the impugned judgment was, with greatest respect pronounced both prematurely and illegally. It is hereby ordered that the judgment is set aside. Decision of the DLHT is naturally quashed. The entire proceedings are, for avoidance of doubts nullified. The records are, with immediate dispatch remitted to the DHLT for determination by another, but a competent chairperson (other than R.L. Chenya) and a new set of assessors. Whereby shall proceed from where the DLHT had ended upon closure of the prosecution case. But before the

15/04/2015 proceedings. Each party shall bear their costs. Ordered accordingly.


S.M. Rumanyika
Judge
23/04/2018

Delivered under my hand and seal of the court in chambers. This 23/04/2018 in the presence of the respondent.




S.M. Rumanyika
Judge
23/04/2018