

IN THE HIGH COURT OF TANZANIA

AT BUKOBA

MISC.LAND CASE APPEAL NO. 62/2016

(From the decision of the District Land and Housing Tribunal of Bukoba in land appeal No.251 of 2014 and original case No.33/2014 of Bugandika ward Tribunal).

LEOPOLD RWIZANDEKWE..... APPELLANT

VERSUS

MARCIALE MARTIN..... RESPONDENT

JUDGMENT

12.07. &14.09. 2018

S. B. Bongole, J.

At Bugandika Ward Tribunal the appellant sued the respondent over a piece of land which the latter kept for safe custody from her late mother, one Yulitha Bukambu. The trial tribunal ruled in favour of the respondent.

Dissatisfied, he appellant appealed to the District Land and Housing Tribunal of Bukoba which confirmed the trial tribunal's decision.

Still aggrieved, he appealed to this court on several grounds of appeal. The thrust of the grounds is that the respondent being female is not entitled to inherit from the estates of her father. The respondent filed a reply refuting the appellant's claim.

Briefly, the background of this appeal is that the suit land used to be the property of one Yulitha Bukambu who is now no more. Upon her demise the suit land remained in the hands of the respondent for safe custody.

At a certain point in time, the appellant sought to sue the respondent at Bugandika Ward Tribunal under the pretext that the latter was in the process to dispose the suit land while she is not entitled to inherit the same for the ground of being female. At the trial, the appellant's basis of claim was that the suit land is clan land thus he is entitled to defend it.

As stated before, the Ward Tribunal dismissed the application thus he unsuccessfully appealed to the District Land and Housing Tribunal of Bukoba thus he appealed before this court. In dismissing the appeal the District Land and Housing Tribunal's

observation was that the appellant had no locus standi to pursue this matter.

At the hearing before this court the parties were unrepresented. The appellant appeared in person while the respondent was absent. Being a lay person, the former had nothing to add in expounding his grounds of appeal.

Having read the record of this appeal, the issue for determination remains to be whether the appellant had locus standi to institute this appeal and at the trial. At the trial the appellant claimed to be the defender of the suit property arguing that a female is not entitled to inherit from her mother's estates. However, there is no evidence on record to suggest the basis or locus of the appellant in respect of the suit land which he purports to defend. He is neither an administrator of the estates of the late Yulitha Bukambu nor the heir of the same. Suffice it to say that he has no locus standi in the matter at hand. I support this position of the law with the case of **Ibrahim Kusaga vs Emmanuel Mweta [1986] TLR No. 26** where it was held that no one other than the legal

representative of the deceased who has locus standi to sue in claim of the estates of the deceased person. In the same vein, since the appellant is not a legal representative of the late Yulitha Bukambu, he is barred from suing the respondent in respect of the estates of the said Yulitha Bukambu.

That said and done, I uphold the decision of the two tribunals below. The appeal is devoid of merits thus it is hereby dismissed with costs.




S.B. Bongole

Judge.

14.09.2018

Date: 14/9/2018

Coram: Hon. J. M. Minde – DR

Appellant: Present

Respondent: Absent

B/Clerk: A. Kithama

Court:

This matter comes for judgment and the same is delivered in the presence of Appellant and absent of the Respondent.

J. M. Minde

Deputy Registrar

14/9/2018

CERTIFIED TRUE COPY OF THE
ORIGINAL


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Deputy Registrar
Bukoba

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14/9/2018