

IN THE HIGH COURT OF TANZANIA

MUSOMA DISTRICT REGISTRY

AT MUSOMA

CIVIL APPEAL NO 15 OF 2020

ESTER D. MATUTU_____ **APPELLANT**

VERSUS

BONIPHACE F. ADEMBA_____ **RESPONDENT**

(Arising from the Decision and Orders of the District Land and Housing Tribunal for Mara at Musoma, Hon. Ilanga, Chairman, in Land Appeal No. 41 of 2011 dated 27.07.2012)

RULING

Date of last order: 11.05.2020

Date of ruling: 15.05.2020

GALEBA, J.

The background to this appeal is very rich in details although most of them are irrelevant to the present ruling, but suffice it to state that the dispute between the appellant and the respondent started before the year 2010. Matters mutated into a state of seriousness when the appellant filed land case no 105 of 2010 in Mugumu Urban Ward Tribunal on 04.01.2010. That case was dismissed about a year later on 10.03.2011. The appellant was aggrieved by the decision of her local ward tribunal so, a week later on 18.03.2011 she preferred land appeal no. 41 of 2011 to the District Land and Housing Tribunal to challenge it (although there is another long petition drawn in Kiswahili presented in the Tribunal on 19.12.2011). That appeal was dismissed for want of prosecution on 14.07.2011 but the same was

restored on 19.12.2011. Hearing was conducted *inter partes* but on 27.07.2012 the appeal was dismissed so much so that the decision of Mugumu Urban Ward Tribunal was upheld. Although the appellant was aggrieved by that decision of the District Land and Housing Tribunal, but it does not seem that she did anything to demonstrate her grievance. On 18.11.2019 she lodged her appeal papers in the District Land and Housing Tribunal for onward transmittal to this Court for registering it as an appeal and also hearing it.

When I was preparing for hearing of the appeal, I noted that the judgment challenged was passed in 2012 but an appeal against it was filed in November 2019. Efforts to trace any order extending time for the appellant to file the appeal bore barren results. So when the appeal came up for hearing, I asked the appellant why is it that it has taken her so much time to challenge a decision passed in July 2012. Her reply was that she did not get the judgment immediately after its delivery and also that there was no one to guide her on matters of limitation of time for appealing. On a reflection she submitted that on 28.11.2019 she obtained extension of 25 days from the District Land and Housing Tribunal.

In reply, Mr. Cosmas Tuthuru, learned advocate for the respondent submitted that under **section 38(1) of the Land Disputes Courts Act [Cap 216 RE 2002] (Land Disputes Courts Act)** an appeal from the tribunal must be filed in 60 days from the date of delivery of the judgment being appealed against, and that the present appeal

was filed out of time. The appellant did not seem to have any useful argument in rejoinder. Thereafter I adjourned the matter for ruling to 15.05.2020.

Disposition of this matter is not going to be a lengthy one, because section 38 of the **Land Disputes Courts Act** is straight forward; it states;

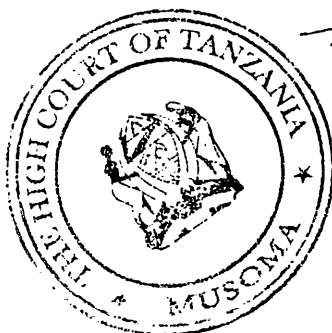
"Any party who is aggrieved by a decision or order of District Land and Housing Tribunal in exercise of its appellate or revisional jurisdiction, may within sixty days after the date of the decision or order appeal to the High Court:

Provided that, the High Court may for good and sufficient cause extend the time for filing an appeal either before or after such period of sixty days has expired."

In this case, although the appellant stated that the District Land and Housing Tribunal gave her extension of time, but that argument is neither here nor there because, **first**, it is only the High Court which may extend time as provided above and **secondly** the appellant was not able to show any such order of the Tribunal granting her extension of time to file the present appeal out of time.

This appeal was filed on 18.11.2019 over 2,600 days from 27.07.2012 when the judgment to be challenged was passed without any order extending time. In the absence of such order, this appeal was filed hopelessly out of time. In the circumstances, this appeal is hereby struck out with no orders as to costs.

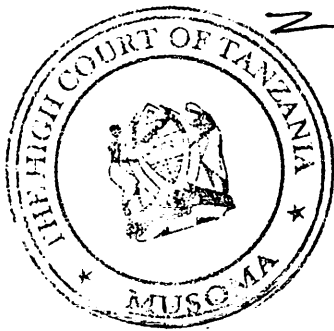
DATED at MUSOMA this 15th May 2020




Z. N. Galeba
JUDGE
15.05.2020

Court; This ruling has been delivered today the 15th May 2020 in the absence of parties but with leave not to enter appearance in chambers following the corona virus outbreak globally and the medical warning to maintain social distance between individuals.

Order; Sufficient copies of this ruling be deposited at the Judgment Collection Desk for parties to collect their copies free of charge.



Z. N. Galeba
JUDGE
15.05.2020