

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF KIGOMA)

AT KIGOMA

LAND DIVISION

(APPELLATE JURISDICTION)

MISC. LAND APPLICATION NO. 66 of 2020

(Arising from District Land and Housing Tribunal – Kigoma, Land Appeal No. 226/2017)

METHOD S/O CHRISTOPHER.....APPLICANT

VERSUS

PAULO S/O RUDUGA.....RESPONDENT

R U L I N G

14th & 14th December, 2020

I.C. MUGETA, J.

The applicant applies for extension of time to file an appeal out of time. The reason for the delay is that while the judgment was delivered on 29/1/2020 he never got copy thereof up to 20/10/2020. The respondent opposes the application. In paragraph 2 of the counter affidavit he alleges that the judgment was ready for correction on the same date of its delivered. On his part, he tendered a receipt to show that he collected the judgment on 27/5/2020.

Mgeta

Did the applicant account for each day of the delay? In paragraph 3 of the affidavit the applicant alleges that he filed a letter to request for the documents for appeal purpose on 30/1/2020 but it was stamped as 13/5/2020. That letter is annexure 'A1' to the affidavit. I am not convinced with this explanation. The applicant ought to have moved for correction of errors on the receipt stamp or could have filed an affidavit of the person who committed the error to explain it. However, since it is not known when exactly the documents were ready for collection, I assume it to be May, 2020 when the respondent got the same.

Counting from May, 2020 this application was filed on 24/11/2020. The applicant alleges to have been denied the documents up to when he complained to the Regional Commissioner who directed the District Land and Housing Tribunal to issue the same per the letter in annexure A2 to the affidavit. Indeed, the Regional Commission made such direction and on the same date of the letter (20/10/2020) the judgment was issued to the applicant. However, this is another proof that the judgment was ready for collection long time ago because it could not have been typed and supplied on the same day. I cannot fathom the reason why the District Land and Housing Tribunal could supply the document to the respondent

and deny the applicant access to the same. I hold a view that the allegations that the applicant lodged his letter to request for document on 30/1/2020 but it was stamped 13/5/2020 and that the documents for appeal purpose could not be supplied unless for the intervention of the Regional Commissioner are unbelievable. The error on the letter could have been collected or supported by an affidavit and the letter by the Regional Commissioner was issued on one sided information of the applicant which may not necessarily be true.

Regarding the period from 20/10/2020 when judgment was issued to 24/11/2020 when the application was filed, the applicant has also not explained how the period of more than a month was spent where the application shows that he drew it himself.

In the event, I hold that the applicant has not accounted for each day of the delay. The application is dismissed with costs.



Mugeta
I.C. Mugeta

Judge

14/12/2020

Court: Ruling delivered in the presence of both parties.

I.C. Mugeta

Judge

14/12/2020