

**IN THE HIGH COURT OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA**

LAND APPEAL NO. 25 OF 2020

(Arising from Decision of District Land and Housing Tribunal for
Singida in Land Application No. 13 of 2019)

SALOME SAMSON SAMBAAAPPELLANT

VERSUS

ANDREA MPUME MUNA.....RESPONDENT

1/12/2020 & 15/12/2020

JUDGMENT

MASAJU, J

The Appellant, Salome Samson Sambaa, lost the Land Application No. 13 of 2019 in the trial Tribunal, that is the District Land and Housing Tribunal for Singida, to the Respondent, Andrea Mpume Muna, hence this Appeal in the Court.

The Appellant's Memorandum of Appeal is made of five (5) grounds of appeal including the 4th ground thereof thus;

"4. That, Trial Tribunal erred in law and fact to entertain this matter which was *res judicata*."

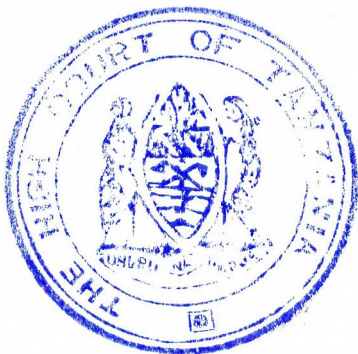
The Respondent who contests the Appeal also filed his Reply to Memorandum of Appeal in which he essentially disputes the Appellant grounds of appeal thereby putting the Appellant to strict proof of the allegations in her grounds of appeal accordingly.

When the appeal was heard in the Court on the 1st day of December, 2020 the laymen parties appeared in persons and adopted their pleadings to form their submissions in support of, and against the Appeal respectively.

The Court is of the considered position that the Land Application No. 13 of 2019 between the parties before the trial tribunal was *Res Judicata* to Land Application No. 66 of 2016 before Mwasauya Ward Tribunal as per copy of the decision of the said Tribunal dated the 15th day of March, 2018, whose copy was made available to trial Tribunal as exhibit by the Appellant (DW1) when she defended herself thereat on the 7th day of November, 2019. By virtue of that fact, the trial Tribunal pursuant to section 9 of the Civil Procedure Code, [Cap 33] lacked jurisdiction to try the suit (Land Application No. 13 of 2019) between the parties who were parties to the

former suit on the same subject matter. The aggrieved party in the former suit Land Application No. 66 of 2016 before Mwasauya Ward Tribunal could have pursued any other legal remedies against the decision of the Ward Tribunal instead of instituting a fresh suit against the Appellant on the some subject matter in the trial Tribunal.

That said, since the trial tribunal lacked jurisdiction to hear and determine a suit which was *Res judicata*, it follows that whatever was done and decided by the said tribunal in Land Application No. 13 of 2019 was a nullity. Pursuant to section 43 (1) (b) of the Land Disputes Courts Act, [Cap 216] the Court hereby nullifies and quashes the trial, record of proceedings, Judgment, Order and Decree thereof accordingly. The parties shall bear their own costs accordingly.




GEORGE M. MASAJU

JUDGE

15/12/2020

