

**IN THE HIGH COURT OF TANZANIA**  
**IN THE DISTRICT REGISTRY**  
**AT MWANZA**

**MISC. LAND CASE APPEAL No. 14 OF 2020**

*(From the decision of the District Land and Housing Tribunal of Geita District at Geita in Land Case Appeal No. 72 of 2019 and Original Ward Tribunal of Karangalala Ward in application No. 55 of 2019)*

**HOJA LUKUBA ..... APPELLANT**

**VERSUS**

**LYAKI BUNZALI.....RESPONDENT**

**JUDGMENT**

*23<sup>rd</sup> November, 2020 & 11<sup>th</sup> December, 2020.*

**J.C. TIGANGA, J.**

The Hoja Lukuba, the appellant herein successfully instituted a land case No. 55 of 2019, before Karangalala Ward Tribunal against the respondent. The Ward Tribunal decided in the favour of the appellant. The respondent was dissatisfied with such decision of the Ward Tribunal. He successfully filed an appeal to the District Land and Housing Tribunal of Geita to challenge the decision of the Ward Tribunal, through Land Appeal No. 72 of 2019. Following that decision the appellant is still determined to pursue his right; in his such

endeavor, he is now before this Court, seeking to reverse the decision of the District Land and Housing Tribunal on the following grounds:

1. *That the honorable Chairperson erred in law and in facts in reaching her decisions by quashing proceeding and decision of the Kalangalala Ward Tribunal and ordered the appellant to joined seller and afresh case to be started before District Land and Housing Tribunal of Geita at Geita while the fact, the appellant did not bought the same disputed land from the seller one (i.e. **Victor Bariety**) and instead he was allocated the same disputed land to wit Plot **No. 92 Block "p"** Tambukareli, Geita Township by Geita Township Council land Office hence he was not responsible to joined the seller. **Sic.***
2. *That the Chairperson erred in law and facts for failure to consider that, the appellant is the first true owner of the said disputed land with Plot No. 92, Block "P" Tambukareli, Geita Township after acquiring it from Geita Township Counsil Land Office in 2001 and instead entered a judgment in favour of the respondent who acquired the same disputed land on 2004 after being illegally purchased it from one **Victor Bariety**.  
**(the copy of letter of offer is hereby attached and***



***marked as "annexure "HL1" forming part of this petition of appeal).***

3. *That the Honorable chairperson erred in law and facts for delivering judgment in favour of the respondent without considering the weight of documentary evidence adduced by the appellant at Kalangalala Ward Tribunal (**The copy of the judgment of Kalangalala Ward Tribunal is hereby attached and marked as "annexture "HL2" forming part of this petition of Appeal).***
4. *The copy of the judgment is hereby attached and marked as **Annexure "HL3"** to form part of this petition of Appeal.(Sic).*

To appreciate what brought about the dispute between the parties, a brief facts of the case as gathered from the record is inevitable. Briefly, that the applicant Mr. Hoja Lukuba sued the respondent for trespassing on his land before the trial Ward Tribunal. The record shows that at the hearing of the matter before the trial tribunal the appellant informed the tribunal that he acquired the suit plot from Geita Municipal Council in the year 2001 in which he was given a letter of offer after he had fulfilled all the requirements.

He complains that in the year 2003, he got transferred from Geita where he was working to North Mara Gold mine in Mara Region. In 2005 he returned to Geita with intention to develop the land only to his surprise he found unknown person had already erected the foundation on the said land. He made some investigations to know who that person was in vein.

He presented his grievances to land department of the council about the issue, he was told that there is no change of plan and he is still the rightful owner of the suit land. He went back to Mara, in the year 2016 he went back and found out that the house was complete and already people were leaving in the house. He decided to take the matter at Karangalala Ward Tribunal and at this point in time he came to know that the respondent was the one who trespassed on his land.

When the matter came up for hearing the quest to reach the respondent didn't yield any fruits, as the results the court decided to hear the appeal exparte.

The appellant appeared in person and informed the court that he has filed his grounds of appeal and he is quiet confident that they are comprehensive and self explanatory, therefore he urged the court to adopt them and base on them to issue the judgment.



After considering the prayers of the appellant and consequently adopt the grounds of appeal to form part of this proceedings, the task of this court now is to determine the merits or otherwise of this appeal.

Evaluation of evidence by trial tribunal chairman is the gist of the issue that is, whether or not, on the basis of the evidence that was placed before the trial tribunal, the appellant was entitled to be declared the lawful owner of the suit property? Mr. Hoja strongly urged this court to hold that he sufficiently established ownership of the suit property because he tendered before the tribunal, a certified letter of offer which was admitted at the trial tribunal as exhibit.

According to what I could gather from the record of the trial tribunal, there was no dispute as to the fact that the disputed plot of land is registered as plot No. 92 Block "P" Tambukareli area within Geita Township.

In terms of **Section 2(1) of the Land Registration Act Cap 334 RE 2002;**

*'Owner' "Means in relation to any estate or interest, the person for the time being in whose name that estate or interest is registered."*

The appellant tendered a letter of offer in respect of Plot No. 92 Block "P" which was registered in the year 2001; which means the name appearing in the register is that of the appellant. While the respondent has tendered a sale agreement between him and Victor Bariety, entered in the year 2004 before 10 cell leader Mr. Athuman Hemed in Tambukaleli. It is my humble finding that, in view of the above quoted provisions of law the appellant has good title over the respondent.

The reasons for so holding are that, sell agreement took place three (3) years after the letter of offer was registered in the name of the appellant. However it is not stated as to how the vendor came into possession of the suit land. Therefore the fact that the suit plot is registered in the name of the appellant makes him the rightful owner of the land in terms of section **Section 2(1) of the Land Registration Act [Cap 334 RE 2019]**

It is provided that, it is trite law that letter of offer is as good as title deed especially where no title deed is produced to supersede the letter of offer.

I having held as I have just done, I defer with the holding of the first appellate tribunal that the seller is a necessary party in this case so




the suit cannot stand. Firstly, as I have observed above the appellant has good title than that of the respondent, joining the vendor would not in any way change that fact. Insisting that the vendor be joined is tantamount to shutting eyes on the strong documentary evidence signifying the ownership of the land by the appellant by the document which is superior to that of the respondent. It would have been necessary to join him had he had the better title than that of appellant.

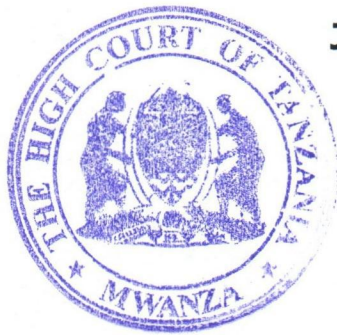
In view of the above arguments, I am persuaded by appellant's averments that he has good title compared to that of the respondent. As the result, the appeal is hereby allowed; the decision of Geita Land and Housing Tribunal in respect of Land Appeal No. 72 of 2019 is hereby quashed and set aside, instead the decision of the trial Ward Tribunal in Application No. 55 of 2019 is hereby upheld. The appellant is also awarded costs of the case.

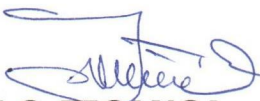
It is so ordered.

**DATED at MWANZA** this 10<sup>th</sup> day of December, 2020.

  
**J.C. Tiganga**  
**Judge**  
**11/12/2020**

Judgment delivered in the presence of the parties in person. Right  
of Appeal explained.



  
**J.C. TIGANGA**  
**JUDGE**  
**11/12/2020**

ORIGINAL