

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA**

**(LAND DIVISION)**

**AT TANGA**

**MISCELLANEOUS LAND CASE APPEAL NO. 21 OF 2019**

(From the decision of the District Land and Housing Tribunal of Tanga District at Tanga in Land Case Appeal No. 56 of 2018 and original Ward Tribunal of Mabokweni Ward Land Case)

**SAID KHALIFA.....APPELLANT**

**VERSUS**

**SAID YUSUFU .....RESPONDENT**

**JUDGMENT**

**MRUMA, J.**

The Appellant SaidiKhalifa had filed land dispute inMabokweni Ward Tribunal claiming ownership of a piece of land situated at Mabokweni Ward in Tanga. The Mabokweni Ward Tribunal having heard the parties and their witnesses visited the locus in quo and finally gave judgment in favour of the respondent SaidiYusufu.

Dissatisfied by the decision of the Ward Tribunal the appellant SaidiKhalifa appealed to the District Land and Housing Tribunal of Tanga District on following ground:-

- i. That the ward tribunal erred in law for not considering that he had been in possession of the

disputed land which entitled him to exclusive ownership.

- ii. That the Ward Tribunal erred both in law and in fact for giving credit to the evidence of Hamis Mtindi who was a stranger to the area and had nothing relevant to the disputed land.
- iii. That the Ward Tribunal erred in law and misdirected itself in discrediting the evidence of Kuzu who sold the land to the Appellant:

The Appellant's appeal to the District Land and Housing Tribunal was dismissed. Still dissatisfied, he has come to this court on the following grounds:

1. That the District Land and Housing Tribunal erred in law and in fact for not considering the grounds of appeal advanced.
2. That the District Land and Housing Tribunal didn't employ its powers to revisit the evidence so as to be able to determine the credibility of witnesses as demanded
3. That the District Land and Housing Tribunal erred in law for not giving weight to the law of Limitation as prayed for showing the Appellant's undisturbed occupation of the disputed land.

Both parties were not represented. The Appellant argued that the suit land belonged to him because he had occupied it for more than 12 years from 1988 up till 2018 when the Respondent emerged and claimed ownership

thereof. He faulted the Ward Tribunal for its failure to accord the weight it deserves the evidence of Hamisi Mtindi who was not residing in the area and ignoring the evidence of Kuzu Mbwana who sold the disputed land to him.

The Respondent on the other hand submitted that it is not true that the Appellant had been in occupation of the land for over 12 years. In support of this argument he referred the court to the evidence of Hamisi Mtindi and Kuzu Mbwana.

There was no dispute that the Appellant and the Respondent are neighbours. From the evidence on record, the Appellant bought his a house from one Kuzu Mbwana. When Kuzu Mbwana was asked by the Ward Tribunal whether he knew the boundaries of the land he sold to the Appellant he told the tribunal that he didn't because he sold it on instruction of his late sister one Sensi Mbwana. He also told the tribunal that he didn't involve any neighbour or local leader in the said sale.

On the other hand the Respondent called one Bi. Kalunde (PW1) who told the Ward Tribunal that she is the one who sold him her piece of land which is adjacent to the Appellant's land. He told the tribunal that the piece of land the Appellant's is claiming to be his is part of the land she sold to the Respondent and it belongs to the Respondent.

Hassan Mdachi, and Hamisi Mtindi gave evidence to the effect that the suit land belongs to the Respondent.

From the evidence on record, it appears parties are disputing over boundaries of their respective land and from the evidence of Kalunde,

Hassan Mdachi, Hamisi Mtindi and the Respondent's the portion which the Appellant claims to be his land belongs to the Respondent.

On the other hand, the evidence of Kuzu Mbwana, who sold a house to the Appellant, is to the effect that she didn't know the boundaries of the piece of land over which the house he sold to the Appellant is constructed. Thus, the Appellant cannot be heard complaining that his land had been trespassed onto by the Respondent because in the first place he doesn't know the boundaries of his land.

In the event I concur with the concurrent findings and decisions of the lower tribunals that the Respondent is the rightful of a portion of land which is being claimed by the Appellant.

This second appeal is accordingly dismissed with costs in this court and the lower tribunals.



**A.R. MRUMA**

**JUDGE**

**13/03/2020**

Date: 13/03/2020

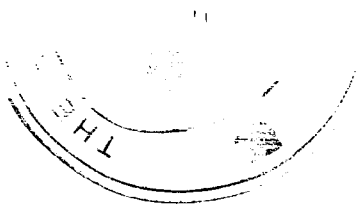
Coram: A.R. Mruma,J.

Appellant: Present in person

Respondent: present in person

Court Clerk: Nakijwa

**COURT:** Judgment delivered.



  
A.R. Mruma

Judge

**Dated at Tanga this 13<sup>th</sup> Day of March 2020**