

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

**(IN THE DISTRICT REGISTRY OF BUKOBA)**

**AT BUKOBA**

**MISC. LAND APPLICATION NO. 41 OF 2019**

*(Arising from the High Court (Bukoba Registry) in Land Appeal No. 20 of 2016 and District Land and Housing Tribunal for Kagera at Bukoba in Land Application No. 81 of 2015)*

**AZA AMRI MUSHARABA ----- APPLICANT**

Versus

**MAGESI KINGA FRANCIS ----- RESPONDENT**

**RULING**

24/02/2021 & 24/02/2021

**Mtulya, J.:**

Aza Amri Musharaba (The Applicant) approached this court on 29<sup>th</sup> May 2019 to register an application for extension of time to file an appeal out of statutory time to contest a decision of the **District Land and Housing Tribunal for Kagera at Bukoba** (the Tribunal) in **Application No. 81 of 2015** delivered on 13<sup>th</sup> April 2016. Initially the Applicant had filed **Appeal No. 20 of 2016** in this court, but was struck out on 8<sup>th</sup> November 2018. After the struck out order, the Applicant preferred the present application seeking extension of time in this court on 29<sup>th</sup> May 2019.

Today, morning when the Application was scheduled for hearing, learned counsel Mr. Seth Niyikiza appeared for the Applicant whereas

Mr. Joseph Matete represented Mr. Magesi Kigingwa Francis (the Respondent). After a lengthy arguments between Mr. Seth and Mr. Matete, for and against the application, one important dispute arose with regard to the reason of ignorance of the law registered in the 4<sup>th</sup> and 5<sup>th</sup> paragraphs of the Applicant's Affidavit supported by Mr. Niyikiza submission on the subject.

According to Mr. Niyikiza, ignorance of law to lay person in economic hardship may be printed as one of the good causes in justifying extension of time to prefer an appeal in this court. However, this argument was protested by Mr. Matete arguing that ignorance of law has never been one of the sufficient reasons in extension of time to file an appeal. To substantiate his argument, Mr. Matete cited the precedent of our superior court in **Ngao Godwin Losero v. Julius Mwarabu**, Civil Application No. 10 of 2015 where it was stated that ignorance of legal procedure is not good reason for extension of time to lodge an appeal.

In a brief rejoinder Mr. Niyikiza argued that the reason of delay has to be considered with other factors such length of delay, arguable case in an appeal and degree of prejudice to the Applicant. To his opinion, the Applicant will be prejudiced if her application is not granted and in any case right to be heard in an appeal is a constitutional right.

I have perused the record of this application and found out that in the 4<sup>th</sup> and 5<sup>th</sup> paragraphs of the Applicant's Affidavit, the Applicant displays that: she had no knowledge of some of the facts during the proceedings of the case; lay person; and does not know legal procedures. The practice of this court and the Court of Appeal has been that Applicants for extension of time must produce good causes to persuade this court to decide in their favor (see: **Oswald Masatu Mwizarubi v. Tanzania Fish Processor Ltd**, Civil Application No. 13 of 2010].

Today morning, in this court Mr. Matete produced the precedent of the Court of Appeal in **Ngao Godwin Losero v. Julius Mwarabu** (supra) stating that ignorance of law has never been in the list of good causes. I have had an opportunity to scan the judgment in **Ngao Godwin Losero v. Julius Mwarabu** (supra) and I found the following text at page 6 of the decision.

*...When all is said with respect to the guiding principles, I will right away reject the explanation of ignorance of legal procedure given by the applicant to account for the delay. **As has been held in times out of number,***

***ignorance of law has never featured as a good causes  
for extension of time...***

(Emphasis supplied)

The reasoning of our superior court in judicial hierarchy is that:

*...to say the least, **a diligent and prudent party** who is  
not properly seized of the applicable procedure, **will  
always ask to be apprised of it** for otherwise he/she  
will have nothing to offer as an excuse for sloppiness...*

(Emphasis supplied).

Having quoted the above paragraphs, I have nothing to add. I am bound by the paragraphs of our superior court, even if I have good reasons to depart. In any case, the length of delay in more than five (5) months from 8<sup>th</sup> November 2018, when **Land Case Appeal No. 20 of 2016** was delivered to filing of this Application on 29<sup>th</sup> May 2019, shows sloppiness on the part of the Applicant.

Considering the reasons of delay adduced in this Application and precedent of **Ngao Godwin Losero v. Julius Mwarabu** (supra), this application must fail. I hold therefore that the Applicant has failed to

persuade this court to decide in her favor and this application is hereby dismiss with costs.

It is so ordered.

  
  
F.H. Mtulya  
**Judge**  
24.02.2021

This Ruling was delivered in chambers under the seal of this court in the presence of the Applicant Aza Amri Musharaba and Respondent Mr. Magesi Kigingi Francis and in the presence of their learned counsels, Mr. Seth Niyikiza and Mr. Joseph Matete respectively.

  
  
F.H. Mtulya  
**Judge**  
24.02.2021