

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF KIGOMA)

AT KIGOMA

APPELLATE JURISDICTION

MISC. LAND APPEAL NO. 2 OF 2021

(Arising from Land Appeal Case No. 19/2019 of the District Land and Housing Tribunal Kigoma, Before M. Nyaruka, Chairman Original Land Dispute No. 7/2017 Gungu Ward Tribunal)

EMELDA D/O MBARUKU.....APPELLANT

VERSUS

MTWALE S/O HUSSEIN MTWALE.....RESPONDENT

R U L I N G

25th & 25th March, 2021

A. MATUMA, J.

When this appeal came for hearing, the parties agreed that this appeal be withdrawn for either party to commence the suit afresh if so wishes as it transpired that they litigated in their individual capacities instead of their respective administrative capacities of the estate in question.

They have also agreed that I do away with the second part of the decision of the appellate chairman in respect of time limitation as such decision was uncalled for provided that the proceedings were already a nullity for want of locus standi by the parties.

I agree with both parties and thank the learned advocates Mr. Sadiki Aliko and Daniel Rumenyela for the appellant and Respondent respectively for their consensus on the matter for the better end of justice. I therefore allow the prayer to withdraw this appeal and declare that each party is at liberty to commence the suit afresh in the competent court/tribunal under the proper title (locus). I vacate the decision of the appellate tribunal in relation to time limitation and direct that time limitation as a ground if any shall be raised by the parties and dully determined in the new suit if instituted. I order no costs of this appeal.

It is so ordered.



A. Matuma

Judge

25/03/2021

Court: Ruling delivered in chamber this 25th day of March, 2021 in the presence of the appellant in person and represented by Mr. Sadiki Aliko learned Advocate and in the presence of the Respondent in person and represented by Mr. Daniel Rumenyela learned Advocate.

Sgd: A. Matuma

Judge

25/03/2021