

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

**(LAND DIVISION)**

**TANGA DISTRICT REGISTRY**

**AT TANGA**

**MISCELLANEOUS LAND APPEAL NO. 19 OF 2020**

**[Arising from Appeal No. 19 of 2020 of District Land and Housing Tribunal of  
Korogwe District at Korogwe]**

**BETWEEN**

**KIKUNDI CHA BEGA KWA BEGA.....APPELLANT**

**VERSUS**

**CHARLES SESARA.....RESPONDENT**

**RULING**

**MRUMA, J.**

The Appellant Kikundi cha Bega kwa Beta were the claimant in Land Dispute No. 27 of 2019 before the Old Korogwe Ward Tribunal in which they were battling over ownership of a piece of land measuring 25 acres located at Mbugani area in Lwengera-Darajani Village, Old Korogwe Ward in Korogwe District with the present Respondent Charles Sesara.

The Appellant claimed that they were a registered entity. In 1992 they were allocated over 25 acres of land by the village council. They used part

of that land for some time before their group was disbanded. When they regrouped and came back to their land, they found the Respondent had trespassed into their land.

On his part the Respondent claimed that the Land in dispute is owned by his family since 1984 or 1985 and they have been using it uninterruptedly since then.

This appeal in the view I take of it could be disposed of in a short judgment once it became clear that the Appellant Kikundi cha Bega kwa Bega was not a legal person as it possessed no certificate of registration at the time the matter was being litigated before the Ward Tribunal. In law, two types of legal persons. Legal person is any person (i.e. human being) or thing (corporate entity) that can do the things a human person is usually able to do in law such as to enter into contracts, sue and be sued, own property and so on. When asked about the group's legal personality Yahaya Hussein (PW1) who introduced himself as the group's secretary informed the Ward tribunal that their group was registered in 2018. This means that in 1992 when they claim to have been allocated the land in dispute, they were not registered therefore non existing in the eyes of the law.

But even with the alleged registration of 2018, the Appellant did not acquire a corporate entity or a business structure formed specifically to perform activities and holding assets. It is not a corporation or partnership. It is, according to a certificate of recognition of a group which is exhibited in the record, a group engaged in rice farming as well as trees for proposes of economic emancipation of its members. The certificate does not show under which law it was issued or the group was registered and actually it seems to me that what is considered by the Appellants as a certificate of registration is not as such but it is an introduction document with no legal effect.

In any event, this action was filed by the Appellants in January 2019, obviously by that time they had not obtained the certificate of recognition which was issued on 21<sup>st</sup> day of October, 2019. Thus, even if we assume that the said certificate is a certificate of registration (which is not), yet at the time the dispute was commenced, the Appellants had no legal capacity to sue or be sued. In the circumstances, the Appeal should be dismissed with costs. As I have already found that Kikundi cha Bega kwa Bega is not a corporate or legal person, costs shall be taxed against Mr. Yahaya

Hussein who is responsible for prosecuting this matter purportedly under the cover of a pseudo group, Kikundi Cha Bega Kwa Bega.

Order accordingly.



A.R. Mruma,

Judge

24/03/2021