

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF BUKOBA  
AT BUKOBA**

**LAND APPEAL No. 60 OF 2019**

*(Appeal from the District land and Housing tribunal for Muleba in Application No. 03/2019)*

**MOHAMED SAGAIKA.....APPELLANT**

***VERSUS***

**NYAKATARE GOHAZAVISE & 7 OTHERS .....RESPONDENTS**

**JUDGMENT**

*12<sup>th</sup> and 12 July 2021*

***Kilekamajenga, J.***

In this case, the appellant one Mohamed Sagaika, purchased 10 acres of land from Nyakatare Gohazavise on 30<sup>th</sup> July, 2012. The total sale price of the 10 acres was Tshs. 2,400,000/=. The appellant paid Tshs. 750,000/= promising to pay the rest of the money later. Until on 26<sup>th</sup> October 2012, the appellant never paid the whole sale price. He only paid Tshs. 1,090,000/=. The parties later agreed that the 1<sup>st</sup> respondent should refund the appellant Tshs. 1,090,000/= or else the appellant should be given 6 acres which were equivalent to the value of Tshs. 1,090,000/= at that time. The 1<sup>st</sup> respondent opted to refund Tshs. 1,090,000/= to the appellant but he (appellant) refused to receive the money. The refund was done before the District Land and Housing Tribunal for Muleba before Hon. Kitungulu, E (Chairman) and features in the order of the tribunal in Misc. application No. 04 of 2017.

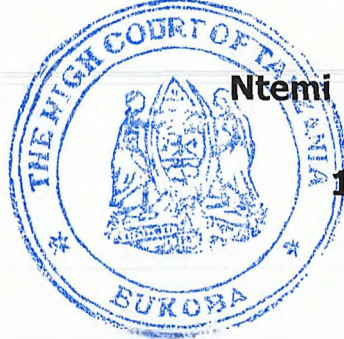
Sometimes in 2019, the appellant filed a case against the 1<sup>st</sup> respondent and 5 other respondents before the District Land and Housing Tribunal for Muleba vide application No. 3 of 2019. The application was objected on the reason that the value of the property did not exceed the pecuniary jurisdiction of the Ward Tribunal and therefore the dispute ought to be filed before the Ward Tribunal. As a result, the application No. 3 of 2019 was dismissed. The appellant appeared before this Court armed with two grounds of appeal thus:

- 1) That the learned chairman grossly erred in law and fact by dismissing instead of striking out an application*
- 2) That the trial tribunal erred in law and fact when holding that the tribunal lacks pecuniary jurisdiction while the substantive claims in the suit at hand is under the jurisdiction of the trial tribunal.*

When the appeal was fixed for hearing, the appellant appeared in person and without representation whereas the 1<sup>st</sup> respondent was present and represented by the learned advocate Mr. Mbekomize (Advocate). In his oral submission, the appellant urged the Court to conclude this matter because it has taken time. He further prayed from the 1<sup>st</sup> respondent to give him a piece of land equivalent to the amount of money he paid. On the other hand, the counsel for the 1<sup>st</sup> respondent informed the Court about the nature of the dispute and urged the Court to dismiss the appeal with costs.

In considering the merits or otherwise in this appeal, the appellant before this Court prayed exactly what was ordered by the District Land and Housing Tribunal in Misc. Application No. 04 of 2017. In that case, the 1<sup>st</sup> respondent refunded Tshs. 1,090,000/= to the appellant but he refused to take it and further refused to vacate from the suit land. The record further shows that the appellant signed an agreement consenting to the refund of Tshs. 1,090,000/=. It is surprising to learn that he later refused to receive the money. On whether or not the application No. 03 of 2019 was rightly dismissed; throughout the application, the appellant indicated the value of the property (land) to be below Tshs. 3,000,000/=. Therefore, the dispute ought to commence at the Ward tribunal. In addition, it is unfortunate that the same dispute initially commenced at the Ward Tribunal and finally reached the District land and Housing tribunal in 2017 before resurfacing again in 2019. In my view the appellant is employing some delaying tactics or abusing the Court process the practice which this Court has to stop it. A party must be stopped from abusing Court processes especially where he/she initiates endless litigations for no good reasons. I have taken a holistic view of this matter and found out that the appellant had no genuine claim against the respondents. For that reason therefore, I hereby dismiss the appeal with costs. As the refund of Tshs. 1,090,000/= was deposited at the District Land and Housing Tribunal in 2017, the appellant should make efforts to claim it from the

tribunal. I further order the appellant to vacate from the disputed land as soon as possible. It is so ordered.



**Ntemi N. Kilekamajenga**

**JUDGE**

**12/07/2021**

A handwritten signature in blue ink, appearing to read "Ntemi N. Kilekamajenga".

**Court:**

Judgment delivered this 12<sup>th</sup> July 2021 in the presence of the appellant present in person and the counsel for the 1<sup>st</sup> respondent and the respondent present in person.



**Ntemi N. Kilekamajenga**

**JUDGE**

**12/07/2021**

A handwritten signature in blue ink, appearing to read "Ntemi N. Kilekamajenga".