

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA  
IN THE DISTRICT REGISTRY OF MUSOMA**

**AT MUSOMA**

**MISC. LAND APPEAL NO. 30 OF 2021**

**EMMANUEL TURIRI SANGATITI ..... APPELLANT**

***VERSUS***

**CHACHA NOSI ..... RESPONDENT**

*(Arising from judgment and decree of the District Land and Housing  
Tribunal for Mara at Musoma in Land Appeal No. 148 of 2020)*

**RULING**

4<sup>th</sup> and 4<sup>th</sup> August, 2021

**KISANYA, J.:**

This is an appeal against the judgment of the District Land and Housing Tribunal for Mara at Musoma (DLHT) in the exercise of its appellate jurisdiction. In its judgment dated 5<sup>th</sup> February, 2021, the DLHT reversed the decision of the Ring’wani Ward Tribunal that had declared Emmanuel Turiri Sangatiti, the appellant, as the lawful owner of the disputed land. It went on to declare the respondent, Chacha Nosi as the lawful owner of the suitland.

Dissatisfied, the appellant filed the present appeal and raised the following grounds of appeal:

1. That the 1<sup>st</sup> appellate tribunal erred in law and facts by failing to consider that the suitland belongs to appellant's family land.
2. That the respondent purchased the family land from one person without involving other family members
3. That the 1<sup>st</sup> appellate tribunal erred in law and facts by failing to hold that the respondent did not prove to have bought the disputed land.
4. That the 1<sup>st</sup> appellate tribunal erred in law and facts by failing to hold that the appellant did not need permission to use family land.

The petition of appeal was presented to the DLHT on 13<sup>th</sup> April, 2021 and forwarded to this Court. Upon being served, the respondent filed a reply to the petition of appeal in which he raised a point of law to the effect that the appeal was time barred.

When this matter was placed before me for hearing today, the appellant and the respondent appeared in persons, unrepresented. Since the issue of time limitation goes to the root of the case, I found it appropriate to hear the parties on that issue before considering the appeal on merit.

Submitting in support of the point of law, the respondent contended that the appeal was filed out of time. He pointed out that the judgment subject to this appeal was delivered on 5<sup>th</sup> February, 2021 and the present

appeal lodged on 13<sup>th</sup> April, 2021. Therefore, he was of the firm view that the appeal was lodged after lapse of 60 days and urged me to consider the matter in accordance with the law.

In his reply submission, the appellant contended that the petition of appeal was lodged in time. He disputed to have lodged the appeal on 13<sup>th</sup> April, 2021 and asked me to hear the appeal on merit.

I have dispassionately considered the parties submission. The issue that I am called upon to determine is whether the appeal is timeous. The law is settled that the law of limitation on action has no sympathy and knows no equity. It is based on the legal maxims that the interest of the state requires that there should be an end to litigation and that the law assist the vigilant and not a person who sleeps over his rights. See the decision of the Court of Appeal in **Barclays Bank Tanzania Limited vs Phylisiah Hussein Mchini**, Civil Appeal No. 19 of 2016 (unreported).

As indicated earlier, the impugned judgment was delivered by the DLHT in the exercise of its appellate jurisdiction. Therefore the relevant provision on the time and mode of lodging appeal against the decision arising thereto is provided under section 38 of the Land Disputes Courts Act [Cap. 216, R.E. 2019] (the LDCA), which reads:

*"38.-(1) Any party who is aggrieved by a decision or order of the District Land and Housing Tribunal in the exercise of its appellate or revisional jurisdiction, may **within sixty days after the date of the decision or order, appeal to the High Court:** Provided that, the High Court may for good and sufficient cause extend the time for filing an appeal either before or after such period of sixty days has expired.*

*(2) **Every appeal to the High Court shall be by way of petition and shall be filed in the District Land and Housing Tribunal from the decision, or order of which the appeal is brought.***"(Emphasize supplied).

For purposes of the issue under discussion, the following are deduced from the above cited provision. **One**, the time to appeal to this Court against the case originating from the ward tribunal is sixty days after the decision of the DLHT. **Two**, the mode of appeal to this Court is by way of petition of appeal which is lodged in the DLHT which the appeal is brought. Reading by the said provision, it is not a legal requirement for the appellant to append the copy of judgment and decree. Therefore, the time required for obtaining the copies of judgment and decree is not excluded in computing the time limitation. See also the case of **Njumali Singo vs Meliyo Lovokieki**, Misc. Land Appeal No. 13 of 2019, HCT at Arusha (unreported) where my learned brother Gwae, J held as follows:

*"Going through the provisions of the Land Disputes Courts Act, Cap 216 Revised Edition, 2002, I have found none of provision which require a petition of appeal to be accompanied by a copy of judgment or order of the ward tribunal. Hence assertions that the appellant was supplied with necessary documents late, to my view have no legal basis."*

That being the position of law, I have gone through the record of this case. As rightly observed by the respondent, the impugned judgment was delivered on 5<sup>th</sup> February, 2021. Therefore, in terms of section 38(1) of the DCLA, the petition of appeal ought to have been filed in the DLHT by 6<sup>th</sup> April, 2021. However, it was on 13<sup>th</sup> April, 2021 when the appellant filed his petition of appeal in the DLHT and paid the filing fees.

I have also noted that the copy of judgment was ready for collection on 19<sup>th</sup> February, 2021 and that the appellant collected the same on 2<sup>nd</sup> March, 2021. However, the appellant was not required to append the copies of judgment to his petition of appeal. Therefore, the section 19 of the Law of Limitation Act, Cap. 89, R.E. 2019 cannot be employed. That is to say, the time used to obtain the copies of judgment are not excluded in computing the time limitation in the present appeal. For the foregoing findings, this Court finds that the petition of appeal was filed out of time for about 7 good days.

That said and done, I find merit in the point of law raised by the respondent and uphold it. In terms of section 3(1) of the Law of Limitation Act (supra) and the settled law, including the case of **Barclays Bank Tanzania Limited vs Phylisiah Hussein Mchini** (supra), the proper recourse for a matter lodged out of time is to dismiss the same. Thus, this appeal is hereby dismissed with costs.

DATED at MUSOMA this 4<sup>th</sup> day of August, 2021.



E. S. Kisanya  
JUDGE

Court: Ruling delivered this 4<sup>th</sup> day of August, 2021 in the presence of the parties. BC Simon present.



E.S. Kisanya.  
JUDGE  
04/08/2021

Court: An aggrieved party has a right of appeal to the Court of Appeal of Tanzania after seeking and obtaining a certificate from this Court that a point of law is involved in challenging this decision.



E.S. Kisanya.  
JUDGE  
04/08/2021