

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

MISC. LAND CASE APPEAL No. 41 OF 2020

(Originating from Muleba DLHT Misc. Application No. 2012/2018 & Kamachumu Ward Tribunal No. 18/2018)

WILLIAM JOHN NGAIZA APPELLANT

VERSUS

AULELIA RWIHULA RESPONDENT

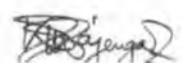
JUDGMENT

04th October & 08th October 2021

Kilekamajenga, J.

The appellant, through the legal services of the learned advocate, Mr. Mathias Rweyemamu preferred this appeal challenging the decision of the District Land and Housing Tribunal that denied him the prayer to extend time to file the appeal. The appellant approached this Honourable Court armed with six grounds of appeal coached thus:

- 1. That, the chairman grossly erred in law and fact for failure to allow application for leave to appeal out of time filed by the appellant against the respondent where whole proceedings of Kamachumu Ward Tribunal were nullity for being proceeded out of time of 12 years appeared on the face of record from the respondent's testimony.*
- 2. That the chairman restricted himself on the requirement of the copy of judgment to rule out matter of limitation that facts was misconception. The proceedings of the Ward Tribunal do not base its appeal on the date of supplied with copy of judgment as matters of subordinates Courts and*



District Land and Housing Tribunals of which its proceedings are based of civil Procedure Code of 1966.

- 3. That the chairman grossly erred in law and fact to deny the appellant extension of time base on the matter of overwhelming chances to succeed on the reason that he was to have been determining the appeal prematurely.*
- 4. That the chairman grossly erred in law and fact to refuse to grand application on the apparent error of law and fact that Kamachumu Ward Tribunal proceeded to decide the matter without setting disputable issues and worked upon them, an error which was going to merit of the case.*
- 5. That the chairman grossly erred in law and fact to allow application for execution without availing the appellant/judgment debtor the right to be heard, contrary to the land laws. Pertaining execution proceedings.*
- 6. That the chairman grossly erred in law and fact to dismiss this application for extension of time that lacked good and sufficient cause which were abundant in the application.*

The appeal was finally scheduled for hearing. The appellant, though absent, was well represented by his counsel, Mr. Mathias Rweyamamu. The respondent was also absent though enjoyed the legal services of the learned advocate Mr. Remidius Mbekomize. During the oral submission, Mr. Rweyamamu's submission was just brief thus; the appellant was delayed in getting the copy of judgment from the Ward Tribunal. The appellant received the copy of judgment during the execution of the decision of the Ward tribunal. After advancing this reason, the learned counsel for the appellant rested his case.

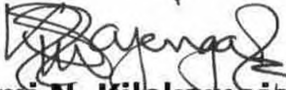
In response, Mr. Mbekomize resisted the appeal arguing that the appellant failed to show good reasons for the delay. He argued further that, the decision of the Ward Tribunal was delivered on 03/05/2018 while the appellant lodged the application for extension of time at the District Land and Housing Tribunal on 06/11/2018. The application for extension of time was made after the respondent filed the execution proceedings. Cementing the argument, Mr. Mbekomize invited the Court to consider the case of **Helen Jacob v. Ramadhan Rajabu [1996] TLR 139.**

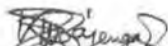
When rejoining, the counsel raised another reason of delay that, there is an illegality in the decision of the Ward Tribunal.

Having considered the rival arguments from the learned counsels, it is apposite to consider the merits of the appeal. It is already a settled law that extension of time is within the discretion of the court to grant. However, such a discretion must be judiciously exercised and upon considering whether or not the applicant has advanced sufficient cause for the delay. There is no exhaustive list of what amounts to sufficient reason for the delay but circumstances of the case, the length of the delay and whether the applicant was prompt in challenging the decision may be good reasons to warrant the court to extend the time.

In the instant case, after the decision of the Ward Tribunal on 03/05/2018, the appellant did not bother to challenge the decision until the respondent filed execution proceedings at the District Land and Housing Tribunal. In other words, the appellant was awakened by the execution proceedings otherwise he had no interest of challenging the decision of the Ward Tribunal. Before this Court, the counsel for the appellant informed the Court that the appellant was delayed the copy of judgment of the Ward Tribunal. However, this argument has no merit because there is no requirement of attaching the copy of judgment when appealing against the decision of the Ward Tribunal. When rejoining, the counsel for the appellant raised a new point of delay alleging that there is an illegality in the decision of the Ward Tribunal. In my view this was an afterthought because the counsel did not raise it during the submission in chief and he brought it behind the door while circumventing the response from the counsel for the respondent. In conclusion, I do not find good reason for the Court to allow the appeal because the appellant failed to advance sufficient cause to extend time. I hereby dismiss the appeal with costs. It is so ordered.

DATED at **BUKOBA** this 08th day of October, 2021.


Ntemi N. Kilekamajenga.
JUDGE
08/10/2021



Court:

Judgement delivered this 08th October 2021 in the presence of the appellant and his counsel, Mr. Mathias Rweyemamu (Adv) and Mr. Gerase Reuben (Advocate) holding brief for advocate Remidius Mbekomize for the respondent.



Ntemi N. Kilekamajenga.

JUDGE

08/10/2021