

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(DODOMA DISTRICT REGISTRY)
AT DODOMA

MISC. LAND APPEAL NO. 3 OF 2020

(Arising from the Decision of the District Land and Housing Tribunal of Dodoma at
Dodoma Land Appeal No. 6 of 2019 4/12/2019, originating from Vinghawe Ward
Tribunal)

LAMECK NDALU..... APPELLANT

VERSUS

JENI MATONYA RESPONDENT

22/11/2021 & 7/12/2021

JUDGMENT

MASAJU, J

The Respondent, Jeni Matonya, successfully sued the Appellant Lameck Ndalul, in the Vinghawe Ward Tribunal. The Appellant unsuccessfully appealed to the District Land and Housing Tribunal for Dodoma at Dodoma. Aggrieved with the decision the Appellant has come to the Court by way of an Appeal.

The Appellant's Petition of Appeal is made up of six (6) grounds of appeal, thus;

"1. That, the District Land and Housing Tribunal for Dodoma at Dodoma erred in law and in fact to pronounce decision without considering the facts that the land in dispute belongs to the

Appellant herein since cleared it from the bush since 1980 and there are more than two houses built and have been living there till to date thereof.

2. That, the District Land and Housing Tribunal for Dodoma at Dodoma erred in law and facts by pronouncing judgment without considering the quorum of members while adjudicating the dispute thereto.

3. That, the District Land and Housing Tribunal for Dodoma at Dodoma erred in law and facts by not considering the weight of the Appellant's witness at the trial instead considered the evidences adduced by Respondent's which were weak and contradictory thereto.

4. That, the District Land and Housing Tribunal for Dodoma at Dodoma erred in law and facts since pronounced irrationally since failed even to consider the principle of adverse possession thereto.

5. That, the District Land and Housing Tribunal for Dodoma at Dodoma erred in law and facts by pronouncing judgment without considering that the Ward Tribunal failed to consider the principle of natural justice thereof.

6. That, the District hand and Housing Tribunal for Dodoma at Dodoma erred in law and facts by pronouncing irrational decision thereto."

The Appellant prays the court to allow the appeal and set aside the decision of the District Land and Housing Tribunal for Dodoma with costs.

The Respondent filed her Reply to the Petition of Appeal in the Court.

When the appeal was heard in the court on the 22nd day of November, 2021 both parties appeared in persons and prayed to adopt their Petition of Appeal and Reply to the Petition of Appeal in support of, and against the appeal in the Court, respectively.

The Respondent sued as an administrator of the estate of Shedrack Matonya, her late father. In the Ward Tribunal the Respondent alleged that her late father was the owner of the land in dispute. That, in 1980, the Appellant leased the land from the Respondent's father. That, the late father directed the Appellant to use the land and not to sell it and that, in 2016 the Respondent's family requested the Appellant to hand over the land back to them but the Appellant disagreed. The Respondent's story was supported by her two witnesses Joseph Masing'oti and Juma Nelson Nado who alleged to be neighbours to the late Shedrack Matonya.

The Appellant alleged to have acquired the land in dispute by clearing the bush land in 1980. He brought on witness Mr. Richard Salali, who only alleged to have known the Appellant in 2010 and had nothing to say about the land in dispute and ownership thereof.

The Ward Tribunal visited the "*locus in quo*" before making the final decision and the witnesses from the land in dispute supported the Respondent's story that the land in dispute belonged to the late Shedrack Matonya.

The Court finds that the Respondent's evidence in the Ward Tribunal to have more weight than the Appellant's thus the Ward Tribunal and the District for Dodoma rightly decided the matter basing on the balance of probability as per the required standard of proof in Civil cases.

The Appellant's allegations that the quorum of members in the trial Tribunal was wanting can not stand since the said error has not occasioned any failure of justice, hence section 45 of the Land Disputes Courts Act [Cap 216].

The Appeal is hereby dismissed for want of merit. The parties shall bear their own costs.




GEORGE M. MASAJU

JUDGE

7/12/2021