IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

(IN THE DISTRICT REGISTRY OF TANGA)

AT TANGA

LAND APPEAL NO. 43 OF 2020

(Arising from the decision of the Application No. 36 of 2018 of the District Land and Housing Tribunal of Korogwe at Korogwe Dated 19th November 2020)

KOROGWE TOWN COUNCIL.....APPELLANT

-VERSUS-

ADAM SAID DIMWE.....RESPONDENT

JUDGMENT

Date of the Last Order: 28/02/2022
Date of Judgment: 04/03/2022

AGATHO, J.:

At the District Land and Housing tribunal for Korogwe at Korogwe there was an application filed for the purpose of challenging the validity of the ¼ acre owned by the Respondent that application registered as No. 16 of 2018. As the result of that application before trial tribunal, that application was decided in favor of the Respondent. Being aggrieved with the decision of the trial tribunal, exercised her right of appeal hence this appeal at hand.

The Appellant raised four grounds of appeal, as shown hereunder:-

i) That, the honourable tribunal erred in law and in fact by delivering the judgment in favour of the Respondent without considering the evidence adduced by the Appellant (Applicant in the application) and her witnesses therein.

ii) That, the Honourable tribunal erred in law when held that the allocation of the land to the Appellant (previously the Applicant) was done while already Respondent was living within a ¼ of his land without even mentioning specific time at which the Appellant's dispensary was allocated with such a disputed land.

iii) That, the honourable tribunal erred in law and in fact when held that the Respondent lived in disputed land more than 30 years undisputed thus He is protected by the Law of Limitation.

iv) That, the honourable Tribunal erred in fact and law for not considering the application of the doctrine of adverse possession to lands owned by government institutions.

The Court ordered the appeal to be disposed by way of written submissions and parties filed their submissions as scheduled. The Appellant submitted to support her appeal as follows and started with the first ground of appeal.

That, the Honourable Tribunal erred in law and in fact by delivering the judgment in favour of the Respondent without considering the evidence adduced by the Appellant (Applicant in the application) and her witnesses therein.

On this ground of appeal the Appellant submitted that, the rule of the best evidence guide the law enforcers to take cognizance of both parties in dispute, that they shall hear both parties and the party with heaver evidence than the other shall win. In the case of **HEMEDI SAIDI VS. MOHAMED MBILI [1984] T.L.R 113** which held as follows:

> *"According to law both parties to the suit tie but the person whose evidence is heavier than the other is the one who must win..."*

It is clear from records of the trial Tribunal that the Applicant had both personal testimonies including the persons who were the Manager of Katani Limited and on oath confirmed to the Tribunal that they had allocated 2 hectares to the Village Government after they had applied for Dispensary constructions. The evidence of former manager **(PW1)** supported by **PW2, PW3, PW4** and **PW5** and also the evidence of **DW3** who was the Village Executive Officer of Ngombezi Village also

confirmed that Katani Limited allocated 2 hectares to the Village Government of Ngombezi.

The evidence adduced by the Respondent was not enough for him to be declared owner of the disputed land. During the Trial the Respondent testified that he was given that land since 1998 by the Village Government though when cross examined by the council's Legal Officer he plainly explained to have no any evidence concerning the disputed land as well as the money he claimed to have paid (see page 12 of the trial tribunal proceedings). On the other hands **DW3** who was a former Village Executive Officer of Ngombezi Village since 1993 to 2000 does not confirm that on 1998 they allocated the land to the Respondent herein as you can see in the proceeding of trial Tribunal at page 15

***DW3 when* cross** examined **by Advocate Mussa he testified that;**

> *"My name is Omary, I'm Mkulima, I was employed from 1993-2000, I worked for 7 years. Employed by Halmashauri ya Wilaya, my duties among others is mlinzi wa amani wa kijiji, I Know the suit land, I don't know the measurement of suit land eneo hilo Illikuwa ni la Mamlaka ya Mkonge, I don't know how he got that land ..."*

Here DW3 does not confirm that in 1998 the Village Government allocated the disputed land to the Respondent though during that time he was a Village Executive Officer. He also confirmed that the disputed land was the property of Katani Limited before allocated to Ngombezi Village Council and he did not know how the Respondent got that land. But on the same page (page 15 of the trial tribunal proceedings) he testified that the villagers were given 649 hectors by the District Commissioner.

Moreover, as it can be seen on pages 13 and 14 of the trial tribunal's proceedings the evidence adduced by DW2 (Fatuma Omary) a neighbour to the disputed land supports that the Respondent herein is the owner of the land in dispute. She said that the Respondent has been on suit land for many years. They only contradiction is that the Respondent (DW1) testified on page 12 of the proceedings that the disputed land was allocated to him by the Village Government. The DW2 added that the land was allocated to the Respondent by Ward Councillor (Diwani) known as Sayari as shown in page 13 of the same proceedings.

There are inconsistencies in the evidence adduced by the Respondent herein before the trial Tribunal. For example, on the issue of time as visible on page 11 of the trial tribunal's proceedings he testified that;

"I was given the land by the Village government since 1998."

When the Tribunal visited locus in quo the Respondent herein on page 12 of the Tribunal Proceeding testifies that:

> *"The Respondent said the land is his property, the Dispensary met me to the said land since 1998. I have a house therein, and planted trees since 1998..."*

Thus, based on the strength of the evidence adduced by the Appellant (Applicant in the Tribunal) he is the one who was supposed to be declared owner of the disputed land as it was stressed in the case of **HUMBALO FERDINAND VS MERICK JOSEPH MAGUBIKA Civil Appeal No. 01/2002** of High Court of Tanzania at Dar es Salaam (unreported). Where it was held that:

> *"...The parties who claim ownership of land should have evidence to prove so and not mere words"*

The Respondent herein have shown that he does not have any evidence concerning the ownership of the disputed land apart from merely words as he clearly elaborated to the trial Tribunal see page 13 of the proceedings.

On the second ground of appeal, that, the Honourable trial Tribunal erred in law and in fact when it held that the allocation of the land to the

Appellant (previously the Applicant) was effected while already the Respondent was living within the 1/4 acre of his land without even mentioning specific time at which the Appellant's Dispensary was allocated with such a disputed land.

The Appellant submitted that, basing on this ground of appeal the Respondent have been there after the land been allocated to the Appellant whereby the record shows that Katani Limited allocated land to the Appellant herein on 27th day of June, 2009 and the Appellant use the disputed land peacefully without any disturbance on which to date is about 11 years. The Appellant decided to argue the third and fourth grounds of appeal together as follows;

That, the honourable Tribunal erred in law and in fact when held that the Respondent lived in the disputed land more than 30 years undisturbed thus he is protected by the Law of Limitation. That, the Honourable Tribunal erred in fact and law for not considering the application of the doctrine of adverse possession to lands owned by Government institutions.

As submitted that the third and the fourth grounds of this appeal, one of the reasons given by the trial Tribunal when declared the Respondent

herein as the real owner of disputed land was adverse possession. As rightly argued by the Appellant's counsel that that a shield sought under the doctrine of adverse possession is baseless because it was not supported by the evidence on record.

It is a settled principle of law that a person who occupies someone's land without permission, and the property owner does not exercise his right to recover it within the time prescribed by law, such person (the adverse possessor) acquires ownership by adverse possession. The circumstances under which a person seeking to acquire title to land under that principle were aptly explicated in the case of the **BHOKE KITANG'ITA VS. MAKURU MAHEMBA, Civil Appeal No. 222 of 2017, CAT (unreported)** the court used the case of **Registered Trustees of Holy Spirit Sisters Tanzania v. January Kamili Shayo and 136 Others, Civil Appeal No. 193 of 2016, CAT (unreported)** which quoted with approval the Kenyan case of **Mbira v. Gachuhi [2002] E.A. 137 (HCK)** in which again, reliance was made on the cases of **Moses v. Lovegrove [1952] 2 QB 533** and **Hughes v. Griffin [1969] 1 All ER 460.** It was held that:

> *"[On] whole, a person seeking to acquire title to land by adverse possession had to cumulatively prove the following:*

(a) That there had been absence of possession by the true owner through abandonment;

(b) that the adverse possessor had been in actual possession of the piece of land;

(c) that the adverse possessor had no color of right to be there other than his entry and occupation;

(d) that the adverse possessor had openly and without the consent of the true owner done acts which were inconsistent with the enjoyment by the true owner of land for purposes for which he intended to use it;

(e) that there was a sufficient animus to dispossess and an anima possidendi

(f) that the statutory periods, in this case twelve 12 years, had elapsed

(g) that there had been no interruption to the adverse possession throughout the aforesaid statutory period; and

(h) that the nature of the property was such that in the light of the foregoing/ adverse possession would result."

On this case the Appeal was dismissed given that the Respondent never said anything right from the beginning depicting his desire to rely on doctrine of adverse possession.

The Appellant submitted further that, no suit or other proceedings by or on behalf of the President or the Government of the United Republic for the recovery of land shall be dismissed on the ground that the period of limitation has expired, this has been provided under section 38(c) of **the Law of Limitation Act [Cap 89 R.E. 2019].** Therefore, the suit instituted by Korogwe Council cannot be dismissed based on ground that the Respondent occupied disputed more than 20 years. Concluding by praying that the appeal be allowed.

In reply to the first ground of Appeal, the Respondent herein owned the disputed land since 1998 undisturbed, until 2020 when the Appellant herein came to claim over the land of which is almost 22 years passed and it has to be noted that there are developments done by Respondent in the suit Land including building the house and planting some trees. And the Law of Limitation Act [CAP 89 R.E 2019] under item No. 22 of the 1st schedule, provides for the period of the suit to recover land as being 12 years. That is enough to say such Law protects the Respondent herein to be the real owner of the suit Land.

He argued further that there is no any favour that was given to the Respondent. The evidence adduced by Respondent herein were

collaborated by DW2 as well as DW4, and apart from that when the honourable Tribunal visited the suit land, they noted the same, if it is so and quoted the line of the judgement as follows:

> *"...this honourable Tribunal has noted that the allegations by the Respondent that he has owned and lived within the suit land since 1990s has been successfully proven as the honourable tribunal saw the Respondent's house, very old one and new one being built within a fenced land of almost ¼ of an acre, and those houses seem to be very old ones, that suggests that the Respondent has lived on that land for many years, since 1990s to date and has planted some trees that have grown up, for that matter there is no doubt at all that the latter's allocation of land by the applicant from Katani Limited for Dispensary construction was effected while already the Respondent was living within the ¼ acre of his land." (pages 4 and 5).*

There is no doubt that the Respondent herein is the owner of the suit Land, and the Appellant is bound by the Law of Limitation Act to recover the suit Land.

On the second ground of appeal, the trial tribunal was duty bound to evaluate properly the evidence and reach on just decision. The evidence adduced by the Respondent and his witnesses was enough for the trial

tribunal to declare the Respondent the lawful owner of the suit land. Also it has to be noted that the trial tribunal visited the suit land and gathered enough information for them to declare the Respondent herein the lawful owner of the land, as can be seen on pages 3 and 4 of the trial tribunal's judgment. The said pages explain well the reasons as to why the Respondent is the owner of the suit land.

Further it is trite law that where the case is based on the evaluation of evidence, it is the trial Court, which is better placed to evaluate the evidence, than the Appellate Court which only reads the records. This position seen is in the case of **JUMANNE S/A BUGINGO ft ANOTHER VS REPUBLIC (Court of Appeal at MWANZA)** Criminal Appeal, KAJI J.A quoted from the case of **ALI ABDALLAH RAJAB Vs SAADA ABDALLAH RAJABU AND OTHERS [1994] TLR 132** where it was held:

> *"Where the decision of a Court is wholly based on the credibility of the witnesses, then it is the trial Court which is better placed to assess their credibility than an appellate Court which merely reads the transcripts of the records"*

Further in the case of **JIMMY ZACHARIA Vs REPUBLIC, Criminal Appeal No.69 of 2006** (Unreported) the Court of Appeal held that:-

"The practice is that in a second appeal, the *Court rarely interferes with the concurrent findings of fact by the courts below. It is only when they are misdirection or non-directions of evidence"*

From the above submissions, the Respondent prayed for the honourable Court to dismiss the Appellant's submissions.

The 3rd ground and 4th ground of appeal were submitted together. In replying to Appellant's arguments, he submitted that, it is well settled principle of the law that, where a person occupied land undisturbed for a period of time, that person acquires the land by adverse possession. In the book titled "The Customary Land Law of Tanzania" a source Book by W. James and G.M Fimbo, on the Acquisition of Titles by long possession, at page 533, the learned Authors stated that:

"Received law permits a person to acquire an interest in property by long if not interrupted possession and user."

Similar view was given in the case of **NASSORO UHADI Vs MUSSA KARUNGE, Civil Appeal No. 17 of 1977** HC of Tanzania at Dar es Salaam which enunciated the above principal, where it held that:

"Where a person occupies land over a long period and develops it, and the owner knowingly acquiesces such a person acquires ownership by adverse possession"

In the instance case, as I have already stated herein above, the Respondent had been in undisturbed occupation of the disputed land for about 30 years, this entitles him to ownership even by adverse possession.

The case used by the Appellant herein at page 5 and the section used at page 6 in the second paragraph of the Appellant's submissions does not have merit to their part in the sense that, from the time Respondent herein started to use the land up to the time when the Appellant instituted the suit, it is without doubt that the Appellant abandoned the land by failure to show interest on it as a result the Respondent developed it and lived undisturbed until 2018 when the matter arose. And it has to be noted that the allocation of the suit land to Ngombezi Village for construction of Dispensary was done at the time the Respondent was already living in the suit land and had developed it. Thus, the Respondent had never trespassed. Moreover, the argument put on page 6 on a last paragraph of the Appellant's submissions does not fit, since then the Respondent was

there living in the suit land before even the allocation of construction of Dispensary.

The trial tribunal apart from other many attributes of this matter but the consideration that the life of the Respondent had been over the suit land which he stayed and use before the Appellant came and claim ownership. Therefore, the trial tribunal was correct, and sufficiently evaluated the evidence and gave a proper decision.

Upon such submission the humble and innocent Respondent who is bona fide samaritan herein prayed the honourable court to dismiss this Appeal and upheld the decision of Korogwe District Land and Housing Tribunal to the extent of the correctness with cost.

Let us examine the appeal by starting with the first ground of appeal which state as follows, the honourable tribunal erred in law and in fact by delivering the judgement in favour of the Respondent without considering the evidence adduced by the Appellant (Applicant in the application) and her witnesses therein. Appellant argued that any party to the suit who delivered heavier evidence must win the matter. Appellant believing to adduce heavier evidence basing on what has been presented by the former

manager of the Katani Limited known as PW1, **(PW1)** supported by **PW2, PW3, PW4** and **PW5** and also the evidence of **DW3** be in her favour simply because all witnesses testified about the transfer of that piece of land (land in dispute) from Katani Limited to the committee of the dispensary – Ngombezi street after the application made to them through letter which tendered before the trial tribunal and marked as Exhibit P-1 as well as the letter written by Katani Limited to the committee tendered before trial Tribunal and marked as Exhibit P-2. And PW1 told the trial tribunal that piece of land owned by Katani before transferred to Dispensary's Committee. Also, PW2 adduced his evidence by stating before the Chairman of the trial Tribunal that he was the member of the Dispensary's committee that on the dispute land there was a permanent residence established by the Respondent. They got that piece of land from Katani Limited on 2009 and by the time of acquiring that land from Katani Limited the Respondent was not living in that land. Also, PW3 testified the same about the acquiring of that law was the transfer from Katani Limited to Dispensary's committee and there were no one allocated that land and he went further stating about the warning issued by the Dispensary's Committee and Respondent declined to obey the warning issued to him but

PW3 did not tender that warning letter issued. PW4 was Land Officer from Korogwe Town Council who testified that street leaders reported to them about invasions done and then took action by the visiting the property in dispute and wrote letter to them to informing them that ownership of that land to be under the Applicant. And they wrote a letter to the Respondent requiring him to vacate from the disputed land. He tendered a letter written by him to inform Respondent that land is under Applicant ownership, it was received and marked as exhibit P3. He testified further that the Respondent had no building permit (kibali cha ujenzi) also stated that land allocated to Appellant since 2010. PW5 stated as the one who wrote a letter (Exhibit P-1) to Katani limited and replied by manager of Katani limited.

Basing on what has been adduced before the trial Tribunal the issue which ought to be determined are:-

i) Whether the Appellant proved ownership of land in dispute.

Starting with the proof of the ownership of land in dispute, during the trial there was not any witness who proved the ownership of land be it registered or unregistered. All witnesses belaboured on proving the

transfer and not ownership since no document tendered to prove that piece of land belong to Katani who allocated to the Dispensary's committee. Rather there were plain words about the ownership of land to be under the Appellant. One of the issues framed by the trial tribunal was about ownership of land since second issue stated as follows ***who is the lawful owner to the suit land***. It is the requirement of the law that ownership of land to be proved by certificate of tittle for the registered land as stated in the case of **Amina Maulid & 2 Others vs. Ramadhani Juma, Civil appeal No. 35 of 2019 (CAT-Mwanza) (unreported)** proof of ownership of a registered land is through a Certificate of Title. For unregistered land ownership can be proved trough past transactions in the land. In the book **of Conveyancing and disposition of land in Tanzania by Tenga R.W & Mramba S.J, Juris Publishers Limited, Dar es Salaam, 2020 at pg.59** it stated that,

> *When dealing with registered title it is easy, but title investigation for unregistered land is difficult. It can, however, be done by showing the purchaser the records of past transactions in the land e.g., sales, grants of probate, or the events of death.*

Appellant failed to prove ownership of piece of land in dispute whether that land was owned under registered or unregistered system. In fine it was not easier to determine ownership of suit land by Katani Limited and Appellant because the Appellant totally failed to prove ownership of that piece of land.

Therefore, the evidence adduced by the Appellant (Applicant) was not heavier to the extent of proving ownership. The issue of ownership in the present appeal is crucial as it is the key point for its determination.

About second ground of appeal, the question is as follows:-

ii) Whether the Honourable tribunal erred in law when held that the allocation of the land to the Appellant (previously the Applicant) was done while already Respondent was living within a ¼ acre of his land without even mentioning specific time at which the Appellant's dispensary was allocated with such a disputed land. From the evidence on record the Appellant was allocated 2 hectors. However, that did not include the piece of land occupied by the villagers. Moreover, the testimonies of the Appellant's witnesses (PW1 – PW5) failed to rebut the Respondent testimony

that he was occupation of suit land even before the Dispensary was built. Th Appellant was allocated the land in in 2009 (as per PW2) and 2010 (as per PW4) while the Respondent has been living in the suit land since 1998. There is a minor contradiction observed as to when the suit land was allocated to the Appellant. Moreover, PW4 stated that the Respondent did not have a building permit. However, it is my view that building permit is not the only evidence of ownership of land especially for unregistered land in the villages. Further, the PW5's testimony found on page 10 of the trial tribunal proceedings that in 2007 the land was empty the Respondent was not staying there was countered by the DW1, DW2, DW3 and DW4 who testified that the Respondent has been living there for more than 20 years. The Respondent testified that he has been in the suit land since 1998.

Third and fourth grounds of appeal were argued together since they relate to each other. That the honorable tribunal erred in law and in fact when held that the respondent lived in disputed land more than 30 years undisputed. Thus, he is protected by the Law of Limitation. And that, the honorable Tribunal erred in fact and law for not considering the application

of the doctrine of Adverse possession to lands owned by Government institutions. Before going further there is a need of satisfying ourselves on the issue of existence and application of the doctrine of adverse possession. In perusing proceeding from District Land and Housing Tribunal at pg.11 & 12 of the typed proceeding of the Trial Tribunal, Respondent noted that **"I WAS GIVEN BY VILLAGE GOVERNMENTS SINCE 1998."** Also, during cross examination stated the same point that he lived since 1997 and that piece of land given by the Village Government. In the case of **Tatu Gohoti Vs. Shabani Shori, Misc. Land Appeal No. 102 of 2020** High Court of Tanzania at Musoma relied in the case of cited the case of **Registered Trustees of Holy Spirit Sisters T. Vs January Kamili** mentioned factors to be considered in order adverse possession to be effective and applicable as developed from Kenya in the case of **Mbira v. Gachuhi** [2002] E.A. 137 (HCK) and **Moses v. Lovegrove** [1952] 2 QB 533 and **Hughes v. Griffin** [1969] 1 All ER 460

> *"[On] the whole, a person seeking to acquire title to land by adverse possession had to cumulatively prove the following-*
>
> (a) *That there had been absence of possession by the true owner through abandonment;*

(b) *That the adverse possessor had been in actual possession of the piece of land;*

(c) *That the adverse possessor had no color of right to be there other than his entry and occupation;*

(d) That the adverse possessor had openly and without the consent of the true owner done acts which were inconsistent with the enjoyment by the true owner of land for purposes for which he intended to use it;

(e) That there was a sufficient animus to dispossess and an animo possidendi;

(f) That the statutory period, in this case twelve 12 years, had elapsed;

(g) That there had been no interruption to the adverse possession throughout the aforesaid statutory period; and

(h) That the nature of the property was such that in the tight of the foregoing, adverse possession would result."

Since Respondent admitted acquiring that piece of land from government authority, simply it can be said that it was not proper for District Land and Housing Tribunal to introduce the issue of adverse possession in this appeal at hand. Since the mentioned factors are not related with the matter before District Land and Housing Tribunal. Therefore, respondent did not qualify to be said to be the adverse possessor.

Regarding, the third and fourth grounds as argued together, I agree with the Appellant that adverse possession may not apply to land owned by the government institution because most of them are allocated by special instrument such as statutory law, etc. But in my view that is not the issue in the present appeal. The Appellant never testified that the land was allocated to it via statutory law. In any case where the government want to do acquisition of land occupied by villagers or any other person, there must be prompt and adequate compensation for exhaustive improvements done on the said land.

Even though the Respondent did not own the suit land under the doctrine of adverse possession, he said the was given it by the Village Government. If he was given the land by the village government what evidence is there to prove the same? According to record of proceedings at the trial tribunal, Omari Y. Kaskazi (DW3) testified that that he was the VEO of Ngombezi village in 1993 – 2003. Back then there were not streets, it was Village Government. He was handed over the Dispensary in writing in 1999. At that time there was no extra piece of land for extension of the Dispensary because on the top, there was Anglican Church and the road to Mgambo. There was no piece of land for extension of the Dispensary. That is why

the District Council was given one hector which is unrelated or not linked to the Respondent's land because his house was there long ago before allocation or construction of the Dispensary. The Respondent is there with his fellow neighbours, about sixteen (16) of them. He has been living there legally. He was already there when the Dispensary was being built. He had a mud house at the time. And when the house collapsed, the District Council directed him to apply for permit which he did. Though no evidence was tendered to that effect. The Respondent testified that there was an Officer from the District Council whom he recalled by one name George who came to his plot and surveyed. Mr. George told him that the plot is his, the rest is for the Dispensary.

Fatuma Omari (DW2), Omary Yusuf Kaskazi (DW3) and Nasra Konstantino (DW4), were the Respondent's neighbours also testified that the Respondent has lived there for a long time. He has not trespassed into the Dispensary's land. DW4 stated that even when the survey was done, she was there. And she said twenty (20) years ago when the District Council surveyed the land, they left a tree as a boundary between the Dispensary and the villagers' houses. But John Kauta (PW3) who was the VEO since 2004 said there were beacons in the boundaries of the dispensary plot.

And there is a beacon which separate the villagers' land and Katani land which was later given to the Appellant.

Again, if the land was distributed to the villagers by Mkonge authority, what evidence is there to prove the same. It is also unclear, if the Respondent was working as a watchman at the Dispensary during its construction why did he not file his complaint to the District Land and Housing Tribunal of Korogwe and claim that the Appellant (Korogwe District Council) has trespassed into his land? Nevertheless, from the testimony of Fatuma Omari, Omari Y. Kaskazi and Nasra Konstantino, who are the neighbours of the Respondent, it can be concluded that the Respondent never trespassed the into the Appellant land. He has been living for a long time. The absence of documentary evidence cannot be a reason for depriving him his rights. Even if we use adverse possession, he will still be a lawful owner as he has been there for more than 20 years uninterrupted. Further, he worked as a watchman of the Dispensary it means even the Appellant knew that the Respondent was not a trespasser. The record of proceedings from the trial tribunal also shows that there are other villagers in the same plot. But the map leaned on the Respondent's plot. The said map which the tribunal members were shown when they

visited locus in quo was also not enough to convince them to declare the Appellant the rightful owner of the plot. Since these visited the locus in quo, they were in better position to get the reality of the issue than myself who is dealing with evidence on record.

This appeal is not maintainable because the Appellant failed to prove ownership before District Land and Housing Tribunal for Korogwe and before this court. If the land was owned by Mkonge Authority before transferred to the Appellant, is there any evidence to prove this? The exhibits presented by the appellant (Applicant) before the tribunal was not for the purpose of proving ownership and cannot prove ownership as explained above. This appeal is dismissed for lacking merits. Each party to bear its own costs.

DATED at **TANGA** this **04th** Day of **March, 2022**.

THE HIGH COURT OF TANZANIA

U. J. AGATHO
JUDGE
04/03/2022

Date: **04/03/2022**

Coram: Hon. U. J. Agatho, J

Appellant: Present

Respondent: Present

B/C: Zayumba

Court: Judgment delivered on this 04th day of March, 2022 in the presence of the Appellant, and the Respondent.

U. J. AGATHO
JUDGE
04/03/2022

Court: Right of Appeal fully explained.

U. J. AGATHO
JUDGE
04/03/2022