THE UNITED REPUBLIC OF TANZANIA

JUDICIARY

IN THE HIGH COURT OF TANZANIA

(MOROGORO DISTRICT REGISTRY)

AT MOROGORO

LAND CASE NO. 08 OF 2021

DAUD SAID MFAUME ..... 1ST PLAINTIFF
ROBERT LUCIAN LYANZILE..... 2ND PLAINTIFF
JOHN ALBERT MUDE..... 3RD PLAINTIFF
GILBERT EZEKIEL NDEURUO..... 4TH PLAINTIFF
LEILA SALEHE BAKHAMIS.....5TH PLAINTIFF
WINFRIDA WILFRED HAULE..... 6TH PLAINTIFF
VALERIAN CRINAT LYANZILE.....7TH PLAINTIFF
OMARY IDD MANJAWILA.....8TH PLAINTIFF

VERSUS

THE REGISTERED TRUSTEES
OF CHAMA CHA MAPINDUZI..... DEFENDANT

JUDGEMENT

Hearing on: 12/12/2022

Judgement date on: 03/3/2023

NGWEMBE, J:

This is a first instance land case, instituted by the plaintiffs jointly and severally against the defendant, Registered Trustees of Chama cha Mapinduzi (CCM). From the pleadings, the plaintiffs entered into tenancy agreement with CCM leaders over a landed property owned by the defendant, situated at Sabasaba area in Kilosa district within Morogoro region. As tenants, plaintiffs made improvements in their respective

allocated plots, with the arrangements that, they will pay half of the rental fees, the rest to be withheld by the tenants as deduction of the construction costs. Agreed also that, they would conduct their business in the area. However, before they could benefit from their business, the land was acquired by the government for construction of Standard Gauge Railway (SGR).

While there was no dispute on ownership of the suit land in contemplated acquisition, the dispute arose as to who deserved compensation for improvements over the landed properties between the plaintiffs and the defendant. The compensation process halted awaiting settlement of the dispute. The plaintiffs claim that, they once agreed that the defendant will be entitled to the compensation in respect of the acquired land, while the plaintiffs would be entitled to compensation for the improvement effected thereon. Further agreed that, the defendant will receive the said compensation and pass the relevant portion to the plaintiffs. They further averred that, the defendant breached the agreement for she received compensation from the Government through Tanzania Railway Corporation (TRC), but failed to reciprocate to them.

Before this court, the plaintiffs are seeking the following reliefs; a declaration that the defendant's act of confiscating the plaintiffs' compensation for unexhausted improvement on the defendant's suit premise is unlawful; an order for the release of the said amount of money which is One Hundred and Ten Million Twenty-Six Thousand Six Hundred and sixteen (Tshs. 110,026,616) to the plaintiffs; an order for payment of Shillings Two Hundred and Fifty Million (250,000,000/=) as specific

damages for non-use of the plaintiffs' money for two years; and general damages with costs.

The defendant in its written statement of defence conceded to the averment that there was a tenancy agreement and that the plaintiffs had incurred costs in making such unexhausted improvement in constructing the premises for business in the area and that the said land was acquired by the government for SGR project. All other averments, including that they reached an agreement that the plaintiffs will be entitled to the compensation were denied and the substance of the claim altogether.

In conducting this matter, the plaintiffs procured legal services of Ms. Jedness Jason, learned advocate, while advocate Gervas Ambokile and Neema Chitinka appeared for the defendant. When mediation of this case failed the matter was staged for adjudication. Four issues were mutually agreed for determination, these are: -

1) Whether the plaintiffs were lawful tenants of the defendant's suit premises;
2) If the first issue is answered in affirmative, then whether the plaintiffs engaged in improvements of the suit premises;
3) If the second issue is answered in affirmative, whether the plaintiffs are entitled to compensation by the defendant on those improvements; and
4) What reliefs are the parties entitled to.

Having so agreed, the plaintiffs lined up four (4) witnesses to prove their case, while the defendant came up with one witness namely Mr. Solomon Frank Kasaba. Thus, the first witness (PW1) is David Said

Mfaume, who affirmed and being led by advocate Mutakyamirwa Filemon from the same chamber with Ms. Jedness Jason, testified that, he is a business person from Kilosa. That CCM gave him a plot of land to build a business centre in year 2007/2008. It was agreed that, after construction, the tenants would pay half of the rental fees with a view to deduct construction costs. He constructed 14 rooms and used to pay Tshs. 7,500 per room each month. Later that rent was increased to Tshs. 10,000/- per month per each room. Unfortunate in 2016 the project of SGR commenced, the land with the improved development was to be acquired by the government for SGR construction.

Therefore, they agreed that, the defendant whose land is acquired, would receive compensation and in turn pay the plaintiffs in respect to improvement so assessed. Unfortunate, the government compensated the owner (CCM) of the suit land, but avoided to reciprocate such compensation to the plaintiffs as was prior agreed. The witness tendered minutes of their meetings, a letter and valuation report same were admitted marked as exhibits P1, P2 and P3 respectively. Also, the demand notice to the defendant was tendered in court marked as exhibit P4.

In cross examination, he maintained that the defendant reached into an agreement after mediation and the defendant promised to compensate all plaintiffs, but in vain. The said mediation and finally an agreement was facilitated by the then District Commissioner, CCM leaders and other government officials.

The second witness (PW2) **Robert Lucian Lyanzile,** gave his evidence coherent to PW1. Further stated that, he was also rented part of the disputed land, his agreement was entered in 2013 and that they would

pay part of the rent and recover the construction costs. He built a room for business in 2014/2015 at the costs of Tshs. 5,000,000/= which he also presented before the defendant. On 13/09/2018 he received a letter ordering him to stop any further development on the land for the reason that there was a construction of SGR. A dispute arose between the defendant and all the plaintiffs, same was settled amicably before the District Commissioner for Kilosa district. Minutes (exhibit P1) were prepared wherein, it was agreed that the project of SGR would compensate the defendant who in turn would compensate all the plaintiffs. However, the defendant after receipt of all compensations from TRC failed to honour the agreed compensation to the plaintiffs as per exhibit P1.

In cross examination he insisted that, though did not tender the lease agreement, in settlement of the dispute where compensation was agreed, the defendant's representatives participated.

PW3 Valerian Cronat Lyanzile, also stated the history of the dispute as given by other witnesses. Added that after the agreement he built two rooms in 2011 and in 2018, he was informed of the SGR project. Valuation was conducted, all the plaintiffs had their names registered and were ordered to demolish their structures with a promise to be compensated for the construction costs, transport and rent for where they would shift to. This witness in cross examination explained that, he had entered the original agreement with the defendant in 2010 and that according to valuation, he was entitled to compensation of Tshs. 4,978,450/=.

The last prosecution witness (PW4) Winfrida Haule, testified boldly that she constructed her rooms in 2015, all what had befallen the plaintiffs was similar to preceding witnesses. She identified exhibit P1 and P2 by

pointing out the names and the amount she was entitled to. Added that CCM representative were present and participated when they agreed on the amount of compensation. Rested by a prayer that all what is contained in the plaint be granted.

The defence side brought one witness, Mr. Solomon Frank Kasaba, a CCM regional Secretary (DW1). Being led by advocate Gelvas Ambokile, stated in chief that, he works under the supervision of the Registered Trustees of CCM with core functions of organizing election within the party and in that respect, he is a director of party election. Added that all contracts are entered by the Registered Trustees or may delegate to Kamati ya Siasa Mkoa, with specific instruction if the value of the matter does not exceed Tshs. 5,000,000/= according to article 130 of the CCM constitution of 2005. Proceeded that in Kilosa District, the Trustees have no contract with anybody, the plaintiffs are not known to the trustees and prayed this case be dismissed with costs.

In cross examination, he stated that he is responsible to take care of all properties of CCM in Morogoro region on behalf of the Trustees. When the SGR project passed through the landed properties owned by CCM in Kilosa, there was no dispute. He knows no lease agreement over that land and he has been in office since the year 2019. The CCM land in Kilosa has no tenant, exhibit P1, P2 and P3 are unknown to him. Even at his office there is no such information.

In re-examination, he explained that the Trustees can delegate powers to the regional secretary for a matter whose value does not exceed TZS. 5,000,000/= and only for one year. Handover is usually done through documents, properties and liabilities, even the agreements. And as a

regional secretary, he supervises all activities in the region and districts. Although he recognized the CCM Chairman for Kilosa District, but the Chairman and Party Secretary had no authority to enter into any agreement on behalf of the Party.

Having so summarized the rival evidences adduced by both parties, I intend to resolve the framed issues in *seriatim*, as they are interdependent to each other. In the course I will follow the long-standing principles of law in civil suits. To start with, is the burden and standard of proof. The person who brings a claim before the court of law bears the burden to prove his claim. In our jurisdiction, it is provided under several provisions of law including section 110 and 111 of **The Evidence Act, [Cap 6 RE 2022]** that: -

> **Section 110 (1)** *"Whoever desires any court to give judgment as to any legal right or liability dependent on existence of facts which he asserts must prove that those facts exist"*
>
> **Section 111** *"The burden of proof in a suit proceeding lies on that person who would fail if no evidence at all were given on either side."*

The standard of proof in civil cases is on preponderance of probability, same is given under section 3 (2)(b) of **The Evidence Act**. Also, the decisions of **Mathias Erasto Manga Vs. Ms. Simon Group (T) Limited, Civil Appeal No. 43 of 2013** and **Daniel Apael Urio Vs. Exim T. Bank (Civil Appeal 185 of 2019) [2020] TZCA 163,** are among many precedents on this rule of evidence. The term balance of probability

simply means the high probability of the fact or event having happened than not. Courts of law will always decide the matter based on the weight and value of evidences laid before it. In the case of **Mathias Erasto Manga** followed by the case of **Daniel Apael Urio,** the Court of Appeal gave the following interpretation: -

> *"We are also guided by the basic rule that he who alleges has the burden of proof as per section 110 of the Evidence Act, Cap. 6 R.E. 2019 as well as the position that the standard of proof in a civil case is on a preponderance of probabilities, meaning that the court will sustain such evidence that is more credible than the other on a particular fact to be proved."*

Having propounded the above legal principle, next is to examine the evidence on record with a view of handling the drawn issues. The first issue is whether the plaintiffs were lawful tenants of the defendant's suit premises, and the second issue is whether the plaintiffs engaged in improvements of the suit premises.

I have deeply perused the written submissions from both counsels, which have been taken aboard without narrative of the genesis of the subject matter. The defendant held a firm stance that, the plaintiffs were not tenants to the defendant's premises, while the plaintiffs placed their reliance on the testimonies and exhibits P1, P2 & P3, all of which took cognizance that the plaintiffs were tenants in the suit premises.

I paid a serious consideration of these exhibits as well. Exhibit P1 is a settlement deed between the plaintiffs and CCM. The meeting was chaired by Mr. Adam Mgoyi (the then District Commissioner), Reginald Simba

(DAS), the District Security Officer, Ag OCD, the District Executive Director, the Chairman and Secretary of CCM Kilosa District, among others.

The four plaintiffs who testified as witnesses were consistent in their statement that all the eight plaintiffs were lawful tenants of the defendant's suit premises and that they effected unexhausted improvements therein. These facts were averred in paragraphs 4, 5 and 6 of their joint plaints. The content was unconditionally admitted by the defendant in paragraph 4 of the Written Statement of Defence. I will quote the contents of paragraphs above for clear understanding as follows: -

> *"4. That the Plaintiffs and the defendant were tenants and Land lord respectively at Sabasaba Area in Kilosa District at Morogoro Region before the said area was acquired by the Government of United Republic of Tanzania purposely for construction of Standard Gauge Rail.*
>
> *5. That by the defendant's permission and consent the Plaintiffs were allowed to construct on the rented premises Permanent structures under which the monthly rental fees were subdivided between plaintiffs and the defendant, the latter being costs incurred by the Plaintiffs in construction of the said premises.*
>
> *6. That basing on the terms and conditions of the tenancy agreement, the plaintiffs commenced serious business on the defendant's suit premises and as the result they gained profits and clientele"*

In the Written Statement of Defence, the defendant stated at paragraph 4 as follows: - *"That the contents of paragraphs 4, 5 and 6 of the plaints are noted."*

Taking the law as it stands today, facts averred by one party and admitted or at least not disputed by the other party is equal to facts admitted and proved. The Civil Procedure Law governing litigation in our country and also similar to other jurisdictions, has been that allegations averred by the plaintiff must be admitted or denied. Those admissions are taken as uncontentious, while denials put the points of contention for trial. Facts which are not disputed, are usually presumed to be admitted. This breath is found in Rule 5 of Order VIII of **Civil Procedure Code, Cap 33** as quoted hereunder: -

> *"Every allegation of fact in the plaint, if not denied specifically or by necessary implication, or stated to be not admitted in the pleading of the defendant, shall be taken to be admitted except as against a person under disability: Provided that, the court may in its discretion require any fact so admitted to be proved otherwise than by such admission."*

Deriving from this provision, obvious admitted facts generally relieve the plaintiff from the burden of proving it save for circumstances provided for by the law. This is also *inpari materia* to section 60 of **The Evidence Act, Cap 6 RE 2022** which provides that: -

> *"No fact needs to be proved in any civil proceeding which the parties thereto or their agents agree to admit at the hearing or which, before the hearing, they agree to admit by any writing*

under their hands, or which by any rule of pleading in force at the time they are deemed to have admitted by their pleadings: Provided that, the court may, in its discretion, require the facts admitted to be proved otherwise than by such admissions."

From the above, the law on pleadings is settled. Upon admission, the evidential burden of proof is relieved from the plaintiff over the undisputed fact. In respect to this issue, the court is satisfied that the defendant well understood the plaintiffs' claims, that they were in lease agreement with the defendant that is why the defendant in her Written Statement of Defence (WSD) expressly admitted the same. Apart from the pleadings, the plaintiffs have brought forward evidences which to the conscience of this court attains the standard of probability. Same proves that all plaintiffs were tenants to the suit premises and that they made unexhausted improvements on that land.

The fact that during trial DW1 turned against his WSD and that the learned advocate for the defendant kept disputing this fact in his final submission, in fact such denial is immaterial. Based on a well-developed principle of law that parties are always bound by their pleadings, they are prohibited to depart therefrom. This principle of law has been maintained in a good number of precedents including in the case of **Martin Fredrick Rajab Vs. Ilemela Municipal Council & Another, Civil Appeal 197 of 2019) [2022] TZCA 434,** where the Court held: -

"It is a cardinal principle of the law of civil procedure founded upon prudence that parties are bound by their pleadings and thus, no party is allowed to present a case contrary to the pleadings"

Yet another case of **Charles Christopher Humphrey Richard Kombe T/a Humphrey Building Materials Vs. Kinondoni Municipal Council, (Civil Appeal 125 of 2016) [2021] TZCA 337,** regarding the rationale of the rule, the Court of Appeal held: -

> *"The rule aims at barring parties from departing from their pleadings during the trial thereby taking the opponent by surprise in line with our previous decisions, amongst others; James Funke Gwagilo Vs. Attorney General [2004] T.L.R 161...it must be taken to have admitted the contents of paras 5, 6 and 7 of the plaints. We agree that the respondent did not dispute having demolished the structures and taken away the items from the disputed land..."*

Similarly, in the case of **Happy Kaitiri Brilo t/a Irene Stationary & Another Vs. International Commercial Bank (T) Ltd, Civil Appeal 115 of 2016** the court insisted that, the evidence adduced by any of the parties which does not support the pleaded facts or is at variance with the pleaded facts must be ignored. In our case, the evidence of DW1 as pointed earlier goes contrary to the pleadings (WSD) to the extent expounded herein above.

Alternatively, even without admission, the law is settled that the defendant had a duty to prove that the plaintiffs were not tenants in the said land, as it is the fact within her knowledge under section 115 of **the Evidence Act,** and exclusively shouldered upon her under section 118 of the same Act as hereunder: -

"Section 118. When the question is whether persons are partners, landlord and tenant, or principal and agent and it has been shown that they have been acting as such, the burden of proving that they do not stand or have ceased to stand, to each other in those relationships respectively, is on the person who asserts it."

The defendant despite admitting in her WSD, stood persistently to the argument that, the plaintiffs were not tenants to her land, but no serious evidence was adduced to support that allegation. In the contrary, the plaintiffs have exhibited sufficiently that, not only there was an agreement, but also, they have been acting as land lord and tenant. It is proper for this court to rule that the defendant did not discharge that legal burden under sections 115 and 118 of **The Evidence Act**.

It has been established and admitted that the plaintiffs were legal tenants of the defendant and that according to their tenancy agreement, the plaintiffs engaged in improvements of the suit premises by constructing permanent buildings. Even further dealings between the plaintiffs and the defendant's officials were conducted coherent to those facts. Therefore, on the strength of the above legal premises and reasoning, this court resolves the first and second issues in affirmative.

The remaining issues for consideration are the third and fourth issues of whether the plaintiffs are entitled to compensation by the defendant on those improvements and generally, reliefs parties are entitled to.

There is no dispute that the defendant's land upon which the plaintiffs effected some permanent structures was acquired by the government for SGR project. Equally, it is not disputed that the

government having conducted valuation as per exhibit P3, each one of the plaintiff's deserved compensations for the improvements on the land whose total was TZS. 110,026,617.4. Equally important is to note that the defendant was entitled for compensation to the tune of TZS. 1,079,873/64 from the government. The plaintiffs agreed with the defendant that they will be compensated upon the defendant being paid by the government. Exhibit P1, a copy of settlement deed showed that the plaintiffs were entitled to compensation. This document was titled as *"MAKUBALIANO YA KUMALIZA MGOGORO KATI YA WAPANGAJI WA CHAMA CHA MAPINDUZI ENEO LA SOKO LA SABASABA WILAYANI KILOSA NA UONGOZI WA CHAMA CHA MAPINDUZI (CCM) WILAYA KILICHOFANYIKA TAREHE 18 DISEMBA 2019 KATIKA OFISI YA MKUU WA WILAYA YA KILOSA".* The settlement terms were as follows: -

> *"1. Mmiliki wa eneo la Sabasaba ni Chama cha Mapinduzi na ndiye anayepaswa kulipwa fidia ya eneo lake kwa kuwa linapitiwa na mradi wa kitaifa wa ujenzi wa reli ya Kisasa.*
>
> *2. Wapangaji watalipwa na chama cha Mapinduzi baada ya kupitia mikataba yao ya upangaji pamoja na tathmini ya gharama za ujenzi wa vibanda vya biashara kwa mjibu wa mikataba ya upangaji.*
>
> *3. Wapangaji wamekubali kuliachia eneo hilo kuanzia tarehe 19/12/2019 ili kupisha ujenzi wa Reli ya kisasa unaoendelea. Wapangaji wameridhia kufanya kazi ya ubomoaji wao wenyewe na kwa gharama zao.*

4. Hakuna mgogoro tena juu ya eneo hilo, utaratibu wa kulipa fidia kwa chama cha mapinduzi uendelee kama pande zote zilivyokubaliana"

The above can be interpretated in the language of this court that CCM (owner of the land) will receive compensation and in turn compensate the tenants according to their tenancy agreement and valuation of the premises so constructed. On that basis, the tenants had agreed to vacate the land and demolish their structures at their own costs. CCM to proceed with the compensation process. The District Commissioner wrote a letter to the Executive Director of TRC that District Committee for Safety and Security (Kamati ya Ulinzi na Usalama Wilaya) had resolved the dispute between the tenants and CCM, so compensation procedures which were stayed, should resume. Exhibit P1 was annexed therein.

The defendant seemed to dispute validity of the above undertakings in testimony and her final submissions. DW1's testimony was to the effect that the CCM Chairperson and Secretary had no legal mandate to enter into any lease agreement, let alone settlement deed as per exhibit P1. DW1 being the custodian of all CCM properties in Morogoro region, he neither knew the plaintiffs nor tenancy agreement. Further testified that, the defendant's land never had any dispute and no information found in his office. Such denial left this court in total darkness, bearing in mind that the District Commissioner was involved in such amicable settlement as discussed above. The question is what was the effect of having exhibit P1 accompanied with a letter written by the District Commissioner if there was no conflict and settlement at all?

In turn the plaintiffs have endeavored to establish positively that they had tenancy agreement with the defendant and later they agreed that the defendant would compensate them. DW1 and the defendant's counsel maintained that what the plaintiffs and CCM leaders agreed in mediation assisted by other government officials was invalid. That denial was very serious, one would wonder how possible the whole district leadership including CCM leaders were involved in resolving the dispute which ended up compelling the District Commissioner writing a letter to the Executive Director of TRC, that letter made compensation to the defendant being actualized. Such denial from the defendant must not be of general nature rather must be specific with viable evidences.

Moreover, it should be noted that reliance to the CCM constitution must equally be well stated and produced in court. This is because such constitution is not a statute or a public document deserving presumption or judicial notice under sections 58 and 59 also part VI of **The Evidence Act.** Thus, any person who seeks to rely on a document of such kind bears the duty to prove its existence and produce the same before the court of law under section 66 and 67 or other corresponding provisions under part III of the **Evidence Act.** The defendant did not produce any copy of the said constitution. Here again, correctly as the plaintiffs' counsel submitted, the defendant abdicated from her duty to prove those facts which under section 115 of **The Evidence Act** as earlier referred, are on her knowledge as adduced by DW1. Moreover, DW1 firmly testified that what the parties in exhibit P1 did was prohibited by CCM constitution.

Even treating the matter in other way round, I am settled that if CCM leaders and others were not authorized to engage in the settlement, then

any fault of the said leaders would be an internal arrangement which under the circumstance of this case would not and should not prejudice a third party. Just like general rule governing corporate entities, a constitution is aimed at management of the internal affairs of the defendant as opposed to third party. When a duly appointed officer enters into an undertaking with a third party, like it was in this case, and in good faith, I think any internal regulation should not be applied as a weapon against the third party's valid interest.

It should be always noted that, compensation for improvements effected on the land in case of acquisition is among the basic principles of Land Law in our country, which the courts are bound to protect. It is provided under section 3 (1)(g) of the **Land Act, Cap 113 2019** *inpari materia* to setion 3 (1)(h) of **The Village Land Act, Cap 114 RE 2019,** that: -

> *"The fundamental principles of National Land Policy which is the objective of the Land Act to promote and to which all persons exercising powers under, applying or interpreting this Act are to have regard to are ... to pay full, fair and prompt compensation to any person whose right of occupancy or recognised long-standing occupation or customary use of land is revoked or otherwise interfered with to their detriment by the State under this Act or is acquired under the Land Acquisition Act:"*

The principle applies to the landlord (defendant) and the tenants (plaintiffs) squarely. Even the government (TRC) took cognizance in the valuation (exhibit P3) basing on use and improvement effected on such land.

In absence of the evidence contrary to the plaintiffs' assertions that were tenants in the disputed land and that they had effected unexhausted improvements therein, I would safely decide that, they are entitled to compensation for improvements they made over that land and demolition of their structures. It is my considered view that, in resolving this dispute, the approach adopted by CCM leaders and government officials was a perfect approach worth to revere.

Following the verdict entered in each of the preceding issues, I find the plaintiffs have built their case to the preponderence of probabilities. Accordingly, I proceed to declare that the act of the defendant to deny the plaintiffs' compensatory money as previously agreed and documented in writing was illegal, unjust and against the basic rights protected by our laws. The plaintiffs' rights for compensation on unexhausted improvements over the defendant's own land was protected under the Land Laws of our Country. Therefore, plaintiffs jointly deserve compensation of a total of TZS. 110,026,616/= divided to every plaintiff in accordance to the agreed amount.

In respect to specific damage of TZS. 250,000,000/= for non use of the compensation money, I find no proof on such loss. The law is settled that specific damages must be specifically pleaded and strictly proven. See the cases of **Zuberi Augustino Vs. Anicet Mugabe, [1992] T.L.R 137**, **Stanbic Bank Tanzania Vs. Abercrombie & Kent Ltd**, **Civil Appeal No. 21 of 2001 (CAT – Dar)** and **Harith Said Brothers Company Vs. Martin Ngao [1981] T.L.R. 327** among others.

In this case, it was expected for the plaintiffs to specify their earnings when business was ongoing, or at least the plan and earning that would

accrue from use of the compensation money. But it is not known if true and how the amount of TZS. 250,000,000/= loss was incurred I am thus settled in my mind that, the claim for specific damages on the basis of non usage of the compensation money was not proved, thus such claim is dismissed.

Regarding the claim for general damages, generally there is no need to specify the amount, but loss must be established. However, there are guiding rules for courts to follow in awarding the same, while considering the circumstance of each case. The Court of Appeal in the case of **Anthony Ngoo & Another Vs. Kitinda Kimaro, Civil Appeal No. 25 of 2014,** held *inter alia: -*

> *"The law is settled that general damages are awarded by the trial judge after consideration and deliberation on the evidence on record able to justify the award. The judge has discretion in the award of general damages. However, the judge must assign reasons."*

Equally, this court is bound to satisfy this rule as I hereby do. The plaintiffs in this case have managed to establish loss suffered; their business plans aborted, constructions of their structure were demolished, while being deprived of their rightful compensation which they deserved. Having considered their premises were meant for business and that they had legitimate expectations of earnings, I am satisfied that they deserve an award of general damage to a tune of TZS. 10,000,000/- in total to all plaintiffs to be alloted equally.

The prayer for costs is as well considered. In this case, it seems if it was not for the defendant's covetousness, this matter would not necessarily extend to litigation. Parties would have avoided costs if the settlement in exhibit P1 was honoured. Under the circumstance, justice requires costs to follow the cause and I proceed to award costs payable by the defendant.

I accordingly Order.

Dated at Morogoro in chamber this 3rd day of March, 2023.

P. J. NGWEMBE

JUDGE

03/03/2023

Court: Judgment delivered in Chamber at Morogoro on 3rd day of March, 2023, **Before E. C. Lukumai, Ag,DR** in the presence of Mr. Gervas Ambokile for Mr. Mutakyamirwa, advocate for all plaintiffs, and Mr. Ambokile, learned counsel for the defendant.

Right of appeal to the Court of Appeal fully explained.

Sgd: E.C. Lukumai

Ag DEPUTY REGISTRAR

03/03/2023

I Certify that this is a true and correct copy of the original

Ag Deputy Registrar

Date 3/3/23 at Morogoro