

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

AT DODOMA

LAND CASE NO. 47 OF 2023

ABDALLAH SAAD AMER PLAINTIFF

VERSUS

SELEMAN MAULID ULED (as administrator of the estate of the

late **MOHAMED ULED..... DEFENDANT**

JUDGMENT ON ADMISSION

Date of last order: 20/2/2024

Date of Judgment: 12/3/2024 & 16/4/2024

KHALFAN, J.

The plaintiff filed the instant suit against the defendant for the following reliefs:

- (a) A declaration that the defendant is in breach of the sale agreement dated 21st August 2020 between the plaintiff and defendant for failure to handing over the suit property to the plaintiff herein.*
- (b) An order declaring that the suit property (plot No. 26 Block 8 located at Madukani Dodoma is a lawful property of the plaintiff.*



- (c) An order directing the defendant, heirs and or his agents, officers, workmen or any person whomsoever acting under or on his behalf of the defendant to vacate the suit property.*
- (d) An order for permanent injunction restraining the defendant, heirs and or his agents, officers, workmen or any person whomsoever acting under or on his behalf for interfering with the plaintiff and or his agents, assignees and successors quiet and exclusive possession of the suit property.*
- (e) Compensation at tune of TZS 200,000,000/= (two hundred million) as mesne profit arising from the defendant act of occupying and make use of the suit premises for their economic gain without any colour of right.*
- (f) General damages.*
- (g) Costs of the suit.*
- (h) Any relief this honourable court may deem fit and just to grant.*

The defendant duly filed the written statement of defence in which he admitted the contents of paragraph 3 save for the claim of TZS 200,000,000/= as mesne profit arising from the defendant's act of occupying and making use of the suit premises for the economic gain. For



the purposes of clarity, paragraph 2 of the defendant's written statement of defence reads thus:

2. That the contents of paragraph 3 of the plaint are noted and admitted save for the plaintiff's prayers for payment of Tanzanian Shillings two hundred million (200,000,000/=) as mesne profit arising from defendant act of occupying and make use of the suit premises for their economic gain without any colour of right.

When the matter was called on for necessary orders, Mr. Hamidu Mushi, learned advocate appeared for the plaintiff while Mr. Denis Odhiambo, learned advocate appeared for the defendant.

Mr. Hamidu addressed the court that the defendant has admitted part of the claim hence he prayed the court to enter judgment on admission based on the facts admitted in terms of Order XII Rule 4 of the Civil Procedure Code [CAP 33 R.E 2019], (hereinafter referred to as the CPC).

On his part, Mr. Denis informed the court that the defendant admitted paragraph 3(a) to (d) only but he did not admit paragraph 3 (e) to (h) of the plaint.



Upon reflection, Mr. Mushi prayed to withdraw the claim on paragraph 3(e) to (h) and each party to bear its own costs.

Having gone through the pleadings filed as well as the oral submissions of the learned advocates for the parties, this court is satisfied that in his written statement of defence, the defendant has admitted partly of the plaintiff's claim that he indeed disposed the suit premises to the plaintiff and he delayed to vacate therefrom. Hence, in terms of Order XII Rule 4 of the CPC, this court enters judgment on admission as follows:

1. *The defendant is in breach of the sale agreement dated 21st August 2020 between the plaintiff and defendant for failure to handing over the suit property to the plaintiff herein.*
2. *The plaintiff is declared as lawful owner of the suit property described as Plot No. 26 Block 8 located at Madukani Dodoma.*
3. *The defendant, heirs and or his agents, officers, workmen or any person whomsoever acting under or on behalf of the defendant to vacate the suit property.*
4. *Permanent injunction restraining the defendant, heirs and or his agents, officers, workmen or any person whomsoever acting under or on his behalf for interfering with the plaintiff and or his agents, assignees and*




successors quiet and exclusive possession of the suit property is entered.

Equally, since the plaintiff withdrew the claim in paragraph 3(e) to (h) of the plaint, this court, in terms of Order XXIII Rule 1(1) of the CPC, marks the claims in paragraph 3(e) to (h) withdrawn. In the circumstance, I make no order as to costs.

It is so ordered.




F. R. KHALFAN
JUDGE
16/4/2024