

IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA

IN THE SUB-REGISTRY OF MANYARA

AT BABATI

LAND APPEAL NO. 265 OF 2024

(Originating from the Application No. 2 of 2023 at District Land and Housing Tribunal for Babati District at Babati)

DAMIANO QAMBESH BOSTAAPPELLANT

VERSUS

1. IMBORU AWE.....

2. MULDA BOSTA BOHAY

RESPONDENTS

EX PARTE RULING

7th May and 20th June, 2024

MIRINDO, J.:

The respondents, Imboru Awe and Mulda Bosta Bohay, have objected to the appeal filed before this Court by Damiano Qambesh Bosta. The essence of their objection is that the appeal has been filed beyond the prescribed period of forty-five days. The objection was heard *ex parte* as neither the appellant nor his counsel appeared when the objection came for hearing. The respondents were represented by Mr Henry Simon Katunzi, learned advocate. The learned advocate pointed out that the judgment of the Babati District Land and Housing Tribunal was delivered on 30/10/2023 but the appeal was lodged on 9/1/2024 contrary to the provisions of section 41 (2) of the Land Disputes Courts Act [Cap 216 RE

2019]. Since the appeal was lodged beyond forty-five days without leave to appeal out of time, it is time-barred and should be dismissed with costs.

There is no doubt that section 41 does not expressly provide for exclusion of time spent in obtaining copies of proceedings and judgments as a factor to be taken into account in calculating the period allowed for appealing. Nevertheless, in terms of section 52 (2) of the Land Disputes Courts Act, the Law of Limitation Act [Cap 89 RE 2019] is one of the laws that specifically governs the proceedings in a District Land and Housing Tribunal. Hence the Court of Appeal held in **Alex Senkoro and Others v Eliambuya Lyimo** (Civil Appeal 16 of 2017) [2021] TZCA 104 that the provisions of section 19 (2) and (3) of the Law of Limitation Act authorize exclusion of the period spent in obtaining copies of judgments and proceedings and such exclusion is automatic “as long as there is proof on the record of the dates of the critical events for the reckoning of the prescribed limitation period.”

In the instant case, the date of the supply of the judgment is 6/12/2023. I have no doubt that since the appeal was lodged on 9/1/2024, it was timeous. The objection is hereby dismissed. Hearing of the appeal to continue on the scheduled date.

DATED at BABATI this 12th day of June, 2024

F.M. MIRINDO

JUDGE

COURT: Ruling delivered in Chambers this 20th day of June, 2024 in the presence of the appellant in person and in the presence of Advocate Festo John holding brief for Advocate Henry Simon Katunzi for the Respondents.

Right of appeal explained.



A handwritten signature in blue ink, appearing to read "F.M. Mirindo".

F.M. MIRINDO

JUDGE