

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
IN THE SUB-REGISTRY OF MWANZA
AT MWANZA
LAND APPEAL NO. 54 OF 2023**

**MGONGO MGETA CHIKOLIAPPELLANT
VERSUS
TEKLA ZACHARIA..... RESPONDENT**

JUDGMENT

6/12/2023 & 23/2/2024

ROBERT, J:-

This is the second appeal in which the appellant, Mgongo Mgeta Chikoli, dissatisfied with the decision of the District Land and Housing Tribunal (DLHT) for Geita in Land Appeal No. 28 of 2021, favoring the respondent, Tekla Zacharia, has brought this second appeal against the DLHT's decision.

The underlying facts of this appeal reveal that Tekla Zacharia filed a complaint with the Ward Tribunal for Nzera, asserting that the appellant had encroached upon 1¼ acres of her 4-acre property. She claimed to have acquired the disputed land with her late husband, Emmanuel Nyamkokoma, from Kagosha Kisinza in 2002. Tekla Zacharia utilized the land for 19 years

until the appellant allegedly trespassed and began cultivation. The Ward Tribunal ruled in her favor, prompting the appellant to appeal to the DLHT, which affirmed the Ward Tribunal's decision. Dissatisfied, the appellant now appeals to this Court, raising two grounds:

- (a) The DLHT erred by denying victory to the appellant based on the absence of a letter of administration of estate, a deficiency shared by both parties.
- (b) The DLHT erred in declaring the respondent as the lawful owner of the disputed property.

During the appeal hearing, both parties appeared in person, and oral arguments were presented.

On the first ground, the appellant asserted that the DLHT erroneously denied him victory, emphasizing that neither party possessed a letter of administration. The DLHT, referencing the case of *Petro John vs. Peter Chipata*, Civil Appeal No. 81 of 1996, concluded that without a letter of administration, the appellant lacked the qualification to represent the deceased's estate. This Court concurs with the DLHT's reasoning, upholding its decision that the absence of a letter of administration renders the appellant ineligible to represent the deceased's estate.

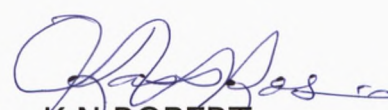
Turning to the second ground, the appellant contended that the DLHT erred in declaring the respondent as the lawful owner without reliable proof of ownership. He argued that there is no clarity on how the disputed land was transferred from his late father, Mugeta Chikoli to Kagosha Kisinza and later to Emmanuel Nyamkokoma.

The Court, upon reviewing the evidence, found that the respondent presented documentary evidence, including a sale agreement from 2002. The DLHT considered the respondent's uninterrupted possession of the disputed land for over 20 years and the Ward Tribunal's finding that the late Mgeta Chikoli sold his land before his demise. The Court concludes that the DLHT's decision on the second ground is supported by evidence, and the appellant failed to challenge the respondent's established ownership.

In conclusion, both grounds of appeal are dismissed with costs, and the DLHT's decision in Land Appeal No. 28 of 2021 is upheld.

It is so ordered.




K.N. ROBERT
JUDGE
23/2/2024

