

**UNITED REPUBLIC OF TANZANIA**  
**JUDICIARY**  
**HIGH COURT OF TANZANIA**  
**BUKOBA SUB REGISTRY**  
**AT BUKOBA**  
**ORIGINAL JURISDICTION**  
**CIVIL CASE NO. 7 OF 2023**

**RAHIM MWANAKI..... PLAINTIFF**

VERSUS

**1. KARAGWE DISTRICT COUNCIL }.....DEFENDANTS**  
**2. THE ATTORNEY GENERAL }**

**RULING**

Date of last Order: 14/02/2024

Date of Ruling: 14/02/2024

**BEFORE: G.P. MALATA, J**

This matter was scheduled for hearing of preliminary objection raised by the defendants that, the suit for compensation is time barred. That, the cause of action arose in 1999 whereas the Plaintiff started to pursue for his right in 2005 while the matter was already time barred.

On the hearing date 14/2/2014, the defendants appeared through Mr. Nestory Lutambi learned State Attorney whereas the Plaintiff appeared through Mr. Scarius S. Bukagire learned counsel.

Mr. Bugakire learned counsel informed this court that, the Plaintiff was conceding to the preliminary objection.

As to the effect of such suit, he submitted that, it should be dismissed under section 3 (1) of the Law of Limitation Act, Cap. 89 R.E. 2019. However, he prayed that, the court be pleased to withhold the costs.

On the other hand, Mr. Lutambi learned State Attorney supported Mr. Bukagire's position that, the matter is time barred and be dismissed as opined. However, he pressed for costs.

Having carefully gone through the pleadings, it is with no iota of doubt that; **one**, Plaintiff is claiming for compensation, **two**, the cause of action arose in 1999 **three**, the Plaintiff started pursuing for his rights in 2005 being six (6) years from the date of cause of action, **four**, that the time limit to institute suit based on compensation is one (1) year, **five**, that the suit is time barred.

In view thereof, this court has no jurisdiction to entertain the suit.

The question which follows is what is the remedy to the suit filed outside the time *limine* prescribed by the law.

Section 3 (1) and (2) (a) of the law of Limitation Act, Cap. 89 R.E 2019 provides for an answer. The section reads;

(1) *Subject to the provisions of this Act, **every proceeding** described in the first column of the Schedule to this Act and which is instituted after the period of limitation prescribed therefore opposite thereto in the second column, **shall be dismissed whether or not limitation has been set up as a defence.***

(2) *For the purposes of this section a proceeding is instituted-*

(a) ***in the case of a suit**, when the plaint is presented to the court having jurisdiction to entertain the suit, or in the case of a suit before a primary court, when the complaint is made or such other action is taken as is prescribed by any written law for the commencement of a suit in a primary court;*

Additionally, in the case of **Barclays Bank Tanzania Limited vs**

**Phylisiah Hussein Mcheni**, Civil Appeal no 19 of 2016 the court of appeal

had these to say;

*"Finally, therefore there was no basis for the High Court Judge to strike out the complaint that had been presented in court after expiration of 60 days.....In view of that position of the law, it is our conclusion that, the learned High Court Judge should have **resorted to section 3(1)***

*of the Act to dismiss the complaint instead of striking it out as she did."*

In the event thereof, this court hereby dismiss **Civil Case No. 7 of 2023** for being time barred. Each party shall bear its own costs.

**IT IS SO ORDERED.**

**DATED** at **BUKOBA** this 14<sup>th</sup> February, 2024.

  
G.P. MALATA  
**JUDGE**  
14/02/2024

**RULING** delivered at **BUKOBA** this 14<sup>th</sup> February, 2024.



  
G.P. MALATA  
**JUDGE**  
14/02/2024