IN THE HIGH COURT OF TANZANIA

(LAND DIVISION)

AT DAR ES SALAAM

MISCELLANEOUS LAND CAUSE NO. 2 OF 2010

WELLWORTH HOTELS & LODGES LIMITED ..... 1ST APPLICANT
ESMAIL PROPERTIES LIMITED ..... 2ND APPLICANT

VERSUS

ENTERPRISE (TANZANIA) LTD ..... RESPONDENT

RULING

MWAMBEGELE, J.:

The Applicants are legal persons. Through the services of Marando, Mnyele & Co. Adcvocates, they have filed an application under certificate of urgency against the Respondent; also a legal person, seeking for first, injunction to restrain the Respondent and its agents, workers, or servants from selling or disposing of Apartments No. 8 and No. 9 on the fourth floor and No. 1 and

No. 2 on the ground floor of Raha Tower Apartments standing on Plot No. 34 UWT/Maktaba Street Dar es Salaam registered under CT No. 186053/56 (hereinafter referred to as "Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments") which were deposited with the Respondent as a result of a Sale Agreement in respect of a property standing on plot No. 2392/44CT No. 186008/37 Central Area, Dar es Salaam City; christened as Embassy Hotel (hereinafter referred to as simply "Embassy Hotel"). Secondly, the Applicants have also prayed that *status quo* of the parties to this suit be maintained until final determination of the arbitration proceedings which have been commenced. Thirdly, this court has been asked to appoint an arbitrator in line with the requirement of Clause 16 of the Agreement and fourth, costs of this application.

The application has been made under Article 108 of the Constitution of the United Republic of Tanzania, 1977 (hereinafter "Cap 2"), section 2 (1) of the Judicature and Application of Laws Act (hereinafter "Cap 1") and Sections 68 (c) and 95 of the Civil Procedure Code, Cap 33 (hereinafter "Cap 33") and Section 8 (2) of the Arbitration Act, Cap 358 (hereinafter "Cap 358"). It is

supported by an affidavit deposed to by one Gulam Esmail; Director of both applicants companies.

Briefly stated, the facts of this case are as follows. By a Sale Agreement dated 6.10.2008 the 1st Applicant purchased from the Respondent Embassy Hotel in the Central Business District of the City of Dar es Salaam. Pursuant to the said sale, the 2nd Applicant stood as a guarantor to the 1st Applicant's obligation to pay the purchase price and balance thereof in full. As a guarantor, the 2nd Respondent deposited Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments. It is in the Sale Agreement that the 1st Applicant would complete the purchase price in six installments.

It is in the affidavit of Gulam Esmail; Director of both Applicants' companies that the Respondent, as per Clause 3 (c) of the Agreement, received USD 75,000.00 to be expended on exclusively paying to the relevant authorities Capital Gains Tax, Utility Bills and other incidental expenses. It is further deposed to in the said affidavit that the Respondent defaulted to expend the monies as agreed as a result of which it (the 1st Applicant) suffered several financial injuries. To appreciate what the deponent avers, I hereby

quote the relevant paragraphs of the affidavit. These are paragraphs 6 through to 13:

6. *The Respondent has flagrantly defaulted in the performance of clauses 3 (c) and 10 of the said agreement, the particulars being that;*

   a) *The respondent failed to pay Utility Bills, namely electricity and water bills.*

   b) *The respondent did not pay the statutory Capital Gains Tax and other statutory taxes causing the Tanzania Revenue Authority to move against the 1st applicant.*

7. *In consequence of the above faults by the Respondent, the 1st applicant suffered the following injuries that is to say;*

   a) *On 15th July, 2009, the 1st applicant received a letter and water bill from DAWASCO, which the 1st applicant is obligated to settle in order to get water back into the premises. A copy of the demand note and the bill are collectively attached herewith marked "B" and form part of this affidavit.*

   b) *During the month of May, 2009 M/s Yono Auction Mart & Company Ltd, debt collectors for TANESCO, impounded 16 motor vehicles belonging to the 1st applicant on a claim against Hotel Embassy by TANESCO for a claim of Shs. 203,643,760.25. Copies of the letters from Yono Auction*

Mart and their tax invoice are· attached herewith marked "C" and form part of this affidavit.

c) *The Tanzania Revenue Authority demanded audited returns of income tax from the respondent without results. Copies of the demands which were copied to the respondent are attached herewith marked annexture "D" and form part of this affidavit. After the respondent failed to submit its audited returns of income tax the Tanzania Revenue Authority served the 1st applicant with several Agency Notices declaring the 1st applicant to be the payer of the tax of the respondent, and required the 1 st applicant to pay the Tanzania Revenue Authority a final total amount of Tanzania Shillings 1,630,691,717/=, being Income Tax due by the respondent from the balance of money that is due and payable by the 1 st applicant to the respondent on foot of the agreement of sale. Copies of the Agency Notices served on the Ht applicant are attached herewith marked "E" and forms part of this affidavit. All the Notices were copied to the respondent.*

d) *When the 1st applicant attempted to ignore the Agency Notice, and paid the respondent in continued performance of the agreement, the Tanzania Revenue Authority froze the accounts of the 1st applicant, causing some of its cheques not to be honoured. Copies of the correspondence showing how the 1 st applicant's accounts were frozen are attached herewith marked "F" and forms part of this affidavit.*

8. *On being served with the said Agency Notices the 1st applicant had a meeting with the officers of the Tanzania Revenue*

Authority whereat it was agreed that the 1 st applicant will pay the said taxes by way of installments. A copy of the minutes of the said meeting is attached herewith marked "G" and forms part of this affidavit. The 1 st applicant has started paying the respondent's taxes. Copies of paying slips for the months of November 2009 December, 2009 and January, 2010 are attached and collectively marked "H" and form part of this affidavit.

9. *As from the time it became known that the respondent had not paid for the utilities and the statutory taxes there had been correspondence from the first applicant and its advocates to the respondent and its advocates, showing that disputes and controversies had arisen that necessitated the appointment of an arbitrator as per the sale agreement. The letter dated 11/2/2010 from the respondent's advocates to the 1st applicant is a demand note threatening the sale of the properties belonging to the 2nd applicant that were deposited with the respondent. Copies of the said correspondence are attached herewith and collectively marked "I" and form part of this affidavit.*

10. *While the 1st applicant and its advocates have proposed the appointment of an arbitrator, the respondent does not concur to the appointment of an arbitrator as it is stated in its advocates letter dated 22nd December, 2009 that the respondent "is not aware of any dispute.....and therefore any reference to any arbitration is misconceived".*

11. *From the contents of the letter dated 11th February, 2010, from the respondent's advocates addressed to the 1 st applicant, it is a fact that the respondent intends to sell the properties deposited with it to guarantee payment of the agreed*

installments. If the properties are sold the 2nd applicant will suffer irreparable loss because the respondent has spent all the money that was paid to it to settle its liabilities and it has no money to pay back. Its lack of money is proved by the fact that it has no audited accounts and no assets or bank accounts with deposits which even the Tanzania Revenue Authority could impound to recover taxes due to it.

12. *The 2nd applicant's guarantee was predicated on the assumption that each of the parties would perform its parts of the bargain. The respondent had defaulted on its part of the bargain as stated hereinabove.*

13. *If the injunction is granted the respondent is not going to suffer at all because, though it will not be receiving its installments from the 1st applicant, its tax liabilities are being paid. On the other hand if the injunction is refused, the 2nd applicant will lose its properties with no possibility of regaining them or being compensated by an award of damages.*

The Respondent has countered the above averments through the counter affidavit of one Frank Marealle; a Director of the Respondent company. Again, to appreciate what is deposed to in his affidavit, I hereby quote some of the relevant paragraphs. These are paragraphs 3, 5, 6 through to 16:

3. *That the 1st Applicant merely purchased one of the assets of the Respondent and did not purchase the company. As such other*

assets and liabilities of the Respondent remained with the Respondent and did not pass to or become the liability of the 1st Applicant. Any sum paid by the Applicant on account of the Respondent if genuine and supported by receipt and proper documents will be reimbursed by the Respondent.

5. *That according to para 3(f) of the Sale Agreement, the 1st Applicant still owes the Respondent the sum of USD. 2,400,000' payable in the manner provided therein. The Respondent has not deposited six post-dated cheques with Advocate Mustafa Chandoo as provided therein.*

6. *The 2nd Applicant has guaranteed timely payment of the installments as provided in recital "G" of the Sale Agreement and as admitted in para 3 of the affidavit. A copy of the said Power of Attorney registered with the Registrar of Title under section 93 of the Land Registration Act, (Cap334 R. E. 2009) is annexed herewith marked annexture "ETL-I" which the Respondent craves leave to form part of this counter-affidavit.*

7. *The first Applicant received the title duly transferred in its name on 29th September, 2009. In compliance with clause 3(1) of the Sale Agreement, the first installment of USD. 400,000' became due and payable on or about 13th November, 2009 and every subsequent month thereafter. The 1st applicant has not paid and continues to remain in default of all due installments.*

8. *That para 5 of the affidavit is admitted and the Respondent states that it has paid the outstanding utility bills as evidenced hereunder.*

9. *The Respondent vehemently denies the averments made in para 6, (a) and (b) of the affidavit and states that all the obligations of the Vendor under the Sale agreement have been duly discharged. Annexed herewith marked annexure "ETL -2"-are copies of the receipts from DAWASCO, TANESCO and Capital Gains Tax Clearance Certificate issued by the Tanzania Revenue Authority, which the Respondent craves leave to form part of the counter-affidavit.*

10. *The Respondent vehemently denies the averments made in para 7 of the affidavit in totality and reiterates what is stated in para 8 above together with the annextures filed therein.*

11. *Furthermore, with regard to para 7(c) and (d) the Respondent has filed the audited accounts in time on the strength of which the TRA issued the Capital Gains Tax Clearance Certificate. The TRA acted outside its authority and the Agency Notice was issued by the TRA prematurely. In any case the Applicant was only obliged to payout of the funds of the Respondent and this did not become due unti113th November, 2009.*

12. *The averment made in para 8 is denied and the Respondent*

reiterates what has been stated in the preceding paras of this counter-affidavit. Annexed herewith collectively marked annextures "ETL-3" are copies of documents that transpired between the parties and TRA which the Respondent craves leave to form part of this counter-affidavit.

13. *The averments made in para 9 is denied. The Respondent submits that there is no dispute between the parties necessitating the appointment of the arbitrator. The , issues raised by the Applicants relate to accounts and the Respondent never denied to reimburse the Applicant what it genuinely paid on the account of the respondent on production of the genuine receipt.*

14. *With regard to para 10 of the affidavit, annexed herewith is a copy of the letter marked annexture "ETL-4" from the applicant's advocate giving notice of its intention to file an application under section 8 of the Arbitration Act. Hence, I am advised by my advocate Mustafa Chaddoo which advice I verily believe to be true that this application is incompetent. I further state that there are many other documents which the Respondent will produce at the time of hearing to show that all liabilities have been duly paid.*

The Applicant's fear as stated in paragraph 11 of Gulam Esmail's affidavit and in Mr. Marando's Certificate of Urgency is that the Respondent may transfer the property so put as collateral to themselves and perhaps to third parties. This fear is rooted in Recital G of the Sale Agreement. This Recital provides as far as is relevant at this juncture as follows:

> *"... the Buyer has given Power of Authority to the said persons [Shiraz Dhanani and Frank Marealle] in their absolute discretion to sell the property without reference to the Guarantor to recover the balance of the outstanding amount with interest and expenses incurred. The Guarantor has passed an appropriate Board Resolution to this effect ..."*

Now let me pause here to ponder on the facts so far stated. The facts so far apparent at this juncture are that the Applicants have not paid the outstanding sum as per the Sale Agreement. The reasons advanced are that, after defaulting payment of Capital Gains Tax, Utility Bills and other incidental expenses, it (the 1st Applicant) had to chip in and pay its (Respondent's) stead. Relevant receipts to this effect have been appended. On the other hand, the Respondent is denying to have defaulted to pay the

said bills. It states that all its obligations under the Agreement were duly discharged and receipts to this effect have been appended.

The reason why the 1st Applicant ventured into paying the Respondent's bills were not as a result of any request to that effect from the Respondent. Let the Applicant's own words paint the picture:

> *"... we do not hold any escrow account but may assist in disbursing any due taxes on Enterprise Tanzania Limited (the sellers)* ***provided if they will agree and instruct us in writing to do the same*** *(and provided if we are informed within one month from the date of this letter as we plan to disburse within that period) and which amount will respectively (sic) be recovered from the balance purchase price payable to them."* (Emphasis not mine).

This is evident in the 1st Applicant's letter bearing Ref: WWHL/Cor/TRA/ETL/viii/1/09 dated 10th August, 2009 addressed to the Regional Manager of TRA Ilala Tax Region. It is not clear from the record whether the Respondent agreed and instructed the 1st Applicant in writing to pay as appearing in the above letter. This being the case, it is my

considered view that from the above letter and on the evidence available before me, the 1st Applicant, on his own volition, volunteered to step into the shoes of the Respondent to pay the bills under dispute. It is not clear from the record on which I could lay my hands on if the 1st Applicant proceeded to pay the relevant bills after the Respondent instructed it so to do. But it would appear, I gather from the Respondent's written submissions, that there don't appear to be such instructions. However, this does not seem to be a problem to detain me as the Respondent admits all his obligations under the Agreement and that any amount paid by the 1st Applicant on account of the Respondent can be deducted from the installments due provided that receipts as confirmation of payment are provided.

Coming back to the prayers, M/S Marando, Mnyele & Co. Adcvocates, for the Applicants have urged me to grant injunction to restrain the Respondent from disposing of Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments which were deposited with the Respondent as a result of a Sale Agreement of Embassy Hotel, until final determination of arbitration proceedings which

has allegedly been commenced. Let me state at this juncture that powers of the court to grant injunction are embodied in the provisions of Order XXXVII Rule 1 (b) of Cap 33 which provide:

> *"... the court may by order grant a temporary injunction to restrain such act or make such other order for the purpose of staying and* ***preventing*** *the wasting, damaging,* ***alienation, sale,*** *loss in value,* ***removal or disposition of the property*** *as the court thinks fit, until the disposal of the suit or until further orders"* (emphasis mine).

As provided for in the above provision, injunctions will issue in situations where, *inter alia*, the court intends to prevent the wasting, damaging, alienation, sale, loss in value, removal or disposition of the property. In the instant case, injunction can issue to prevent the alienation, sale or disposition of Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments. But I have asked myself why should, in the circumstances of this case, injunction issue. I have found no basis upon which to grant this prayer. In my view, Order

XXXVII Rule 1 (b) is meant to be applicable in appropriate situations. It is not meant to override any agreement, as in the present case, in the Sale Agreement agreed to by the parties. What is agreed upon by the parties, in my view, must prevail. In the case at hand, the parties had agreed to "sell the property without reference to the Guarantor to recover the balance of the outstanding amount with interest and expenses incurred" just in case the 1st Applicant defaults payments of outstanding amount of the purchase price. It is common ground that the 1st Applicant has not paid the outstanding amount as scheduled in the Agreement. Why then should injunction issue? It is my considered view that the 1st Applicant is duty bound to perform its obligations under the Agreement. Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments were put as collateral under the Agreement just in case the 1st Applicant defaults to pay the purchase price in full as scheduled. It is the duty of this court to see to it that what is agreed upon by the parties is implemented; not to frustrate it.

This said, I do not see any triable issues in the present case as to bring ***Atilio Vs Mbowe*** [1969] HCD n. 284 into play. In the premises, this court refrains

from issuing any injunction to restrain the Respondent and its agents, workers, or servants from selling or disposing of Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments as prayed by the Applicants. In my respectful view, issuing any injunction to that effect, the court will be frustrating what has been agreed upon by the parties in the sale agreement. Injunction is refused.

But just for the sake of argument, the Applicants have prayed that this court issues an injunction "until the final determination of the arbitration proceedings are completed". Even if I were to grant the prayer for injunction, I could not grant it until the final determination of the arbitration proceedings are completed, for doing so would be offending the law. The law on injunction in Tanzania is settled and I do not see any reason why I should disturb it. There is a long line of judicial decisions which establish that injunctions cannot be perpetual. The provisions of Rule 3 of Order XXXVII of the First Schedule to Cap 33 as amended by GN No. 508 of 1991 support this stand. This section (as amended) provides loudly and clearly that:

> *"In addition to such terms as the keeping of an account and giving security, the court may be order grant injunction under rule 1 or rule 2 and such order shall be* ***in force for a period specified by the court, but not exceeding six months".*** (Emphasis supplied).

This is the position – the order of the Court will be in force for a period not exceeding six months. However, by a proviso to this Rule, "the court granting the injunction may, from time to time extend such period for a further period which in the aggregate shall not exceed one year, upon being satisfied, on the application of the holder of such court injunction that the applicant has diligently been taking steps to settle the matter complained of and such extension sought is in the interest of justice, necessary or desirable". That is to say, injunction will last for six months and is extended, in aggregate, no t more than one year.

This issue is not virgin in legal parlance; we can therefore seek assistance from case law. This issue was canvassed at some length by this court in ***Peter Lucas Vs Pili Hussein and Another***, (HC Arusha) Miscellaneous Civil

Application No. 33 of 2003 (unreported). In that case, the decision of this court in ***AICC Vs Charles Wambura and Another***, (HC Arusha) Civil Revision No. 5 of 1996 in which it was held that an order for injunction which had to last until final determination of a case was unlawful as it could last for more than six months something which could be in violation of the provisions of Rule 3 of Order XXXVII of the First Schedule to the Cap 33 was cited with approval.

Thus, armed with the provisions of Rule 3 of Order XXXVII of the First Schedule to Cap 33 as well as the decisions of this court in the ***AICC*** and ***Peter Lucas*** cases (supra), I am of a well considered view that the applicant's prayer for injunction to restrain the Respondent and its agents, workers, or servants from selling or disposing of Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments which were deposited with the Respondent as a result of a Sale Agreement of Embassy Hotel pending the determination of the arbitration proceedings could not be legally maintainable. This takes care of the first prayer.

I will deal with the second and third prayers together. In the second prayer, the Applicants are asking this court to order that *status quo* of the parties to this suit be maintained until final determination of the arbitration proceedings which have been commenced. And in the third prayer, this court is asked to appoint an arbitrator in line with the requirement of Clause 16 of the Agreement. Let me start with the third prayer. I hasten to state that it does not seem to me that it is correct to say that arbitration proceedings have been commenced. The Respondent denies, and in my view rightly so, the existence of any dispute between the parties to this suit. The fact that the Applicant issued a notice of intention to that effect is not, in my view, sufficient to qualify the status of the commencement of the arbitration proceedings. After all, what is said in the notice is the intention to refer the matter to the arbitrator. The letter to this effect by Brotherhood Attorneys bearing Ref: BHA/1/ARB/WHL/2009 titled "APPOINTMENT OF ARBITRATOR PURSUANT TO ARBITRATION CLAUSE" reads in part as follows:

> *"... in pursuance of the provisions of clause 16 of the said sale agreement, Wellworth Hotel (sic)*

and Lodges Ltd hereby give (sic) you ***notice of its intention to refer the dispute to [an] Arbitrator"***
(emphasis supplied).

What is obvious from the above letter is the intention to refer this matter to an arbitrator. An arbitrator has not been appointed yet. Except for the intention, no arbitration proceedings have been commenced. It follows therefore that to say that arbitration proceedings have been commenced is but a misnomer. In the circumstances, this court is hesitant to appoint an arbitrator as prayed for by the Applicants. As a result and in the same line of argument, the prayer to have *status quo* maintained also collapses.

Let me insist at this stage that what has been averred in para 3 of the affidavit of Frank Marealle, in my view, disposed of this matter. Frank Marealle avers in his affidavit that let the 1st Applicant verify the receipts of any payment paid on account of the Respondent and deduct the same from the balance of the purchase price. There is no need to have this issue dragging in court in the light of such averment. It is the expectation of this court that parties will seek recourse to a court of law as a last resort. It appears to me that this matter has been dragged into a court of law

prematurely. It could be out of inadvertency or by design. Let the 1st Applicant produce the relevant receipts and upon verification, deduct the sum from the payments due. The second and third prayers, just like the first, are refused.

Before I conclude my ruling, I feel pressed to make an observation on the provisions cited in support of this application. My problem lies on two limbs. First, the use of Article 108 of Cap 2 of the Laws and second, the use of the provisions of section 2 (1) of Cap 358. First is Article 108 of the Constitution. This Article reads:

> *"(1) Kutakuwa na Mahakama Kuu ya Jamhuri ya Muungano (itakayojulikana kwa kifupi kama "Mahakama Kuu") ambayo mamlaka yake yatakuwa kama ilivyoelezwa katika Katiba hii au katika Sheria nyingine yoyote.*
>
> *(2) Iwapo Katiba hii au Sheria nyingine yoyote haikutamka wazi kwamba shauri la aina iliyotajwa mahsusi litasikilizwa kwanza katika Mahakama ya ngazi iliyotajwa mahsusi kwa ajili hiyo, basi Mahakama Kuu itakuwa na mamlaka ya kusikiliza kila shauri la aina hiyo. Hali*

kadhalika, Mahakama Kuu itakuwa na uwezo wa kutekeleza shughuli yoyote ambayo kwa mujibu wa mila za kisheria zinazotumika Tanzania, shughuli ya aina hiyo kwa kawaida hutekelezwa na Mahakama Kuu.

Isipokuwa kwamba masharti ya ibara hii ndogo yatatumika bila ya kuathiri mamlaka ya Mahakama ya Rufani ya Tanzania kama ilivyoelezwa katika Katiba hii au katika sheria nyingine yoyote".

And second is the application of the Judicature and Application of Laws Act, Cap 358. The provisions of subsection (1) of Section 1 cited by the Applicants in support of this application read:

"Save as provided hereinafter or in any other written law, expressed, the High Court shall have full jurisdiction in civil and criminal matters"

Both article 108 of the Constitution and subsection (1) of Section 1 of the Judicature and Application of Laws Act are about the jurisdiction of this court in adjudicating cases in this land. To me, they do not seem necessary

in support of this application. They were applied by the Applicants just because, it seems, they (the Applicants) were overcautious. They thought of casting their net too wide to pre-empt any preliminary point of objection by the Respondent as regards jurisdiction of this court to entertain this matter. Their essence in support of the application seems to me to be very remote. If my perception is correct; It is not surprising therefore that the Applicants have submitted in their written submissions in respect of other provisions but not in respect of these ones. That is to say, there is no submission in respect of Article 108 of the Constitution neither there is one on section 2 (1) of the Judicature and Application of Laws Act. In my view, this application could have enough legs on which to stand in this court even without Article 108 of the Constitution and section 2 (1) of the Judicature and Application of Laws Act. They were, the way I perceive, unnecessary. And above all, just to argue this point a little bit further, I am alive to the decision of this court to the effect that the Constitution should be resorted to sparingly. In ***Shabani Msengesi Vs National Corporation***, MWANZA Civil Appeal No. 44 of 1994, my brother on the bench Lugakingira, J. (as he then

was) quoted with approval a Zimbabwean case of ***Minister of Home Affairs Vs Pickle and Others***, (1985) LRC (Const) 755 and held:

> *"It is a cardinal principle of constitutional law that where an issue can be resolved without recourse to the Constitution, the constitution should not be involved".*

This is an issue which can be resolved without recourse to the Constitution. The Constitution, as the highest law of our land and *grund norm*, is "sacred". It should be resorted to sparingly. It is my humble view that counsel are duty bound to jealously guard this principle.

In the final analysis, the three prayers, namely: to issue temporary injunction to restrain the Respondent and its agents, workers, or servants from selling or disposing of Apartments No. 8 and No. 9 on the fourth floor and No. 1 and No. 2 on the ground floor of Raha Tower Apartments, that *status quo* of the parties to this suit be maintained until final determination of the arbitration proceedings which have been commenced and to appoint an arbitrator in line with the requirement of Clause 16 of the Agreement are

refused. The parties should perform their obligations under the Sale Agreement. The Application is dismissed in its entirety with costs. I so order.

DATED at DAR ES SALAAM this 12th day of September, 2012.

J. C. M. MWAMBEGELE

JUDGE