

IN THE HIGH COURT OF TANZANIA

[LAND DIVISION]

AT IRINGA

LAND CASE APPEAL NO. 5 OF 2013

(From the decision of the District Land and Housing

Tribunal of Njombe District at Njombe in

Land Case No. 6 of 2008)

JOHN NJIUKA APPELLANT

VERSUS

ELEUTELIA MWALONGO RESPONDENT

25/7/2014 & 5/9/2014

JUDGEMENT

MADAM SHANGALI, J.

This appeal originates from the decision of the Njombe District Land and Housing Tribunal, Application No. 6 of 2008. In that Land Application the present respondent Eleutelia Mwalongo sued the present appellant John Njiuka seeking for a declaratory order to the effect that the appellant is a trespasser to the suit premises and that he should surrender the suit premises to the respondent. The respondent also claimed for general damages for trespass and costs of the

application.

Having heard and considered the evidence and submissions from both sides, the trial District Land Tribunal unanimously ruled in favour of the respondent/applicant and declare the appellant a trespasser and ordered the suit premises to be under the authority of the respondent as an administratrix of the estate of her late father John Yohanes Mwalongo. The appellant and any other occupier of the said suit/premises were ordered to vacate the suit premises within a period of thirty (30) days.

The appellant was dissatisfied with that decision and has preferred this appeal based on three main grounds of appeal namely, **One**, the trial District Tribunal erred in law and fact in proceeding with the case in the absence of Aulelian Mwalongo who ought to have been joined in this case as the first respondent. **Two**, the trial District Tribunal misdirected itself by not considering all the steps followed by the appellant to acquire the property up to the last step of effecting the transfer at the Njombe Land Registry. **Three**, the trial District Land Tribunal misdirected itself when it failed to consider the amount received by Aulelian Mwalongo in the mortgage transaction.

In this appeal, the appellant was represented by Mr. Kingwe, learned counsel while the respondent was represented