

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)**

AT DAR ES SALAAM

MISC. LAND CASE APPL. NO.415 OF 2017

DANIEL KIVAMBEAPPLICANT

VERSUS

RAHMA LIGANGARESPONDENT

R U L I N G

P.M.Kente, J:

This is an application for extension of time with a view to lodging an appeal to challenge the decision of the District Land and Housing Tribunal (Kilombero -Ulanga) in Appeal Case No. 26 of 2014 in which the present applicant one Daniel Kivambe was the loser. The application is made under section 38 (1) of the **Land Disputes Courts Act [Cap. 216 R.E. 2002]** and is supported by an affidavit deposed to by the applicant himself.

According to the applicant, after the District Land and Housing Tribunal delivered judgment in his disfavor, being a layman, he could not know the procedures which he was required to follow in order to challenge the impugned decision. Therefore he had to travel to Dar es salaam where he met a person called Kavishe who advised him to

lodge the present application as at that time the prescribed period within which to appeal had already expired. The applicant contends that there are a lot of serious misdirection's and illegalities in the judgment of the District Land and Housing Tribunal and the Ward Tribunal which require the intervention of this court to rectify them.

In reply the respondent deponed in her counter-affidavit that the applicant was quite aware of the appeal procedures as both of them were duly notified of the same in Kiswahili by the chairman of the District Land and Housing Tribunal immediately after the impugned judgment was delivered. Furthermore, the respondent challenged the applicant for further delaying for about 21 days to lodge the present application despite the fact that the chamber summons was prepared and the supporting affidavit was verified and sworn at Dar es Salaam on 12th May, 2017. For the sake of exactitude the present application was lodged in court on 2nd June 2017 that is to say, one hundred and two days after delivery of the judgment by the District Land and Housing Tribunal.

It is of course our jurisprudence that, for the court to grant an extension of time, the applicant is saddled with a duty to advance

sufficient or good cause to explain the delay. This is what is provided for under the proviso to section 38(1) of the **Land Disputes Courts Act [Cap. 216 R.E. 2002]**, under which the present application is made. To expound on the above requirement the Court of Appeal of Tanzania in the case of **Yusufu Same & Hawa Dada V. Hadija Yusufu, Civ. Appeal No. 1 of 2002** (unreported) observed that:-

“It is trite law that an application for extension of time is entirely in the discretion of the court to grant or refuse it. This discretion however has to be exercised judicially and the overriding consideration is that there must be sufficient cause for doing so”

Now, the question that poses glaringly and yawns for determination is whether in the present case, being a layperson amounts to sufficient cause for one to delay in taking the necessary steps to challenge the decision of a court of law by way of an appeal. If an enduring legal myth that, every person is presumed to know the law and therefore ignorance of law is not an excuse is anything to go by then the applicants' explanation has no legs to stand on in the judicial arena. And as correctly submitted by the

respondent in her written submissions, the applicant has not sufficiently accounted for all forty two days on top of the sixty days allowed by the law which he spent doing nothing after judgment against him was delivered by the District Land and Housing Tribunal. It is part of our law and I do not need to cite any authority in support of the position that in any application of the present nature, the applicant is required to account for each day of the delay. The applicant has not discharged the above mentioned legal duty and no explanation has been given to account for the omission. In these premises, it is clear that the reason given by the applicant to explain why he delayed to appeal the decision of the District Land and Housing Tribunal does not measure up to the required standard. It is both feeble and flimsy. The perfectly simple explanation is that the applicant was by reason of ineptitude precluded from lodging his intended appeal in time. And if it is the plea of ignorance of law, under which he seems to take shelter I need to refer to him to the case of **Mathew Martin V. Manging Director, Kahama Mining Corporation, Civ. Case No. 79/2006** (unreported) where his Lordship Kalegeya, J (as he then was), quoting with approval from the holding

of the High Court of Tanzania in the case of **John Cornel V. a. Grevo (T) Limited, Civ. Case No. 70 of 1998** held that:-

“However unfortunate it may be for petitioners, the law of Limitation on action knows no sympathy nor equity. It is a merciless sword that cuts across and deep into those who get caught in its web”.

In the light of the foregoing reasons, it is my firm view that the applicant has fallen short of demonstrating that he was by sufficient or good cause disabled from lodging the intended appeal in time. This application is accordingly dismissed with costs.

Dated at Dar es Salaam this **27th** day of **July, 2018**.


P.M. Kente,
JUDGE.