

**IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM**

MISC. LAND APPEAL NO. 64 OF 2016

(Originating from Land Appeal No. 68 of 2017)

FRANK MAZOBA.....APPELLANT

VERSUS

MOSES NGASAKWA.....RESPONDENT

JUDGMENT ON APPEAL

S.M. MAGHIMBI, J:

This is a second appeal where the appellant, being dissatisfied with the decision of the District Land and Housing Tribunal of Kinondoni (The Tribunal) in Land Appeal No. 68 of 2017, Appeal to this court on the following ground:-

1. That the appellate court erred in law and fact for holding that the Ward Tribunal had jurisdiction to entertain the matter.

He therefore prayed for:

- a. The appeal be allowed.
- b. Quash and set aside the decision of Kinondoni District Land and Housing Tribunal in land appeal No. 68 of 2017.
- c. Cost to borne by the appellant.
- d. Any other relief that this Honourable court will deem fit and just to grant.

Both Appellant and Respondent were unrepresented. By consent of the parties the appeal was disposed of by way of written submissions and the submissions were filed as scheduled.

In his submission to support his ground of appeal, the appellant begun by citing section 15 of the Court (Land Disputes Settlements) Act No. 2 of 2002, to show pecuniary jurisdiction of the Ward Tribunal, that is three Millions Shillings. That he bought the suit land in September 2014 where the purchase price was 1,500,000/=. Therefore the value of the land could not remain the same. He submitted further that there are numerous cases which decided the legal effect when the particular court or Tribunal in conducting of proceedings acted without jurisdiction. He cited the case of ***Tanzania China Friendship Textile Co. LTD V. Our Lady of Usambara Sisters (2006) TLR 70***, and that of ***John Agricola Vs. Rashid Juma, 1990 TLR*** whereby from the court held to that effect. The appellant hence prayed for this Court to quash and set aside the decision of Kunduchi Ward Tribunal.

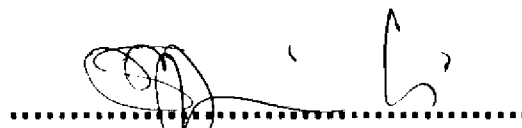
In reply, the respondent submitted that the appellant failed to prove that the value of the subject exceeds the pecuniary jurisdiction of the Tribunal. He argued that the appellant did not even submit the valuation report to substantiate the same. The respondent submitted further that he purchased the suit land in the year 2010 at the tune of Tshs. 310,000/=. He therefore prayed for the appeal to be dismissed with costs.

In rejoinder the applicant submitted that when the question of jurisdiction is raised and confirmed, all proceedings become a nullity.

Having gone through the records of this appeal and the parties submissions therein, I have noted that at page page 4 of the typed judgment of the tribunal, the chairman reasoned that since the Respondent had a sale agreement which showed that he purchased the suit land on 26th June, 2010 for a consideration of Tshs. 310,000/= and the Appellant alleges to have purchased the same for Tshs. 1,500,000/= in 2014 and made some improvements in the suit land, the appellant ought to have produced a valuation report and it is for that reason that the Chairman dismissed the appellant's appeal.

In this appeal, the appellant contention is that the value of the land *could not* remain the same from 2014 to now. Since this court is not an expert in valuing land, I am in agreement with the reasoning of the appellate tribunal that in such circumstances, the appellant ought to have produced a valuation report to prove that the value had actually exceeded Tshs. 3,000,000/- since he was the one alleging the existence of that fact. In the absence of such proof, I see no reason to interfere with the decision of the tribunal on the ground of jurisdiction of the trial tribunal as raised by the appellant. I therefore find the entire appeal to be lacking merits and the same is hereby dismissed with costs.

Dated at Dar-es-Salaam this 24th day of February, 2020


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S.M MAGHIMBI
JUDGE