

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

MISC. LAND CASE APPLICATION NO.401 OF 2020

*(Arising from the District Land and Housing Tribunal for Kilombero/Ulanga in Land Appeal
No. 76/2015, originated from Minepa Ward Tribunal in Land case No. 27 of 2015)*

**BENIGNIS A. MPISHI (As a Legal representative of the Estate of
the Late Aloyce Albert Mpishi).....APPLICANT**

VERSUS

VERONICA LIPANDE.....RESPONDENT

RULING

Date of Last Order: 14.06.2021

Date of Ruling: 19.07.2021

OPIYO, J.

This application was brought under section 14(1) of the Law of Limitation Act, cap 89 R.E 2019. The applicant is seeking for extension of time order so as to file an application for Revision out of time, against the decision and orders of the District Land and Housing Tribunal for Kilombero Ulanga, given by Hon. Lugarabamu, learned chairperson in Land Appeal No. 76 of 2015, dated 21st of April, 2016. It has been accompanied by the affidavit of the applicant, Benignis Mpishi. The same proceeded ex parte against the respondent and was heard by way of written submissions. The applicant was represented by Advocate Mkenda M. Pius, who insisted in his submissions that the applicant as stated in her Affidavit that, she was granted extension of time to file an appeal against the impugned decision

where in the said case (Misc. Land Application no. 98/2018., the applicant appeared in her personal capacity instead of appearing as a legal Representative of the late Aloyce Albert Mpishi as she appears in the instant application. While constructing the grounds of appeal to be filed on 05/08/2020, she was informed by her Advocate that the intended appeal will be a mere academic exercise as there was an illegality committed by the 1st appellate tribunal which can only be cured by way of revision, presented by the applicant in the capacity of a legal representative of the late Aloyce Albert Mpishi, thus she was advised to file this application.

The counsel for the applicant maintained that, the delay was caused by the acts of the applicant spending her time in court corridors pursuing of what she thought was right and she did that in good faith. He cited the case of **Rajab Shaaban Rajab versus the Republic, Misc. Criminal Application No. 235 of 2019, High Court of Tanzania at Dar Es Salaam, (unreported)** where it was held that the delay arising from time spent in corridors of the court to pursue justice in good faith constitutes an excusable delay.

She was diligent in pursuing her rights, therefore, the court should exercise its discretion accordingly in her favour as stated in **Royal Insurance Tanzania Limited versus Kiwengwe Strand Hotel Limited, Civil Application No. 111 of 2009 (unreported)** as quoted in **Diamond Trust Bank Tanzania Limited versus Idrisa Shehe Mohamed, Civil Application No. 89/15 of 2018 (unreported)**.

Mr. Mkenda insisted that, the applicant has shown a good cause and her application should be allowed. For that he cited the case of **Oswald**

Masatu Mwinzarubi versus Tanzania Fish Processors LTD, Court of Appeal of Tanzania, Civil Application No. 13 of 2010 (Mwanza Registry, (unreported) as quoted in **Victoria Real Estate Development Ltd versus Tanzania Investment Bank and Others, Civil Application No. 225 of 2014, Court of Appeal of Tanzania at Dar Es Salaam (unreported)** in which the doors to what constitutes good cause was not closed , but left open upon consideration of circumstances of each individual case.

I considered the arguments of the applicant through her submissions as presented by Advocate Mkenda on her behalf, as well as gone through the affidavit in support of the application. I am in agreement with the counsel for the applicant that the applicant has managed to provide for a sufficient cause for her delay to lodge her intended revision, see **Oswald Masatu Mwinzarubi versus Tanzania Fish Processors LTD, supra**. Above all this application was unopposed, hence it is clear from these circumstances that the respondent will not suffer much inconvenience compared with the applicant if this application is denied. Indeed there is a question of the capacity in which the applicant approached the court for redress, which if not dealt with now, it is likely to backfire later.

In the end, I allow the application without costs and the applicant is given 14 days from the date of this ruling to present her intended application.



A handwritten signature in blue ink, appearing to read 'M.P. Opiyo', is written over a horizontal line.

**M.P. OPIYO,
JUDGE
19/7/2021**