

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

**AT DAR ES SALAAM**

**LAND APPEAL NO. 43 OF 2020**

*(Originated from the decision of the District Land and Housing Tribunal of  
Kilosa District in Land case No. 17 of 2016).*

**MELIKISEDEKI LIGAZIO ..... APPELLANT**

**VERSUS**

**ANTONY LUCIAN ..... RESPONDENT**

**JUDGMENT ON APPEAL**

**S.M. MAGHIMBI, J:**

The Appellant hereinabove was aggrieved by the decision of the District Land and Housing Tribunal of Kilosa ("the Tribunal") vide Application No. 17 of 2016 ("the Application"). He has lodged this appeal against the whole decision therein on the following ground:

1. That, the trial Tribunal erred in law and fact for deciding in favour of the Respondent without considering that the Respondent had abandoned the disputed land, and the Appellant herein had developed the same for three years peacefully.
2. That, the trial Tribunal erred in law and fact for deciding in favour of the Respondent without considering the evidence adduced by the Respondent's witness one Theobad Maurice Nditi.

The appellant hence prays to this Honourable Court to enter the following orders:

- i) That the Appeal be allowed.
- ii) That, the decision of the trial Tribunal be quashed and set aside.
- iii) That the Appellant be declared lawful owner of the disputed land
- iv) Costs of this suit be borne by the Respondent.
- v) Any other relief(s) this Honourable Court may deem fit for the interest of justice.

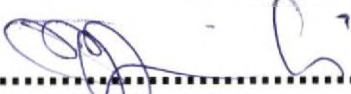
In this court, both parties appeared in person and unrepresented and the appeal was disposed by way of written submissions.

Before going into the merits of this appeal, brief background of the matter is narrated. From the gathered facts, the applicant claims ownership to the disputed land by clearing the forest in 2006 and in the year 2008, it is alleged that the respondent emerged and claimed ownership to the said land. On his part, the Respondent countered the Applicants allegation by alleging that the suit area is his and has been in use of the area for more than 20 years. The tribunal declared the respondent the lawful owner of the suit property on the evidence adduced. Aggrieved, the appellant lodged this appeal on the aforementioned grounds.

I need not be detained much by this appeal because of the reasons I will elaborate. I have noted that during trial, there was undisputed evidence that the dispute at hand had before been referred to the Ward Tribunal and finally determined where the respondent claimed to have emerged a winner there. This fact should have moved the tribunal to see if it had jurisdiction to determine a matter which had already been determined by another tribunal. Owing to that fact I find the application at the tribunal to

have been res judicata as the matter had already been determined by the Ward Tribunal and was never challenged, at least according to the records of this appeal. The decision of the Tribunal is therefore nullified. Given the fact that it was the applicant who re-insituted the matter at the Tribunal, the respondent shall have his costs for this appeal and for the application at the tribunal.

Dated at Dar-es-salaam this 15<sup>th</sup> day of July, 2021.



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**S.M. MAGHIMBI.**  
**JUDGE.**

