

**IN THE HIGH COURT OF TANZANIA**

**(LAND DIVISION)**

**AT DAR ES SALAAM**

**MISC. LAND APPLICATION NO.266 OF 2022**

*(Arising from the decision of the District Land and Housing Tribunal  
for Temeke in Land Appeal No.275 of 2019)*

**CREATIVE CITY HOMES LIMITED ..... APPLICANT**

**VERSUS**

**SELWA ABDALLA HAMID ..... RESPONDENT**

**RULING**

*Date of last Order: 14.06.2022*

*Date of Ruling: 14.06.2022*

**A.Z.MGEYEKWA, J**

I am called upon in this matter to decide whether this court should exercise its discretion under section 41 (2) of the Land Disputes Courts Act, Cap, 216 [R.E 2019] to extend the time within the applicant to file an appeal out time against the decision of Temeke District Land and Housing Tribunal in Land Appeal No. 275 of 2022. The application is supported by an affidavit deponed by Dickson, the applicant. The respondents did not oppose the application for an extension of time.

When the matter was called for hearing before this court on 14<sup>th</sup> June, 2022 the applicant enjoyed the legal service of Mr. Dickson Mtogesewa and was holding brief for Mr. Kheri Sanga. The respondent learned Advocate in his submission through audio teleconference had no time to waste, he went straight to the point that they concede with the applicant's application.

I have followed the application and the grounds deposed in the supporting applicant's affidavit, therefore, I am in position to determine the issue *whether the applicant has adduced sufficient grounds for an extension of time*. The position of the law is settled and clear that an application for an extension of time is entirely the discretion of the Court. But, that discretion is judicial and so it must be exercised according to the rules of reason and justice as was observed in the case of **Mbogo and Another v Shah** [1968] EALR 93.

Additionally, the Court will exercise its discretion in favour of an applicant only upon showing good cause for the delay. The term "good cause" having not been defined by the Rules, cannot be laid by any hard and fast rules but is dependent upon the facts obtained in each particular case. This stance has been taken by the Court of Appeal in a number of its decision, in the cases of **Regional Manager, TANROADS Kagera v Ruaha Concrete Company Ltd**, Civil Application No.96 of 2007, Tanga

**Cement Company Ltd v Jumanne D. Massanga and another**, Civil Application No. 6 of 2001, **Vodacom Foundation v Commissioner General (TRA)**, Civil Application No. 107/20 of 2017 (all unreported). To mention a few. Mr. Binamungu in his submission convinced this Court to find that the applicant's delay falls under technical delay which is explicable and excusable as stated in the case of **Fortunatus Masha** (supra).

I have gone through the applicant's affidavit and found that the in paragraphs 5, 6, 7, 8, 9, 10, 11 and 12 of, the applicant's Advocate in his affidavit has accounted for the delay. Mr. Mtogesewa stated that the applicant was dissatisfied with the decision of the District Land and Housing Tribunal for Temeke which was delivered on 15<sup>th</sup> December, 2021. Hence on the same date 15<sup>th</sup> December, 2021, the applicant's counsel wrote a letter requesting to be supplied with certified copies of Judgment and Decree. On 29<sup>th</sup> April, 2022, the applicant's Advocate wrote a reminder letter requesting for copies of Judgment and Decree of the District Land and Housing Tribunal.

The applicant was supplied with the said copies on 05<sup>th</sup> May, 2022, thereafter Mr. Mtogesewa had to prepare legal documents and realized that time to file an appeal lapsed. Finally on 26<sup>th</sup> May, 2022, the applicant's counsel filed the instant application.

Having unflinchingly reviewed the depositions in the affidavit and considering that the respondent concedes to the application. I am convinced that this case fits in the mold of cases for which extension of time on the ground of technical delay may be granted. Circumstances of this case reveal sufficient cause capable of exercising the Court's discretion and extend the time within which to file an application to lodge an appeal with a view to appeal to this court.

For the aforesaid reasons, I proceed to grant the applicant's application to lodge an appeal before this court within 30 days from today. No order as to costs.

Order accordingly.

Dated at Dar es Salaam this 14<sup>th</sup> June, 2022.



  
A.Z.MGEYEKWA  
**JUDGE**  
14.06.2022

Ruling delivered on 14<sup>th</sup> June, 2022 in the presence of Mr. Dickson Mtogesewa, learned counsel for the applicant.



  
A.Z.MGEYEKWA  
**JUDGE**  
14.06.2022