

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

MISC. LAND CASE APPEAL NO. 2 OF 2022

(From Appeal Judgment of District Land and Housing Tribunal for Temeke, in Land case Appeal No.31 of 2018, originating from Land Case No.17 of 2018, of Vijibweni Ward Tribunal)

ADAN AMON MWAILASI..... APPELLANT

VERSUS

**SULEMAN METHEW LUWANGO.....1ST RESPONDENT
ABDALLAHAHAMAN MASOUD.....2ND RESPONDENT
MWAJUMA OMARY LUSEWA.....3RD RESPONDENT**

R U L I N G


Date of Last Order: 02.06.2022

Date of Ruling: 23.06.2022

T. N. MWENEGOHA, J.

The appeal was presented by Adan Amon Mwailasi based on the following grounds: -

- 1. That, the 1st appellate tribunal erred in law and facts by upholding the decision of Vijibweni Ward Tribunal that the appellant's land is measuring 37.60 meters by 13 and 33.80 by 21.10 meters which is less than what is in the sale agreement of the appellant;**
- 2. That, the appellate tribunal erred in law and facts for failure to properly evaluate the evidence on record.**

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- 3. That, the appellate tribunal erred in law and facts for failure to determine that the Vijibweni Ward Tribunal failed to record the evidence of the appellant's witnesses;**
 - 4. That, the appellate tribunal erred in law and facts for upholding the decision of Vijibweni Ward Tribunal that the appellant's measurements exceed the actual land he bought;**
 - 5. That, the appellate tribunal erred in law and fact to uphold the decision of the Ward tribunal which had no jurisdiction;**
 - 6. That, the appellate tribunal erred in law and fact to uphold the decision of the Ward tribunal without taking into account the aspect of limitation;**
 - 7. That, the appellate tribunal erred in law and fact to uphold the decision of Vijibweni Ward tribunal which the respondent had no locus stand.**

The appeal however was objected by the 1st respondent to the effect that, the same is time barred and further that, it is bad in law for being wrongly titled. The objections were heard orally and the parties appeared in person.

In his submissions in favour of the objection, the 1st respondent was of the view that, the case at the appellate tribunal was decided on the 31st of July 2019. This appeal has been lodged this year, 2022, though the memorandum of appeal shows that the appeal was filed on 25th November, 2019. Therefore, this appeal is time barred and the same should be dismissed.

In reply, the appellant insisted that, the appeal is within time. That he filed the same within time but the Temeke District Land and Housing Tribunal failed to give him the copies of the impugned decision within time. The appellant maintained that, above all this case is against three persons but the objection has been given by the 1st respondent only.

In his brief rejoinder, the 1st respondent insisted that, the objections were given by all three respondents jointly and not him alone.

Having gone through the submissions of parties and the records at hand, I agree with the 1st respondent that this appeal is time barred. The appellant himself has admitted to this fact. He has stated that the delay was caused by the Temeke Tribunal which failed to supply the copies of the impugned decision within time. This claim in my opinion has its appropriate place to be entertained, not in this case. To shorten the story, I find the 1st objection to have merit and sustain it accordingly. Since the 2nd objection was not argued, I believe the same was dropped by the 1st respondent, hence I will not waste my time over it.

Eventually, the appeal is hereby struck out and each party will bear their own costs.




T. N. MWENEGOHA
JUDGE
23/06/2022

