

TANZANIA / JUDGMENT

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IN THE HIGH COURT OF THE UNITED REPUBLIC OF TANZANIA DISTRICT REGISTRY OF
DODOMA AT DODOMA MISC. LAND APPLICATION NO. 17425 OF 2024 (Arising from Taxation
Cause No. 296 of 2023 District Land and Housing Tribunal for Dodoma at Dodoma in Land
Application No. 121 of 2015) ANASTAZIA VENANCE.....
APPLICANT VERSUS DR. ANTONY MUGODE RESPONDENT

RULING

Date of last order: 14/11/2024. Date of the Ruling: 10/12/2024. KHALFAN, J. The applicant has filed the present application under section 14 (1) of the Law of Limitation Act [Cap 89 R.E 2019] (hereinafter referred to as the LLA), seeking for one substantive relief that this court be pleased to grant an extension of time for her to file an appeal out of time against the decision of the District Land and Housing Tribunal for Dodoma (hereinafter referred to as the DLHT). The application was supported by an affidavit sworn by the applicant herself while the respondent filed a counter affidavit to contest i the application. Hearing of the application was by way of written submissions. Both parties appeared in person and unrepresented. In her submission in support of the application, the applicant argued that, she had a land dispute with the respondent over a piece of land referred to as Plot No. 30 Block K Chidahi west within Dodoma municipality. She argued that, the respondent trespassed on the said land but she successfully sued him before the DLHT in which she was adjudged the lawful owner on 16/12/2015. She averred that, the respondent lodged an appeal before this court but the same was struck out on 23/8/2019. The applicant submitted that, later on, she filed a bill of costs before the DLHT but the same was dismissed on 21/3/2023 for being time barred. She urged this court to grant the application since the applicant had an overwhelming chance of success. She maintained that failure to file the appeal in time was not attributed by the appellant's negligence or sloppiness since there was a technical delay. She further referred to Article 107A of the Constitution of the United Republic of Tanzania which requires courts to dispense justice without being tied up with technicalities. In reply, the respondent urged the court to dismiss the application since there was no reason advanced by the applicant for the delay. He argued that, a long time had passed and the reason had been advanced by the applicant. He therefore urged this court to dismiss the application with costs. Having gone through the parties' rival submissions and the record, the sole issue for my determination is whether the application has merits. This application has been preferred under section 14 (1) of the LLA The said provision provides that; Notwithstanding the provisions of this

Act, the court may, for any reasonable or sufficient cause, extend the period of limitation for the institution of an appeal or an application, other than an application for the execution of a decree, and an application for such extension may be made either before or after the expiry of the period of limitation prescribed for such appeal or application. [Emphasis added]. From the foregoing provision, before the court can exercise its discretion for extension of time, it is imperative for the applicant to show reasonable and sufficient cause. But the provision of the law quoted above does not state what amounts to reasonable and sufficient cause. 3 In the case of *Osward Masatu Mwizarubi vs. Tanzania Fish Processing Ltd*, Civil Application No. 13 of 2010 (unreported) the Court of Appeal stated that: "What constitutes good cause cannot be laid down by any hard and fast rules. The term 'good cause' is a relative one and is dependent upon the party seeking extension of time to provide the relevant material in order to move the Court to exercise its discretion" It follows therefore that what constitutes good cause depends on the circumstance of each case. However, from the decided cases, certain factors provide guidance on whether or not the applicant has shown good cause. Amongst the factors to be taken into account were succinctly stated in the case of *Lyamuya Construction Company Limited vs. Board of Registered Trustees of Young Women's Christian Association of Tanzania*, Civil Application No. 2 of 2010 (Unreported) as follows: "(a) The applicant must account for all the period for delay;

(b) The delay should not be Inordinate;

(c) The applicant must show diligence, and not apathy, negligence or sloppiness in the prosecution of the action that he intends to take; and

(d) If the court feels that there are other sufficient reasons, such as the existence of a point of law of sufficient importance; such as the illegality of the decision sought to be challenged". In the instant application, the applicant intends to challenge the decision of the DLHT which was delivered on 21/3/2023. This application was filed before this court on 1/8/2024-almost after expiry of a year and 4 months. I have carefully gone through the applicant's affidavit in support of the application, I could not find any reason let alone sufficient reason which made the applicant unable to file the appeal on time. Equally, the affidavit in support of the application, is conspicuously silent on what transpired from the date the impugned decision was delivered to the date the instant application was filed. It is settled principle that in the application for extension of time, the applicant is required to account for each day of the delay. Hence, the applicant was strictly required to account for each day of the delay. The need to account for each day of the delay has been restated in a MJ number of cases. To mention but few, *Elifazi Nyatega & 3 Others vs. Caspian Mining Ltd*, Civil Application No. 44/08 of 2017 and *Moses Mchunguzi vs. Tanzania Cigarette Co. Ltd*, Civil Application No. 531/4 of 2016 (both unreported). Failure to account for each day of the delay would result to the dismissal of the application. Consequently, I find the applicant has neither shown good cause for the delay nor accounted for each day of the delay for the period of about one year and 4 months. Such period, in my settled view, is not an ordinate delay. Hence, the applicant was strictly required to account for each day. The application is therefore dismissed. In the circumstance, I will not make an order as to costs. It is so ordered. JUDGE 6

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