

TANZANIA / JUDGMENT

20161027 TZHC Mwanza

COURT
TZHCDECIDED
27 October 2016

Source: media.tanzlil.org · Research copy typeset by Esheria. Not court-issued or certified.

Page 1 of 4 J \4\.....,;. J ~Cv, \J j IN THE HIGH COURT OF TANZANIA ·i :J (MWANZA REGISTRY}
1 :!' ATMWANZA LAND APPEAL NO. 85 OF 2015 I. (Arising from the decision of Geita District
Land and Housing Tribunal Appeal No. 56 of 2014) i BAKOYE SALUMU
APPELLANT VERSUS JUDITH RAMADHANI RESPONDENT

JUDGEMENT

BEFORE: MAIGE, J. This is the second time the appellant is attempting an appeal. The first attempt was to appeal against the decision of the ward tribunal for . Nyakasungwa declaring the res e lawful owner of the suit Property. Then came the first appeal t ~ - l and ,l::lousing Tribunal· for Geita · which · confirmed the de<lisio rib~!~::~; that the appellant· - · remains aggrieved with the resolution of the dispute, she has knocked to this court questioning the decision of the District Land and Housing Tribunal on four grounds. First, for not holding that the suit property belonged to the late Page 2 of 4 Richard Salum who expired on 3rd December 2011. Two, for not holding that the sale of the suit property to the respondent in so far as it was made by KAM BONA SALUMU a person of unsound mind was a nullity. Three, for confirming a decision of the ward tribunal which was made ex-parte without justification. Four, for not considering some of the grounds of appeal raised in the petition of appeal. Five, for being denied an opportunity to establish that the sale agreement to the respondent was void. I The hearing of the complaint at the trial tribunal was conducted on 17/12/2013,01/08/2014 and 04/08/2014. The proceedings are silent on the number and names of the persons who constituted the trial tribunal during the hearing. It is only the proceedings relating to the visiting of locus in quo on 04/08/2014 and the proceedings of the date of the decision on 08/08/2014 which contain names of the members of the tribunal. In the absence of the quorum in the proceedings of the trial tribunal it is near to impossible to establish whether the same was duly constituted for the purpose of the jurisdiction. On the date of hearing, the appellant appeared through Ladislaus · Mafuru her duly constituted attorney. The respondent did not appear. I - ----- ~cf-- ---? . . , , , , - . ~, \J , l,k; .I :~::~~ 'l Page3of4 ,} t 1 ' ! (A I 0 allowed the appeal to proceed ex-parte. Being a layman, the appellant could no assist the court on the legality of the proceedings. A? I said above, disclosure of the names of the persons constituting the ward tribunal is an essential elements of the proceedings of the ward tribunal in the absence of which it cannot be established that the tribunal was duly constituted. In my opinion therefore omission to disclose the quorum is a fatal irregularity which 'l renders the proceedings and judgment of the ward tribunal nullity. As the ·1 proceedings of the ward

tribuna_l during trial did not indicate the quorum of ·I \. the tribunal, the judgment and proceedings of the ward tribunal were null and void. For those reasons therefore I will allow· the appeal and nullify the judgment and proceedings of both the trial tribunal and the appellate tribunal. The file has _to be remitted to the ward tribunal for retrial. I the circumstance, I will not make an order as to costs. Page.4 of4 .l · . l. Date: 27/10/2016 Coram: I. Maige, J Appellant: Present Respondent: Absent B/C: M. Said Judgment delivered in the presence of the appellant and absence of the respondent this 27th day of October, 2016. JUDGE l 27/10/2016 1 j J I

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE	https://media.tanzlii.org/media/judgment/346837/source_file/2b20a2e13f7ceed3/20161027_TZHC_Mwanza.pdf
CASE PAGE	https://chat.esheria.ai/case-law/tanzania/bakoye-salumu-v-judith-ramadhani-tribunalconstitution-tzhc-2016

Prepared on 14 October 2026 · Esheria