

TANZANIA / JUDGMENT

denis daniel werema vs the republic

2000 tzca 5 1 december 2000

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1 December 2000

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IN THE COUST OF APPEAL OF TANZANIA AT MWANZA (CORAM: KISANGA, J.A., LUBUVA, J.A., And LUGAKINGIRA, J.A.), CRIMINAL APPEAL NO. 38 OF 1995 BETWEEN DENIS DANIEL WEKEMA APPELLANT^ AND THE REPUBLIC . RESPONDENT (Appeal from the conviction of the High Court of Tanzania at Mwanza) (Chipeta, J.) dated the 15 th July, 199 ^ in Criminal Appeal No. 38^ of 1992 JUDGMENT OF THE COURT LUGAKINGIRA, J.A. This appeal is from the decision of the High Court sitting at Mwanza which upheld the appellant's conviction on a charge of corrupt transaction and sentence of five years' imprisonment. The appellant elected not to be present at the hearing and it seems he has completed the sentence. Mr. Feleshi who appeared for the respondent Republic submitted that the appeal was incompetent for lacking points of lav/ and prayed that it be struck out. Pie cited section 6 (7) of the Appellate Jurisdiction Act, No, 15 of 1979, and Rule 65 (2) of the Court Rules. We have examined the grounds of appeal carefully and agree with learned counsel that they do not raise any point of law but contain quite a lot of nonsense. This includes the claim that no witness whatsoever testified on the giving of a bribe to the appellant, the claim that the appellant's defence was extracted by force, and a lot more of such to which it is not necessary to refer.* 2 Section 6 (7) (a) of Act No. 15 of 1979 requires an appeal in criminal proceedings originating from a subordinate court to be on matters of law but not on matters of fact. The points of law are to be specified in the grounds of appeal set forth in accordance with Rule 65 (2). We are satisfied that this appeal does not satisfy these requirements but we do not agree with learned counsel that the appeal is incompetent. An incompetent appeal is one not authorised by law or, if authorised by law, one brought without complying with procedure,, This appeal suffers neither the former disability nor the latter defect, It simply has no merits and, therefore, cannot be struck out but ought to be dismissed. It is accordingly dismissed in its entirety. DATED at MWANZA this 1st day of December, 2000. JUSTICE OF APPEAL JUSTICE OF APPEAL / K.S.,K. LUGAKINGIRA JUSTICE OF APPEAL, I certify that this is a true copy of the original. SENIOR DEPUTY REGISTRAR

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