

TANZANIA / JUDGMENT

19791219 TZHC Dodoma1

COURT
TZHCDECIDED
19 December 1979

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

IN THE HIGH COURT OF TANZANIA S AT DO DO MA CRIMINAL APPEAL. No. 174 OF 1978 -5: (Original Criminal Case No. 123 of 1978 of the District Court of Mpwapia at Mpwapwa) Before: J.M. Sanga, Esq., District Magistrate JOHN SAMBULA . a APPELLANT versus THE REPUBLIC a e • REPONENT i& 3(a) of the Preve nt.an of charge: corrupt transaction c/s 3cY Corruption Act 16/71.

JUDGMENT

MAINA,, J. a The anpellant John Sambula was convicted by ?ipwapw District' Court of corrupt transaction contrary to section 3(1) and 3(a) of the.Prevention of Corruption Act, No 0 6 of: 1971, and he was sentenced to three 'yEars imprisonment : Thë'ppellan€ was a Ward ScretaxY f or Pandanibili Ward in Mwwa DistrictEvidende was given that P.W.1 Jackson Makau had .a civil case in which he sueci P.W.7 William Sembo'a in the Primary Court for shs. 240/-. Jackson won the case. As the judgmerIt- debtor did not' pay the money, Jackon applied for execution of the decree and an attachxmrent warrant was issued and given to the appellant in his capacity as Ward Secretary, for execution. The appellant kept promising thaEhe wou]4 attach the judgment-debtor's cattle but he did not do anything. Jackson, the decree holder was fd up. Finally the appellant demanded from P.W.1 Jackson payr'nt of shs. 330/_,.So that the ap;ellant could atach the cattle. Jackson had shs. 32e/- and he promised to look for the ,balance later. He thought this was a lawful payment. 'P.W.l Jackson gave to the appellant cash shs. 300/- in the presence of POW2 Anderson Madeha and P 6 W.4 Ngosingwa Lingole on 4/7/77. The appellant then proceeded with the witheesse' to the judgment-debtor's house and attached two heed of cattle. The

- S judgment-debtor P.W.7 William Semboga was given 30 (lays' to pay the mony and at the same time P.W.1 Jackson was hadd the cattle in the psenc& of the Village Chairman P O W.5 Mdonya Sembuche at the thairman's house. p. The appellant claimed from the complainant the balance of shs. 30/- . -
- I, 2 - S The complainant had to borrow shs. 30/.. from P.W.3 Makinda Linjole the same day, the cattle were attached. Thà complainant gave to the appellant shs. 30/- in the presençi of.P.W.3 Maidnda Linjole. In all therefore the appellant received slis, 330/:. fro complainant. When the judgment-debtor raised the rJQcretal swtr of shs. 240/- plus costs of shs. 12/- and paid ittothe decree.holder P.W.1 Jackson, it appears there was a disagreement and Jackson wanted to keep the cattle0 H0 was ordered. br the appellant to accept his money the decretal

sum an.. release the judgment_debtors cattle. This, Jackson did, and then .iemandecl his shs. 330/- he had paid to the appellant0 The appellant denied having reckAved the.mony. Jackson reported to Police. The appellant lenied he received shs.330/- from J.acksonand gèd in his defence and in the memorandum of aepeal that the. winsses conspired to frame him. This case rests on the credibility of the witnesses. It is not lenied that the appellant was dealing with the attchrnent of the cattle andthe complainant was the decree holder 0 The appellant did attach the cattle4 On the issue of whether the appellant received corruptly the sum of sns. 33e/- in crder to attach the cattle, there is tho cvi tcnce of P.W.1, P.W.2 1 1.W.3 and P.W.4. All these are peasants lvirij in the villag where the appellant wag : the Ward Se cret ary. Thy all thought that it was a normal thing for appellant to rcivc the money in order that he could attach the cattle. It would appear that the complainant thought he was entitletl to the two cattl. a s th JugrnLntha had failed to pay up the debt. The ovir ence given by thL. WltCL sses about appellant rece- iving the shs. 330/- was so straight forward that the trial court had no hesitation in accepting it. The appellant said in the memorandum of appeal that the village chairman did not see the 'appellant receiving the money and so. the witnesses told lies when they sid that the appellant was given the money. It is true the chairman wae not prosent.when the appellant was given the money. The evl 4 ence, is clar that the appellant received the money shs, 300/- before the cattle were, attached. They only went to the chairman after the cattl were attached. After the chairman had witnessed the handing over.of the cttlto P.W1 1. Jackson, the witnesses left the chairmen's house. Thereafter in the absence of the chairman the aopellan do ended and received the El balance of shs. 30/- from P,W.1 Jackson in the presence of POW.3 Makinda. ,

- 3 - The appellant claims in paragraph 8 of his memorandum of appeal that P.W.2. P.W.3, and PW 0 4 were not present when the appellant was proceeding to P.W.7 William to attach the cattl-. From the evidence these witnesses were present all the time the complainant and the appellant were on their way to the judgment—debtor. The appellant himself saicl...gim in his evidence at the trial. So he cannot now say that the witnsses did not accompany him to thp judgment—debtor-William. The witnesses said they are not related to Jackson and I can see no reason to disbelieve, them. They gave straightforward evidence which the trial magistrate believed and as he had the opportunity of seeing and hearing the witnesses this court can find no reason to challenge his finding that the witnesses were truthful. The conviction is supported by th evidence and the sentence which is the minimumo undetothe law cannot be interfered with. This appeal fails and it is dismissed in its entirety. W.J. MAINA JUDGE DODOMA 1th December, 197 Mr. Jiarbush, State Attorney for the Republic. Appellant present in person

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/350867/
source_file/4ffe66dad6cda6a/19791219_TZHC_Dodoma1.pdf](https://media.tanzlii.org/media/judgment/350867/source_file/4ffe66dad6cda6a/19791219_TZHC_Dodoma1.pdf)

CASE PAGE <https://chat.esheria.ai/case-law/tanzania/john-sambula-v-the-republic-corruption-tzhc-1979>

Prepared on 14 October 2026 · Esheria