

TANZANIA / JUDGMENT

## 19830901 TZHC Mbeya

COURT  
TZHCDECIDED  
1 September 1983

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4 I IN TITIL HIGH COUHT OP f1J/ .T iil3LY.. iILTL JIDIC2IO Mbeya Registry) ciini iu IN.G. 76 OF 1980 ORIGINJ CRBJNiL• CiSP NO. 402 CP 1979 OF TIE DITRIOT COURT OF S'NG. DISTRICT r.T S'NG Before: S. J. Lawena, Lsq. Resident Mais -tate, JuIvLEiS/0MS.iBJEJA .....4ITELLANT VERSUS TIREEU.IC . ..... .& • . . . . . RS1`0NiNT CUkRG; Ste4ing by a person eL!ployed in lublic Service c/ss.270 and 265 of the Penal Code, Cap.16. JTtDvflINT The appellart was chared with stealing by a public servant. He was a driver emploed by'Comnoworks Sur.thawanga On 12/12/79 he was instxv.oted to drive an eccvrtor CW 3340 from &uabawanGa to a place alled Ise1iya to pull out a vehicle whici'i had stuck. He did not ren. Thenext day the machine LI was found dumped in Lwiehe river. It was retrieved and returned to Oociwos yard. The appellant was charged for staling the excavator. In hia defene he admitted that he had taken the ecavator to iseha ag alled. EQ arue he had reurned it into the 7ard the sue evenings He was con vict6A as A .harged He was sentenced to 8 years iiLlvrisoruaignt (the value of stolen propey was given as Shs.850\*000/=). He appled.. There was ample evidence that the appellant d.ove the excavator out of the yard on 12/12/79. The following day it Was ±'oun (with all the .kers). dumped in a rir, This was along Mbeya road which:hacl nothing todo with the place he was instructed to go. Obviously he deviated andwenton a fQjo of his own. s argued by the learned State ittomey the cO.Drect charge huld have been conversion under S.284. I am of the same view, There was :flpreof. that the appellant intended to pemanently deprive Commowo\*s of the eXcavator. It was a big thing. He could not have either kept it with him or find a bayer. I set a6L1e the convictiOn of tl1n anct s ttitzte ttherew of the one of conversion not amounting to theft c/s.284 P. C. I set aaicle the sentence of 8 years and sibstitute:thereof the one of 6 months iisox- uen't. This should result in his iirediate release. The appel aUoed to the extcnt sttdc aooe. tbeya, 3et Septber, 1983 JUDG.4.

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