

TANZANIA / JUDGMENT

197203na TZHC Arusha

COURT
TZHCDECIDED
1 January 1972

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.hW 0110M iAk - LE fl-c. - 2JCW COf,? CO TAU?SA14!A AT MI ZA (Po) C St APPgAL E. 126 of 1971 (?
ror tbo saia.Ion of . Distriot Court of ftliaanJ.ro at *ehi in CiVil Appeal o. 2 of 1971) M. Joan Caary
Kinabo ----- Appellirnt (Ori'itta1 pp.11ant) vkusus

(OrjKjnai ieepondent) H 1rsmble1 3. This is a eoon4 e.pa1 agabat a juJga*it of the Pri'i;rj Court
trate at Xkuu O1IeIt •lii of Lz1. 1020/- for houeø rest. The C*t w,* tb' t th• *ppulwit U*A tt, rant his
kotø and be ohazd e3.. 60/ p.r sMh. She said that it was too hib as she was cting to uae(the
balldtng as a konpit.1 and be aiiøe4 ber to Occupy it fras for four *nth. 4t the and ol the tito the
apsU&nt instated that she. 60/- per month ast'o hub and ottar 0/. The *pcedent rafuaeti to agree to
thil and jave the pie1lani two eentbi to qpit the prsail*s. Be ba'OtC a e'ttr it Juro1i, 1969 but got no
replyo is then upoe to the 3pp11int n4 preooajly demanded rant but she cljso4 thet tbcu hcu ws
bura* 4 iuit was brvub% tsr areure of ant. The pp*flL.t* ecotie* waw that the bouns in quctio *ss
liars; that she w&s renting 0101bsr house from the reo;ondent tnd ahs canted an be 6cald not
provido she got posseusion of a paoel of lend nearby SM6 mad4 zlena for buildifl4 the
reupondent offered to and, in. tact, did en; *be puld 'the neney for

- _ The • was fti*, theetor., the qaeetlen of ownerabip. The learned ølkiUtr,to found tt this hci
been litigated is Mkuu 'lvii Case o. 52 of 1969 in wjch an sv.isttan ocd-cr was Malaaaint the
eppellnt# she sppled to the Dietrtcj Court whets ohs was parounded to withdraw the appeal
cod 'ij. a oisia for o1 wa 9rah ip cal the land. She we udviaed of her rights at appeel sZcirtt
the U.laion of the Dietriot s,iutruie but 4he did not spjea1 bt flei he r cittia* in the pricent
e*ii the quection was whether the ap.11ant was a tenant of the xsapoiiidant. On the
respondent's Dtn OVID000c thro was never any •greeaamt as to the seoust of rent or anything
to show that She \$Oknowledsd him b her iad1oid. At the enrliast opportunity she denied this
and is oupcvted I*y ;bo fact itiet in 19 69 be sought to evict her from tbs hcue cnt not to
recover rent. The appolJE.nt has so cocci- utantly adence4bar cLLais to ownership tht it will
not 1.,posaibie to baii.v4 that she usd* any atraseent to rent* it vauprDvtd, moreover, what
was the arssd zest; it was never egreed, if the ap11tnt is holding cut sainet the right of the
respondent, who it was .tted he eetablisb.d his riht to posasesica, the proper 1 b5dI was not
tc au4 for a fttjjju* rent bat to curareo the aviction Order. Pro, the vse evidenee 3. can see no
tounst1n for this cbtm and cannot support the dOtlør* cf the Lower courts. 1 e&low the

appeal sod order tht jaldgm it be .trcd fr the s,ailant/d.fendant with coats in this c*art and 'h
courts beice. 1 ' C., Aruehe t/3/72 3i1 a ti to /i.sthi. I

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