

TANZANIA / JUDGMENT

20150909 TZHC Mbeya

COURT
TZHCDECIDED
9 September 2015

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IN THE HIGH COURT OF TANZANIA ATMBEYA MISC. LAND APPEAL NO. 25 OF 2014 (Appeal from the Judgment and Decree of the District Land and Housing Tribunal for Mbeya at . Mbeya Appeal No. 92 of 2014, delivered on the 31 st July, 2014. Originated from Lugelele Ward Tribunal Land Case No. 10 of 2013) PETER V. SHIPERA
APPELLANT VERSUS PATRICK FUTE RESPONDENT

JUDGMENT

Date of last Order: 17/06/2015 Date of Judgment: 09/09/2015 A.F. NGWALA, J. The appellant was successfully sued by the respondent in Lugelele Ward Tribunal in Mbarali District. He appealed to the District Land and Housing Tribunal for Mbeya Region. His appeal was dismissed. He is now appealing to this court. The Appellant was represented by Mr. Mafwele learned Advocate while the Respondent was represented by Mr. Mikidadi learned Advocate. After hearing, the arguments from the said respective advocate for both the parties, here are my reasons for the decision I am going to arrive at. 1 -(Firstly, Mr. Mafwele has argued that the pecuniary jurisdiction should be calculated from the sale price which indicates the value of the property when it was sold and not the dispute over boundary which in essence is the dispute between the parties. Mr. Mafwele insisted that the tribunal lacked jurisdiction because the pecuniary jurisdiction exceeded jurisdiction of the tribunal in accordance with Section 15 of the Land Disputes Courts Act which is three million. On this I must state that the tribunal had jurisdiction because the dispute was over a boundary "uchochoro" whose value was unknown. The learned Advocate has misplaced his argument on the general jurisdiction of the Ward tribunals and the powers of the courts as provided for under Section 13 of the Land Disputes Courts Act. On the issue of the doctrine of estoppel it is quite clear that the learned Appellate Chairman properly invoked the doctrine of estoppel. More so, it is clearly provided for under the provisions of Section 24 of the Land Disputes Court Act CAP. 216 R.E. 2002 that the Chairman shall not be bound by the opinion of assessors should give reasons for differing with such opinion. In the present case it is quite clear that the Respondent had been in possession of the disputed land. I agree with the submission of the learned Counsel for the Respondent Mr. Mikidadi that the Appellant 2 had forcefully and without any claim of right cut the tree belonging to the Respondent. The Appellants act . to rush to cut the tree and . to construct on the disputed land clearly shows that he intended to destroy the crucial evidence on the true boundary of the disputed land. For the said reasons, I see no merit in this appeal. Accordingly the decisions of

both the trial tribunal and the appellate District Land and Housing Tribunal are upheld. Consequently this appeal is dismissed with costs. That is, the appellant should pay the costs of this Appeal. ~ A.F. NGWALA JUDGE 09/09/2015 Court: Right of Appeal to the Court of Appeal of Tanzania explained. ~ A.F. NGWALA JUDGE 09/09/2015 3

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