

TANZANIA / JUDGMENT

## 19760322 TZHC Mwanza

COURT  
TZHCDECIDED  
22 March 1976

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IN THE HIGH COURT OF TANZANIA - CIVIL - JT MWJNZ4 PTILLITE JUAUSDICT ION •(c) CIVIL APPEAL  
No. 63 OF 1971- (From the decision of, the District Court of Bukoba at Bukoba in Civil Appeal No.  
38 of 1971— Before A. N. Russeta, Esq., District Magistrate and Urban Primary Court Bukoba  
Original Civil Case No. 49 of 1970). PHILBJRT MUSHILA. . . . .  
• . . . . APPELLANT (Original Defendant) ver sue BI - .ADIJf  
RESPONDENT (Original Plaintiff) JUDGE. 1 B N  
T LUGKINGIR, 1g. J.- There is practically no substance in this appeal. The appellant bought  
premises from the respondent at Kasha'i in Bukoba township. The measurements of the plot were  
set out in a sale agreement (exhibit 3). Subsequently the appellant resold the plot to one Sofia  
Mussa who was the appellant's co defendant in the court of first instance. In doing so, however, he  
acted with stark fraudulence and purported to sell more land than he actually held. In  
consequence he encroached upon the respondent's adjoining land. This is evident not only from  
the sketch drawn by the District Court but also from the description of the land in the sale  
agreement between the appellant and Sofia (exhibit 4)4 The respondent then commenced these  
proceedings claiming the land encroached upon. For reasons difficult to understand the urban  
primary court dismissed her claim but she successfully appealed to the District Court. The  
appellant then appealed here. As I said, there is no substance in the appeal. The encroachment is  
capable of physical demonstration. I will therefore dismiss the appeal with costs. Sofia Mussa on  
the other hand, should demolish and remove the structure or house she erected on the  
encroached land in defiance of the balozi. She should do so within 30 days from the date this  
judgement is read by the District Court. Bukoba. K. S. . Lugakngira. 22nd March, 1976. 4 CT ING  
JUDGE. I

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Prepared on 14 October 2026 · Esheria