

**IN THE HIGH COURT OF TANZANIA
AT DAR ES SALAAM**

CIVIL APPEAL NO. 238 OF 2003.

**EMMANUEL GERALD APPELLANT
VERSUS
KHALIFA FADHIL RESPONDENT.**

***Date of last Order: 2/11/2005
Date of Judgment: 15/03/2006***

JUDGEMENT.

Mlay, J.

This appeal is from the decision of Housing Appeals Tribunal, arising from Housing Appeal No. 3 of 2003 in which the Housing Appeals Tribunal, quashed and set aside the judgment and decree of the Dar es salaam Regional Housing Tribunal, Application No. 223 of 2002, for lack of jurisdiction. The appellant being aggrieved by the decision of the Housing Appeals Tribunal, has appealed to this court, on the following grounds:-

1. The Honourable Chairman erred in both law and fact in holding, as he did, that the Appellant was not evicted by Respondent.
2. The Honourable Chairman erred in both law and fact in holding as he did that the Appellant had been provided with alternative accommodation by the Respondent within the meaning of the Rent Restriction Act, 1984 or at all.
3. The Chairman erred in both law and fact in dividing on matters which had not properly or at all before the tribunal.

With leave of this court, the appellant and the respondent filed written submissions. In the course of perusing the record and researching on the law, it appears that this court does not have jurisdiction to entertain this appeal. The Land Disputes Courts Act Cap 216 RE 2002 (previously Act No. 2 of 2002) operation on 1st October 2003. The said Land Disputes Court Act amended section 3 of the Rent Restriction Act, Cap 339 R. E 2002, by defining the High Court to mean “the High Court (Land Division)”. The effect of this amendment is that the appellate power of the High Court from decisions of the Housing Appeals Tribunal under section 45 of Cap 339 RE 2002, have been transferred to the High Court Land (Division)


with effect from 1st October 2003, when the Land Disputes Court Act, came into operation.

According to the exchequer receipt No. 22766663 issued for the payment of filing fees, this appeal was filed on 17/11/2005, two years after the Land Disputes Courts Act came into operation. Section 54 (1) of the Land Disputes Court Act, saved "***proceedings which are pending on the date of the commencement of this Act***". ***The subsection provides that such pending proceedings shall be continued, concluded and orders made thereon shall be executed accordingly as if this Act had not been passed***".

This appeal having been filed two years after the said Act came into operation, is not a pending appeal or proceeding within the meaning of the Land Disputes Court Act. Since this appeal was filed after the coming into operation of the Land Disputes court courts Act, which amended the Rent Restriction Act Cap 339 RE 2002 vesting appellate jurisdiction in the High Court (Land Division) , since the appeal is not saved by the provision of section 54 (1) of the Land Disputes Court, R. E 2002, this court has no jurisdiction to entertain this appeal.

For the above reasons, this appeal is improperly before this court and it is accordingly struck out, with costs. This

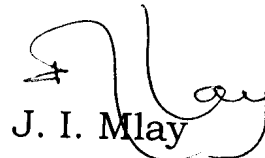
appellant is at liberty to file an appeal in the appropriate court, subject to the law on limitation.



J. I. Mlay,

JUDGE.

Delivered in the presence of the Respondent and in the absence of the appellant, this 15th day of March 2006.



J. I. Mlay

JUDGE

15/03/2006