

**IN THE HIGH COURT OF TANZANIA
(LAND DIVISION)
AT DAR ES SALAAM**

LAND REVISION NO. 28 OF 2023

MGOLOLA JOSAN RWEBANGIRA.....APPLICANT

VERSUS

Banc ABC.....1ST RESPONDENT

**NUTMEG AUCTIONEERS &
PROPERTY MANAGERS CO LTD.....2ND RESPONDENT**

RULING

21st to 24th August, 2023

E.B. LUVANDA, J

The First Respondent named above raised objections via a notice filed on 17/07/2023, grounded that: One, the application is hopeless time barred; Two, the application for revision has been filed pre maturely; Three, the affidavit in support of the application for revision is fatally defective for containing arguments of the matter of laws and evidence contrary to Order XIX rule 3 of the Civil Procedure Code, Cap 33 R.E. 2019.

Ms. Hamima Semanda learned Counsel for the First Respondent, submitted that it is undisputed that section 41 of the Land Disputes Court Act, Cap 216 R.E. 2019 does not provides the time limit for filing revision, argued that therefore the applicable law which set the time limit to file the same is the

Law of Limitation Act, Cap 89 R.E. 2019. She submitted that according to the Part III item 21 on the Schedule of Cap 89 (supra) the time limit which is to file revision is sixty days. She submitted counting from when that Application No. 1208/2021 was dismissed on 28/03/2022, almost one year and three months has already lapsed. She argued that this application is time barred. She cited the case of **Boniface Kuboja Matto vs Shani Seif Mwambo**, Land Revision No. 25/2026 (sic, 2016) and **Nelson Mesha E. Mpemba vs Stephano S.M. Mpemba**, Misc. Land Application No. 44/2021.

On his short reply, the Applicant submitted that no time set for revisions from District Land and Housing Tribunal to the High Court or time set for revision from High Court to the Tanzania Court of Appeal (sic, Court of Appeal of Tanzania).

Actually, the argument of the Respondent is misleading, there is no any action which is not limited by the period of limitation. In this respect, it is where the idioms of the rule of this country embrace and recognize that, like life, litigation has to come to an end. I am saying the argument of the Respondent is quietly misleading in a sense that, he is among few who believe litigation may continue as long as the legal ingenuity has not been

exhausted, which notion is typically wrong. In **Boniface Matto** (supra), this Court speaking through Wambura, J as then she was, at page 4, ruled, I quote,

'I agree with Mr. Kuboja that the time limit for filing an application for revision is sixty (60) days from the date when the decision was delivered as provided under item 21 of the First Schedule of the Law of Limitation Act'

At page 6, this Court went on to say,

*'In the case of **Halais Pro-Chemie v Wella A.G.** (1996) TLR 269, the Court of Appeal of Tanzania stated at page 273 as follows:-*



"As already mentioned, this application for revision was made about 10 months after delivery of the judgment sought to be revised. In our considered opinion, this application is hopelessly time barred. Under the provisions of section 53 read together with the First Schedule to the Law of Limitation Act, 1971 (Act 10 of 1971), specifically para 21 of the First Schedule, the period within which an application like this one ought to have been instituted is 60 days. By any standard, a 10 months delay is too late"

Therefore, the argument of the Respondent that the law should be used in the court of law as it is and not otherwise, is a misconception. The law both Limitation Act and precedent from the apex Court, is clear that time for revision is sixty days.

In the premises, this revision which was filed on 22/06/2023 being after expiry of one calendar year and three months counting from the date of the impugned order for dismissal of 28/03/2022, is barred by the period of limitation.


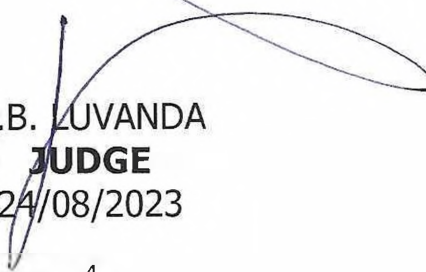
Having sustained the first limb of objections, I cannot venture deliberating on the second and third point.

The revision is dismissed with costs.



E.B. LUVANDA
JUDGE
24/08/2023

Ruling delivered in the presence for the Applicant and Ms. Mwamvua Salum Advocate for the Respondent.



E.B. LUVANDA
JUDGE
24/08/2023