

IN THE HIGH COURT OF TANZANIA
AT DODOMA
(PC) CIVIL APPEAL NO. 35 OF 2003



(Originating from the decision of the District Court of
Kondoa Civil Appeal No. 5 of 2002. Original Civil Case
No. 53 of 2001 of Berekio Primary Court).

ZENA JUMA PELEO APPELLANT

Versus

1. RAJABU RASHID)

2. MWANJAA ATHUMANI)..... RESPONDENTS

J U D G M E N T

MJASIRI, J.:

The Appellant **Zena Juma Peleo** filed a claim in the Primary Court against the Respondents **Rajabu Rashid** and **Mwanjaa Athumani**. The Appellants claim was for 6 acres of land situated at Kwayondu Kondoa District. According to the Appellant the six acres of land belonged to her father who died in 1978 and was held in trust for her by the Respondents.

The Appellant was unsuccessful in ~~both~~ the Primary Court. The appeal to the District Court was also unsuccessful.

The basis of the decision of the lower court was that the Appellant's claim was time barred in view of the provisions of Limitation. Act 1971 (Act No. 10 of 1971).

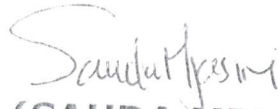
It is on record that in 1982 when the Appellant was 16 years old she claimed part of the land through the village authorities and was given 5 acres of land. The claim for 6 acres of land was filed in court in October 2001.

The Appellant filed six grounds of appeal. The grounds of appeal centred on the failure by the lower court to recognise that the 6 acres of land were left to the Respondents by the Appellant's father in trust for her until she became of age.

Both the Primary court and the District Court found in favour of the Respondents. The basis of the lower courts decision was that the period of limitation under the law for a claim of Land. According to section 3 (I) of the Limitation Act 1971 the limitation period for a suit to recover land is 12

years. The Respondent's claim is therefore time barred I therefore uphold the decision of the lower court and dismiss the appeal.

I make no order for costs.


(SAUDA MJASIRI)

JUDGE

October 6, 2005

Delivered in chambers this 7th day of October, 2005 in the presence of the Appellant and 1st Respondent and in the absence of the second respondent.



(SAUD MJASIRI)

JUDGE

October 7, 2005