

Appeal No. 13 of 2022 Ololosokwan Village Council & Others v The Attorney General of the United Republic of Tanzania

Coming up for Judgment: 29th November 2023.

Appeal filed: on 4th November 2022

Treaty Article, Rules: Articles 35A of the Treaty for the Establishment for the East African Community 1999.

Subject matter: The Right to Property

The Appellants are registered villagers of four different villages in Arusha Region of Tanzania, a Partner State of the East African Community. Sometime in 2012 a series of disputes relating to where the exact boundary between the villages and the Serengeti National Park arose between the Appellants on one side and the Government and the Management of the Serengeti National Park on the other.

Subsequently the government required the Applicants to move, since the land they were occupying was deemed to belong to the Serengeti National Park. When the villagers did not heed to the order of eviction, the government in 2017 issued a notice of vacant possession and eventually proceeded to carry out evictions as against the Appellants.

The Appellants thus filed a Reference before the First Instance Division of the East African Court of Justice contending among others; that the land in dispute was legally held and it was communal land, the whole of the said land was outside Serengeti National Park, that the eviction that was carried out was inhumane and degrading and against Tanzania's internal laws, as well as a violation of Tanzania's obligations as enshrined in the Treaty for the Establishment of the East African Community.

The First Instance Division decided against the Applicants and they thus appealed to the Appellate Division of the East African Court of Justice.

The crux of the Appeal is that the First Instance Division of the Court erred in law in applying a standard of proof that was restrictive rather the required one of "on *balance of probabilities*". They further contend that, the First Instance Division erred in law, by not considering or giving the required legal weight to the evidence that was tendered before it by the Appellants, evidence which included oral testimonies from experts and the victims.

The Respondents on their part oppose the Appeal and pray for it to be dismissed entirely, and submit that the contention that the First Instance Division did not consider and give due weight to evidence is misconceived since the Court, throughout its Judgment referred to parts of the evidence given by the Appellants. In their view the Court, after clear scrutiny of the evidence, rightly found that the evidence did not discharge the required standard of proof.

On the issue of applying a restrictive of standard of proof, the Respondents argue that the Court acted judiciously and made a decision that was based on required standard known and applied in International Law. To the Respondents, nowhere in the Judgment did the Court require the Appellants to go beyond what the evidence tendered had in Court and the Court made its decision on that basis alone not extraneous matters as alleged by the Appellants.

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